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8
 9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN FRANCISCO DIVISION**

12 ROSMINAH BROWN and ERIC LOHELA, on
 behalf of themselves and all others
 13 similarly situated,

14 Plaintiffs,

15 v.

16 THE HAIN CELESTIAL GROUP, INC., a
 Delaware Corporation,
 17 Defendant.

Case No. 11-cv-03082 LB

**NOTICE OF MOTION AND
 MOTION FOR PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEMENT AGREEMENT**

Date: October 8, 2015
 Time: 9:30 a.m.
 Location: Courtroom C
 Judge: Hon. Laurel Beeler

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on October 8, 2015 at 9:30 a.m., or as soon thereafter as this matter may be heard in the courtroom of the Honorable Laurel Beeler, Plaintiffs Rosminah Brown, Eric Lohela and Lauren Crivier (“Plaintiffs”) will, and hereby do, respectfully apply to this Court for entry of an order:

1. Preliminarily approving the settlement agreement reached between Plaintiffs and The Hain Celestial Group, Inc. (“Settlement”), attached as Exhibit 1 to the Declaration of Mark N. Todzo in Support of Plaintiffs’ Motion for Preliminary Approval;

2. Conditionally certifying a modified Settlement Class for settlement approval purposes comprised of individuals who purchased at least one Avalon Organics® product in California between May 11, 2007 and May 11, 2011, and/or at least one JASON® product in California from May 11, 2007 to January 30, 2011;

3. Appointing Heffler Claims Group as the Claims Administrator and approving the proposed notice plan; and

4. Scheduling a hearing for final approval of the Settlement.

This motion is made on the grounds that the Settlement is the product of arm’s-length, good-faith negotiations, and is fair, reasonable and adequate to the Class.

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, the accompanying Declaration of Mark N. Todzo and exhibits attached thereto, the other papers on file in this action, and such other submissions or arguments that may be presented before or at the hearing on this motion.

MEMORANDUM OF POINTS AND AUTHORITIES**INTRODUCTION**

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2
3 Plaintiffs Rosminah Brown, Eric Lohela and Lauren Crivier on behalf of the proposed
4 Settlement Class (defined herein) (“Plaintiffs”) request that the Court grant preliminary approval
5 of the Stipulation of Settlement (“Settlement”) reached with Defendant The Hain Celestial Group,
6 Inc. (“Hain”), attached as Exhibit 1 to the Declaration of Mark N. Todzo submitted herewith. The
7 Settlement resolves Plaintiffs’ claims concerning Hain’s allegedly false and misleading labeling of
8 its Avalon Organics® and JASON® brand personal care products (“Challenged Products”) as
9 “organic,” as well as similar claims raised in the related case, *Crivier v. The Hain Celestial Group,*
10 *Inc.* Specifically, the Settlement resolves Plaintiffs’ claims under California consumer protection
11 statutes alleging that the Challenged Products were predominately comprised of non-organic
12 ingredients but were nevertheless labeled and sold as “organic.”

13 The Settlement is fair, reasonable and adequate, falling well within the range of class
14 action settlements that merit preliminary approval. The Settlement creates a cash fund of
15 \$7,500,000 and up to \$1,850,000 in coupons for the benefit of individuals in California who
16 purchased the Challenged Products. Thus, the Settlement provides substantial monetary relief for
17 many thousands of purchasers of the Challenged Products who allegedly paid a premium over
18 comparable personal care products that did not purport to be organic.

19 The Settlement was reached through arm’s-length negotiations after more than four years
20 of hard-fought litigation, including: (1) substantial investigation by Class Counsel; (2) the
21 completion of extensive fact discovery, including the review of hundreds of thousands of pages of
22 documents and over ten depositions, as well as four discovery dispute letters; and (3) significant
23 motion practice, including two motions to dismiss, a motion to strike, a motion for class
24 certification and four motions for summary judgment.

25 Furthermore, the proposed notice plan provides Class members with the best notice
26 practicable under the circumstances and will allow Class members a full and fair opportunity to
27 evaluate the Settlement and decide whether to participate. Accordingly, Plaintiffs request that the
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1 Court: (1) preliminarily approve the Settlement; (2) approve the proposed plan of disseminating
 2 notice to the Class; (3) appoint Heffler Claims Group as the Notice Administrator; (4) set a
 3 schedule for disseminating notice to Class members, as well as deadlines to comment on, object
 4 to, or opt out of, the Settlement; and (5) schedule a hearing pursuant to Rule 23(e) of the Federal
 5 Rules of Civil Procedure to determine whether the proposed Settlement is fair, reasonable and
 6 adequate and should be finally approved

7 BACKGROUND

8 **I. FACTUAL BACKGROUND**

9 Defendant Hain is a manufacturer, seller and distributor of Avalon Organics® and
 10 JASON® brand personal care products (the “Products”), which were sold to thousands of
 11 consumers in California. Plaintiffs allege that Hain, in recognition of the growing public demand
 12 for organic products, prominently placed the word “Organics” and/or “Organic” on the principal
 13 display panel of the Challenged Products.¹ See ECF No. 68. Specifically, Plaintiffs allege that the
 14 principal display panel of JASON® branded products displayed the phrase “Pure, Natural &
 15 Organic,” while Avalon Organics® branded products were labeled as “Organics” in the very name
 16 of the products. *Id.* In reality, Plaintiffs allege, the Challenged Products were predominately
 17 comprised of non-organic ingredients. *Id.*

18 Hain maintains that it had begun efforts to bring the Challenged Products into compliance
 19 with the California Organic Products Act (“COPA”) at around the time this litigation was initiated.
 20 Todzo Decl. ¶ 4.² Accordingly, the central objective of the claims resolved in the Settlement was
 21 to require Hain to disgorge the premiums it allegedly obtained during the period of time when the

22
 23 ¹ A list of the Challenged Products will be included as an attachment to Exhibit F to the
 24 Settlement. The list was not available at the time of this filing but the Parties will provide the
 Court with an updated Exhibit F prior to the October 8, 2015 hearing.

25 ² Based on their investigation, Plaintiffs concur with Hain that the current JASON® brand
 26 cosmetic products comply with COPA’s requirements. Todzo Decl. ¶ 4. However, the Parties
 27 disagree as to whether the current (post-reformulation) Avalon Organics® products comply with
 COPA, so that issue is excluded from the scope of the claims resolved in and released by the
 Settlement, as explained further below. *Id.*

1 Challenged Products were allegedly mislabeled as “organic,” thereby compensating consumers for
2 past alleged wrongdoings. *Id.*

3 **II. PROCEDURAL HISTORY**

4 **A. The Litigation.**

5 On May 11, 2011, Plaintiff Brown filed an initial complaint in the Alameda County
6 Superior Court. ECF No. 1. Brown was joined on the complaint by the Center for Environmental
7 Health (“CEH”), a non-profit environmental organization. *Id.* Brown alleged claims under
8 California consumer protection statutes for injunctive and monetary relief on behalf of a class of
9 similarly situated consumers who purchased certain Avalon Organics® and/or JASON® brand
10 personal care products based on purported representations that such products were “organic” when
11 they were allegedly comprised primarily of non-organic ingredients. *Id.* Specifically, the
12 complaint alleged that Hain’s conduct, as described above, violated: (1) COPA’s restrictions on
13 selling, labeling or representing cosmetic products “as organic or made with organic ingredients”
14 unless the products contain a minimum of 70% organically produced ingredients, Cal. Health &
15 Safety Code §§ 110838 *et seq.*; (2) the unlawful, unfair, and fraudulent prongs of California’s
16 Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200 *et seq.*; (3) the California
17 Consumers Legal Remedies Act (“CLRA”), Cal. Civil Code §§ 1750 *et seq.*; and (4) the express-
18 warranty provisions of California’s Commercial Code, Cal. Com. Code § 2313.

19 Hain removed Plaintiff Brown and CEH’s action to this Court on June 22, 2011. ECF No.
20 1. Because CEH raised only a claim pursuant to California Health & Safety Code section 111910
21 seeking injunctive relief based on violations of COPA, CEH lacked injury sufficient to give it
22 standing under Article III of the United States Constitution. Accordingly, CEH and Hain entered
23 into a stipulation to dismiss CEH as a party to this action. *See* ECF No. 30.

24 On March 2, 2012, Hain moved to dismiss Plaintiff Brown’s complaint for lack of subject
25 matter jurisdiction, arguing that the Organic Foods Production Act of 1990 (“OFPA”), 7 U.S.C. §§
26 6501-6524, expressly preempts COPA. ECF No. 27. In supplemental briefing, Hain also argued
27 that the Court should dismiss the complaint because the United States Department of Agriculture
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1 has primary jurisdiction over Plaintiff Brown's claims. ECF No. 49. On August 1, 2012, the
2 Court denied Hain's motion in its entirety. ECF No. 58. Hain subsequently requested that the
3 Court certify the order denying Hain's motion to dismiss for interlocutory appeal to the Ninth
4 Circuit, and the Court did so. ECF No. 60. On December 17, 2012, the Ninth Circuit denied
5 Hain's petition for permission to appeal the denial of Hain's first motion to dismiss. Ninth Cir.
6 Docket No. 12-80186.

7 On August 21, 2012, Plaintiff Brown filed an amended complaint in order to add Plaintiff
8 Lohela as a class representative and to conform the complaint to the federal rules regarding class
9 certification. *See* ECF No. 68. On October 9, 2012, Hain filed a second motion to dismiss
10 together with a motion to strike. ECF Nos. 85 & 87. On December 20, 2012, the Court denied
11 Hain's second motion to dismiss and motion to strike in their entirety. ECF No. 104.

12 In addition, on April 6, 2012, Lauren Crivier filed a complaint in the United States District
13 Court for the Central District of California alleging violations of California's False Advertising
14 Law (FAL), Cal. Bus. & Prof. Code §§ 17500 *et seq.*, the UCL, and the CLRA based on the same
15 allegedly misleading product tagline "Pure, Natural & Organic" appearing on the principal display
16 panels of some JASON® brand products, as well as other iterations, combinations, or uses of the
17 words "natural" and "organic" on the brand's product labels and advertising. Docket No. 13-cv-
18 02237 at ECF No. 1. Ms. Crivier's case was transferred to this Court on May 9, 2013. ECF No.
19 119. Ms. Crivier's case was stayed following its transfer to this Court. As part of the Settlement,
20 the operative First Amended Complaint will be deemed amended to add Ms. Crivier as a named
21 plaintiff herein. Settlement § II.F. Also as part of the settlement of this action, Ms. Crivier and
22 Hain stipulated to dismissal of her complaint which was entered on September 2, 2015. *Id.*

23 On February 21, 2013, Hain provided Plaintiffs' counsel with a letter from the California
24 Department of Public Health ("CDPH") to William J. Friedman dated February 19,
25 2013 ("CDPH Letter") regarding some of the Challenged Products. ECF No. 159-12. The CDPH
26 Letter resolved in Hain's favor a complaint received by CDPH in 2011 regarding those Challenged
27 Products. *Id.* The CDPH Letter noted that Hain has certified its Avalon Organics® products as
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1 containing 70% organic ingredients under the ANSI/NSF 305 standard and had removed the
2 “Pure, Natural & Organic” tagline from its JASON® products. *Id.* The CDPH Letter concluded
3 that, prior to these changes, the Challenged Products were not represented as “organic” and did not
4 use the word “organic” to identify ingredients or modify the product’s content on the principal
5 display panel. *Id.*

6 On February 25, 2013, and March 12, 2013, Class Counsel, Hain, and Hain’s counsel
7 participated in mediation with mediator Randall W. Wulff. Todzo Decl. ¶ 5. Prior to the
8 mediation, Hain provided Plaintiffs with confidential information regarding its California sales of
9 the Challenged Products and the Challenged Products labeling during the class period. *Id.* At the
10 mediation, the Parties reached an agreement in principle to resolve this litigation. *Id.* While
11 finalizing the terms of the settlement agreement, an issue arose that precluded the Parties from
12 finalizing the settlement. *Id.* Though the Parties continued to make efforts to resolve the issue,
13 they were unable to do so. *Id.*

14 On November 1, 2013, Hain filed a motion for summary judgment, arguing that the CDPH
15 Letter barred Plaintiffs’ claims. *See* ECF No. 156. On February 10, 2014, the motion was denied.
16 ECF No. 172. Following denial of Hain’s summary judgment motion, the Parties participated in
17 two full day settlement conferences with the Court in April and May 2014. Todzo Decl. ¶ 6. The
18 Parties were unable to reach an agreement at that time. *Id.*

19 On July 15, 2014, Plaintiffs filed a motion for class certification. ECF No. 243. The
20 motion was granted on November 11, 2014. ECF No. 269. The Court certified a class of: (1)
21 consumers who purchased JASON® products in California from May 11, 2007 to January 30,
22 2011; and (2) consumers who purchased Avalon Organics® products in California from May 11,
23 2007 to January 6, 2015. ECF No. 267. The class excludes products that were certified USDA
24 Organic. *Id.*

25 On December 23, 2014, the Court approved the Parties’ class notice program. ECF No.
26 279. In accordance with the notice program, the class notice was disseminated beginning on
27 January 6, 2015. Todzo Decl. ¶ 7. The deadline for absent class members to exclude themselves
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1 from the class closed on March 9, 2015 and there were no requests for exclusion. *Id.*

2 On October 1, 2014, Plaintiffs filed a motion for partial summary adjudication of issues
3 seeking a ruling that Hain violated COPA in selling Jason and Avalon products which included the
4 word “organic” on the front label but did not contain 70% organic ingredients. ECF No. 243. On
5 February 2, 2015, Plaintiffs filed a second motion for partial summary judgment seeking a ruling
6 that organic representations on the Jason and Avalon products constituted material
7 misrepresentations, and were likely to deceive consumers, under the UCL and CLRA. ECF No.
8 296. On April 23, 2015, Plaintiffs filed their third motion for partial summary judgment seeking a
9 ruling that the Challenged Products are “cosmetics” under California law. ECF No. 323. The
10 Court granted Plaintiffs’ first two motions for summary adjudication on May 26, 2015, and
11 granted in part Plaintiffs’ third motion for summary adjudication on May 30, 2015. ECF No. 340.

12 In addition to the motion practice described above, the Parties conducted an extensive
13 amount of discovery. *Todzo Decl.* ¶ 8. As the Court is well aware, discovery in this case was
14 particularly contentious. *Id.* The Plaintiffs served over five sets of requests for production of
15 documents, four sets of interrogatories and three sets of requests for admissions. *Id.* Hain served
16 three sets of requests for admissions and two sets of requests for production of documents and
17 interrogatories. *Id.* The Parties engaged in numerous meet and confer sessions, resulting in the
18 submission of four discovery dispute letters to the Court for resolution. *Id.* Plaintiffs also
19 subpoenaed over thirty third parties including wholesalers, retailers and marketing firms. *Id.*
20 More than 229,000 pages of documents were produced and reviewed by the Parties, and over 10
21 depositions were conducted of Plaintiffs, senior Hain personnel and Plaintiffs’ damages expert.
22 *Id.*

23 While Hain continues to deny Plaintiffs’ allegations, Hain has concluded that further
24 defense of the action would be protracted and expensive, and that it is desirable that the case be
25 fully and finally settled in the manner and upon the terms and conditions set forth in the
26 Stipulation. *See Settlement* ¶ II.P. Hain also has taken into account the uncertainty and risks
27 inherent in any litigation. *Id.* Hain, therefore, has determined that it is desirable and beneficial to
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1 it that the Action be settled in the manner and upon the terms and conditions set forth in the
2 Stipulation. *Id.*

3 Similarly, Class Counsel have concluded, after extensive litigation, investigation of the
4 facts, consultation with their experts, extensive discovery and careful consideration of the
5 circumstances of the case, that the Settlement provides relief to the Class that is fair, reasonable
6 and adequate, and in the best interests of the Class. *See* Todzo Decl. ¶¶ 9-11

7 **B. Settlement Negotiations.**

8 As described above, the Parties engaged in settlement discussions and participated in
9 mediations following the February 2013 DPH Letter, and again in April and May of 2014
10 following the Court's denial of Hain's motion for summary judgment. *See* Todzo Decl. ¶¶ 5-6.
11 These negotiations, however, did not result in a resolution of the case. *Id.*

12 The Parties again entered into settlement negotiations after the Court granted Plaintiffs'
13 three motions for summary judgment in May 2015. Todzo Decl. ¶ 6. On June 15, 2015, the court
14 referred the Parties to Magistrate Judge Spero for a settlement conference, which took place on
15 July 20, 2015. ECF No. 342. The settlement conference with Judge Spero culminated in an
16 agreement in principle resolving the case. Todzo Decl. ¶ 6. Over the past two months, the Parties
17 have negotiated the detailed terms of the Settlement. *Id.*

18 **III. THE PROPOSED SETTLEMENT**

19 The Settlement compensates Class members for a significant portion of their alleged
20 damages. Specifically, Hain has agreed to contribute \$7,500,000 in cash into an independent
21 settlement fund ("Claim Fund") as well as up to \$2,000,000 to be spent by Hain on coupons
22 redeemable for Hain products for the benefit of the Settlement Class. The Claim Fund will also be
23 used to pay for disseminating notice to the Class, Class Counsel's attorneys' fees and costs and
24 modest service awards to the class representatives for their time and efforts on behalf of the Class.
25 In exchange for these payments, Hain will receive a release of Plaintiffs' claims arising out of or
26 related to Hain's use of the word "organic" or "organics" in connection with the Challenged
27 Products. The key terms of the Settlement are described in detail below.

28

1 **A. Payments to the Class Members.**

2 Hain will contribute \$7,500,000 into the Claim Fund, which will be used chiefly to
3 compensate California purchasers of the Challenged Products who were allegedly misled by
4 Hain's past labeling practices. Settlement § III.A. In addition, Hain will expend up to \$2,000,000
5 for coupons which may be used toward the purchase of any Avalon Organics® brand or JASON®
6 brand cosmetic. *Id.* § I.A.28.³ The Claim Fund will also be used to pay up to \$650,000 for
7 disseminating notice to the Class and processing claims, to pay for attorneys' fees and costs of no
8 more than \$4,000,000, and to pay modest service awards to the class representatives for their time
9 and efforts on behalf of the Class. *Id.* § VIII.A.2 & VIII.B.

10 The Claim Fund will be administered by Heffler Claims Group (the "Claim
11 Administrator") – an independent, qualified company – which shall approve claims submitted by
12 affected members of the Class in accordance with a clear and objective procedure and subject to
13 verification by the Parties. Settlement § I.A.8. Class Members who submit claim forms are
14 eligible to receive, for each product purchased, either: (1) a cash payment; or (2) a cash payment
15 and coupons. *Id.* § III.B.9 & Exh. A. Class members who elect to receive cash payments will
16 receive 50% of the purchase price of each JASON® or Avalon Organics® product purchased in
17 California up to a total of \$50. *Id.* § III.B.2(a) & III.B.3. Class members who elect to receive cash
18 payments/coupons will receive 50% of the value of the purchase price of the products purchased
19 and coupons for a total of up to \$80 (the payment will be calculated at a ratio of \$1 cash to \$4 in
20 coupons). *Id.* § III.B.2(b) & III.B.3. For class members who have receipts for the Challenged
21 Products they purchased, there is no maximum limit for either cash or cash/coupon payments. *Id.*
22 § III.B.3.

23
24
25 ³ The cost of a coupon includes the face value of the coupon together with printing and
26 processing fees. Settlement § I.A.17. Thus, each \$2 coupon costs Hain approximately \$2.15. *Id.*
27 Accordingly, the maximum total face value of coupons available under the Settlement is
28 \$1,850,000.

1 The Settlement allows no possibility of any Claim Fund monies reverting to Hain.
2 Settlement § III.B.6. If the amounts ultimately paid on claims and expenses do not equal or
3 exceed \$7,500,000 million, the remainder of the Claim Fund will be equally distributed to the
4 California Consumer Protection Foundation and the Jesse Smith Noyes Foundation for use in a
5 manner that the will provide the next best use of compensation to Class members arising out of
6 claims that have been made by Plaintiffs in this action. Todzo Decl. ¶ 14.

7 **B. Release of Plaintiffs' Claims.**

8 In exchange for Hain's substantial monetary payments to the Class, the Settlement releases
9 Hain from all claims relating to violation of COPA, UCL, FAL, CLRA, the express-warranty
10 provisions of the California Commercial Code (or other similar state or federal laws), arising out
11 Hain's use of the word "organic" or "organics" in connection with the Challenged Products.
12 Settlement § IV.A. The Settlement does not, however, release Hain from Plaintiffs' claim that the
13 post-reformulation Avalon Organics® products continue to violate COPA by allegedly counting
14 as organic the water used to rehydrate the powdered aloe used in the products. *See id.* §§ I.A.7 &
15 I.A.16.

16 **C. Modified Class for Settlement Purposes.**

17 As described above, the Court granted Plaintiffs' motion for class certification, which
18 certified a class of individuals who purchased Avalon Organics® products from May 11, 2007 to
19 January 6, 2015, and a class of individuals who purchased JASON® products from May 11, 2007
20 to January 30, 2011. ECF No. 269. For purposes of the Settlement only, the Parties agree to
21 certification of a modified Settlement Class. Settlement § V. This putative Settlement Class will
22 comprise all persons who purchased at least one Avalon Organics® product in California between
23 May 11, 2007 and May 11, 2011, and/or at least one JASON® product in California from May 11,
24 2007 to January 30, 2011. *Id.* § I.A.16. Thus, the only difference between the two classes
25 certified by the Court and the proposed Settlement Class is that the Settlement Class excludes
26 purchasers of post-reformulation Avalon Organics® products by excluding purchases after May
27 11, 2011.

28

1 Class members will have until thirty days prior to the Final Approval Hearing to: submit
2 claims, file any objections to the proposed settlement, seek exclusions from the Settlement Class,
3 or file notices of intent to appear at the hearing. Settlement § VI.B.3. The Parties will monitor
4 and track those Settlement Class members seeking exclusion or objecting to the proposed
5 Settlement. *Id.* § B.3.D.

6 **D. Payment of Plaintiffs’ Reasonable Attorneys’ Fees and Litigation Costs, and**
7 **Service Awards to the Plaintiffs.**

8 The Settlement authorizes Class Counsel to seek to recover a portion of their attorneys’
9 fees and costs incurred in the prosecution of this action and the *Crivier* matter. Following the
10 Court’s preliminary approval of the Settlement, Class Counsel will submit an application to the
11 Court for an award of attorneys’ fees and expenses not to exceed \$4,000,000. Settlement §
12 VIII.A.2. Class Counsel’s application for attorneys’ fees and expenses will be made in accordance
13 with COPA, the CLRA and Cal. Code of Civil Procedure §1021.5. *Id.* Any award of fees and
14 expenses approved by the Court will be paid from the Claim Fund thirty days after entry of
15 judgment following final approval of the Settlement. *Id.* VIII.A.3.

16 At the same time as moving for attorneys’ fees and costs, Class Counsel will also seek
17 reasonable service award payments for each of the named Plaintiffs for their services as class
18 representatives. Settlement § VIII.B. The amount of these awards is not to exceed \$7,500 each
19 for Plaintiffs Brown and Lohela and \$1,500 for Plaintiff Crivier. *Id.*

20 **ARGUMENT**

21 **I. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**
22 **OF THE SETTLEMENT.**

23 The Settlement is fair, reasonable and adequate. The Settlement provides substantial
24 benefits to the Settlement Class by securing just compensation for consumers in California who
25 purchased the Challenged Products based on Hain’s “organic” representations. The Settlement
26 accomplishes this while avoiding both the uncertainty and the delay that would be associated with
27 further litigation. It represents a fair compromise of the Parties’ respective positions in the
28 litigation, and enables each party to end the litigation, thus avoiding its costs and risks. Finally,

1 the Settlement was reached through arm's length negotiations as part of a supervised mediation
2 process. Class Counsel, which has significant experience in litigating class actions, supports the
3 resulting Settlement as fair and as providing reasonable and substantial relief to the members of
4 the Class.

5 **A. The Applicable Legal Standard.**

6 Rule 23(e) requires court approval of any settlement of claims brought on a class basis. A
7 proposed settlement may be approved by the court if it is determined to be "fundamentally fair,
8 adequate, and reasonable." *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000)
9 (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)). "[T]here is an overriding
10 public interest in settling and quieting litigation . . . particularly . . . in class action suits which are
11 now an ever increasing burden to so many federal courts and which frequently present serious
12 problems of management and expense." *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th
13 Cir. 1976); *see also Churchill Village, L.L.C. v. General Elec.*, 361 F.3d 566, 576 (9th Cir. 2004).

14 Given that the full fairness and adequacy of a class settlement can only be assessed at the
15 final approval hearing, at the preliminary approval stage the Court "need only review the Parties'
16 proposed settlement to determine whether it is within the permissible 'range of possible judicial
17 approval' and thus, whether the notice to the class and the scheduling of the formal fairness
18 hearing is appropriate." *Williams v. Costco Wholesale Corp.*, No. 02-cv-2003 IEG (AJB), 2010
19 WL 761122, at *5 (S.D. Cal. Mar. 4, 2010) (citing William B. Rubenstein, et al., *NEWBERG ON*
20 *CLASS ACTIONS* § 11:25 (4th ed. 2002) (citations omitted)).

21 Specifically, preliminary approval of a settlement and notice to the proposed class is
22 appropriate: "[i]f [1] the proposed settlement appears to be the product of serious, informed,
23 noncollusive negotiations, [2] has no obvious deficiencies, [3] does not improperly grant
24 preferential treatment to class representatives or segments of the class, and [4] falls with the range
25 of possible approval" *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D.
26 Cal. 2007). The Settlement meets all of the above criteria.

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1 vigorously disputes that the Class would be able to prove liability at trial or be entitled to
2 injunctive relief or monetary damages.

3 Plaintiffs believe they could establish liability and substantial damages on a class-wide
4 basis were the case to go to trial, however this is hardly an easy win. Although Plaintiffs prevailed
5 against the defenses Hain has raised thus far – as well as prevailing on their motion for class
6 certification – there is considerable litigation risk for Plaintiffs going forward. Todzo Decl. ¶ 9.
7 For example, given that the legal issues regarding allegedly false organic representations on
8 consumer products are relatively novel and have not been widely litigated, there is always the risk
9 that the Court’s orders denying Hain’s motions to dismiss and granting Plaintiffs’ motions for
10 summary judgment could be reversed on appeal even if Plaintiffs prevailed at trial. *Id.* By settling
11 now, Class members secure immediate significant monetary compensation. *Id.* ¶¶ 9 & 11. These
12 benefits will accrue equally to all Class members. *Id.* ¶ 9.

13 **D. The Settlement Falls Within the Range Of Possible Approval.**

14 The substance of the Settlement falls well within the bounds of reasonableness. The
15 \$7,500,000 Claim Fund plus up to \$1,850,000 in coupons paid by Hain represents a substantial
16 portion of the damages sought. *See* Todzo Decl. ¶ 10. The monetary provisions of the Settlement
17 were based in part on a damages model that measures premiums paid by consumers for the
18 Challenged Products over and above the prices paid by consumers for seemingly comparable
19 personal care products that do not claim to be organic. *Id.* Plaintiffs also seek disgorgement of
20 profits, which while easier to calculate has less precedential support. *Id.* The 50% of the purchase
21 price made available to Class members pursuant to the Settlement exceeds the restitution and/or
22 damages estimate under either the price premium or disgorgement model. *Id.*

23 Furthermore, the attorneys’ fees and litigation costs award sought by Plaintiffs, which will
24 be subject to further review by this Court at the final settlement approval stage, is well within the
25 range of possible approval under California law. Indeed, the attorneys’ fees award sought by
26 Plaintiffs is significantly less than Class Counsel’s lodestar. *See* Todzo Decl. ¶ 12. Accordingly,
27 the award is reasonable under the applicable law. *See, e.g., Relente v. Viator, Inc.*, No. 12-CV-
28

1 05868-JD, 2015 WL 3613713, at *1 (N.D. Cal. June 9, 2015) (attorney fee award pursuant to class
2 action settlement must be calculated using lodestar method where plaintiffs' claims were based on
3 California law). For all of these reasons, preliminary approval of the settlement should be granted.

4 **II. PROVISIONAL CERTIFICATION OF THE SETTLEMENT CLASS IS**
5 **APPROPRIATE.**

6 For settlement purposes only, Plaintiffs request that the Court provisionally certify a
7 slightly modified Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure.
8 Plaintiffs seek certification of a Settlement Class defined as follows:

9 all individuals who purchased an Avalon Organics® product in California between May
10 11, 2007 and May 11, 2011, and all individuals who purchased a JASON® product in
11 California from May 11, 2007 to January 30, 2011.

12 Settlement § I.A.12 & I.A.16. Where parties consent to certification of a class for settlement
13 purposes, the court may enter an order provisionally certifying a settlement-only class. *See*
14 *generally* The Rutter Group, CAL. PRAC. GUIDE: FED. CIV. PRO. BEFORE TRIAL (2012), Ch. 10-C at
15 § 10:787 (noting that courts generally permit parties to stipulate that a defined class be
16 conditionally certified for settlement purposes because it facilitates settlement); *see also Tijero v.*
17 *Aaron Brothers, Inc.*, 301 F.R.D. 314, 320 (N.D. Cal. 2013). Because the Court has already
18 certified a nearly identical class of California purchasers of the Challenged Products, certification
19 of the proposed Settlement Class is proper.

20 To merit class certification under Rule 23, Plaintiffs must show that the proposed class
21 meets each of the four requirements of Rule 23(a) and at least one subsection of Rule 23(b). *Ellis*
22 *v. Costco Wholesale Corp.*, 657 F.3d 970, 979–80 (9th Cir. 2011). Rule 23(a) provides that a
23 district court may certify a class if: “(1) the class is so numerous that joinder of all members is
24 impracticable; (2) there are questions of law or fact common to the class; (3) the claims or
25 defenses of the representative parties are typical of the claims or defenses of the class; and (4) the
26 representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P.
27 23(a). Moreover, a class may be certified under Rule 23(b)(3) if the Court finds that “questions of
28 law or fact common to class members predominate over any questions affecting only individual

1 members, and that a class action is superior to other available methods for fairly and efficiently
2 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3).

3 Here, in granting Plaintiffs’ motion for class certification, the Court has already made the
4 findings necessary for it to certify the slightly modified Settlement Class. Specifically, with
5 respect to the Rule 23(a) factors, the Court held that: (1) the numerosity prong is satisfied because
6 Hain sold the Challenged Products to many thousands of California consumers [ECF No. 269 at
7 17]; (2) the commonality prong is met because several common legal and factual questions “define
8 and drive this lawsuit,” such as whether the Challenged Products were sold, labeled or represented
9 as “organic” [*id.* at 18]; (3) Brown and Lohela’s claims are “typical” of the class as they “claim
10 injury from the same course of conduct” and are undoubtedly members of the class they wish to
11 represent [*id.* at 19]; and (4) the adequacy prong is satisfied because Class Counsel have
12 “extensive experience” and “have proven more than proficient in the applicable law,” and the
13 named Plaintiffs share “core common issues with those of the unnamed class” [*id.* at 22-23].

14 Regarding the Rule 23(b) requirements, the Court rejected each of Hain’s arguments that
15 individual factual and legal issues make certification of a class inappropriate. The Court found
16 that despite differences in, for example, the various uses and formulations of the Challenged
17 Products, “the plaintiffs’ claims against them are simple and uniform: the products were presented
18 as organic when, under COPA, they were not. The plaintiffs’ claims, in other words, have nothing
19 to do with the unique characteristics of the various Hain products; they have to do only with what
20 is allegedly shared by all those products.” ECF No. 269 at 23.

21 Each of the Court’s determinations as to the satisfaction of the Rule 23(a) and Rule
22 23(b)(3) factors apply with equal force to the Settlement Class. Indeed, the Settlement Class is
23 only slightly modified from the classes the Court certified so as to exclude the post-reformulation
24 Avalon Organics® products. Thus, the Settlement Class should be certified.

25 **III. THE PROPOSED CLASS NOTICE SATISFIES THE REQUIREMENTS OF DUE**
26 **PROCESS.**

27 Rule 23(e) requires the court to direct notice “in a reasonable manner to all class members
28 who would be bound by” a proposed class action settlement. Fed. R. Civ. P. 23(e)(1). The

1 Settlement Agreement provides for notice that readily satisfies Rule 23 and due process
2 considerations.

3 **A. The Method of Notice Proposed Is Appropriate.**

4 The method proposed for providing notice to Class members is “reasonable” and should be
5 approved. Notice to the Class will be achieved shortly after entry of the Preliminary Approval
6 Order, in at least five ways. First, links to the relevant Settlement documents will be posted on the
7 Settlement website (www.HainOrganicCosmeticsLawsuit.com) and on Class Counsel’s websites.
8 Settlement § VI.B & Exh. D. Second, the Claim Administrator will publish notice in four
9 installments over the course of one month in the San Francisco Chronicle, which has a circulation
10 of more than 200,000. *Id.* Third, notice will be published in *People* magazine, which has a
11 circulation of over 370,000. *Id.* Fourth, press releases in both English and Spanish will be
12 disseminated via the PR Newswire. *Id.* Fifth, internet and mobile advertisements targeting
13 potential Class members in both English and Spanish will be run on various media services,
14 including People.com, Pulpo Media, UsWeekly.com, Xaxis Network, ShareThrough, Facebook
15 and Twitter. *Id.*

16 The Notice will be provided to Class members so that they have sufficient time to decide
17 whether to participate in the Settlement, object, or opt out. The Court has found that substantially
18 similar notice programs meet the requirements of due process and Rule 23, *Miller v. Ghirardelli*
19 *Chocolate Co.*, C 12-04936 LB, 2014 WL 4978433, at *5 (N.D. Cal. Oct. 2, 2014), as have other
20 courts in the Northern District, *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d at 1080.
21 Accordingly, the notice plan should be approved.

22 **B. The Contents of the Proposed Notice Are Adequate.**

23 Rule 23 requires that notice of a settlement be “the best notice practicable under the
24 circumstances, including individual notice to all members who can be identified through
25 reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). The content of the notice to class members “is
26 satisfactory if it ‘generally describes the terms of the settlement in sufficient detail to alert those
27 with adverse viewpoints to investigate and to come forward and be heard.’” *Rodriguez v. West*
28

1 *Publ'g Corp.*, 563 F.3d 948, 962 (9th Cir. 2009) (quoting *Churchill Vill., LLC v. General Elec.*,
2 361 F.3d 566, 575 (9th Cir. 2004)).

3 Here, the proposed notice forms provide this “sufficient detail.” *See* Settlement § VI,
4 Exhs. C & E. Together, they define the Settlement Class, explain all Class member rights,
5 releases, and applicable deadlines, and describe in detail the terms of the Settlement, including the
6 procedures for allocating and distributing Settlement funds. They plainly indicate the time and
7 place of the hearing to consider approval of the Settlement, and the method for objecting to or
8 opting out of the Settlement. They detail the provisions for payment of attorneys’ fees and service
9 awards to the class representatives, and provide contact information for Class Counsel. This
10 comports with settlement notices upheld in other cases. *See, e.g., In re Wells Fargo Loan*
11 *Processor Overtime Pay Litig.*, MDL Docket No. C-07-1841 (EMC), 2011 WL 3352460, at *4
12 (N.D. Cal. Aug. 2, 2011) (notice adequate where “[i]t disclosed all material elements of the
13 settlement, including class members’ release of claims, their ability to opt out or object to the
14 settlement, the amount of incentive awards and attorneys’ fees sought, and estimates of the award
15 members could expect to receive.”); *see generally Rodriguez*, 563 F.3d at 962-63 (because
16 “[s]ettlement notices are supposed to present information about a proposed settlement neutrally,
17 simply, and understandably,” they need not “detail the content of objections, or analyze the
18 expected value” of fully litigating the case).

19 **IV. SCHEDULING A FINAL APPROVAL HEARING IS APPROPRIATE.**

20 The last step in the settlement approval process is a final fairness hearing at which the
21 Court may hear all evidence and argument necessary to make the settlement evaluation.
22 Proponents of the settlement may explain the terms and conditions of the settlement and offer
23 argument in support of final approval. In addition, Class members, or their counsel, may be heard
24 in support of or in opposition to the Settlement. The Court will determine after the final approval
25 hearing whether the settlement should be approved, and whether to enter a final order and
26 judgment under Rule 23(e). Plaintiffs request that the Court set a date for the final fairness
27 hearing approximately 120 days after entry of the Preliminary Approval Order.

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CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary approval of the proposed Settlement, provisionally certify the proposed Settlement Class, approve the proposed notice plan and schedule a formal fairness hearing on final settlement approval approximately 120 days after entry of the Preliminary Approval Order.

DATED: September 22, 2015

Respectfully submitted,
LEXINGTON LAW GROUP

By: /s/ Mark N. Todzo
Mark N. Todzo
Attorneys for Plaintiffs ROSMINAH BROWN
and ERIC LOHELA, on Behalf of Themselves
and All Others Similarly Situated

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 8

9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN FRANCISCO DIVISION**

12 ROSMINAH BROWN and ERIC LOHELA, on
 13 behalf of themselves and all others
 14 similarly situated,

15 Plaintiffs,

16 v.

17 THE HAIN CELESTIAL GROUP, INC., a
 Delaware Corporation,

18 Defendant.

No. 11-cv-03082 LB

**DECLARATION OF MARK N.
 TODZO IN SUPPORT OF MOTION
 FOR PRELIMINARY APPROVAL
 OF CLASS ACTION SETTLEMENT
 AGREEMENT**

Date: October 8, 2015
 Time: 9:30 a.m.
 Location: Courtroom C
 Judge: Hon. Laurel Beeler

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1 I, Mark N. Todzo, declare:

2 1. I am an attorney with the Lexington Law Group (“LLG”), and I represent Plaintiffs
3 Rosminah Brown and Eric Lohela (“Plaintiffs”) in this action. I have personal knowledge of the
4 matters set forth below and, if called upon, I could and would competently testify thereto. I am
5 the attorney who has been principally involved in the prosecution of this litigation and the
6 negotiations that culminated in the Stipulation of Settlement (the “Settlement Agreement” or
7 “Settlement”) which is before the Court for preliminary approval. A true and correct copy of the
8 Settlement Agreement, signed by the Parties to this case, is attached as **Exhibit 1**. The Settlement
9 Agreement itself appends and incorporates seven exhibits, entitled “Exhibit A” through “Exhibit
10 G,” which I have included as part of Exhibit 1.

11 2. I negotiated the Settlement Agreement on behalf of Plaintiffs and the Class during a
12 series of intensive settlement negotiations with counsel for Defendant The Hain Celestial Group,
13 Inc. (“Hain” or “Defendant”) in this action. The negotiations were adversarial and conducted at
14 arm’s length, and there was no collusion involved.

15 3. Before commencing this action, I and others in my firm spent numerous hours and
16 significant resources investigating and researching the facts of this case and evaluating the
17 relevant law and facts to assess the merits of Plaintiffs’ potential claims and to determine how best
18 to serve the interests of Plaintiffs and the Class.

19 4. Hain maintains that it had begun efforts to bring the Challenged Products into
20 compliance with the California Organic Products Act (“COPA”) at around the time this litigation
21 was initiated. Accordingly, the central objective of the claims resolved in the Settlement was to
22 require Hain to disgorge the premiums it allegedly obtained during the period of time when the
23 Challenged Products were allegedly mislabeled as “organic,” thereby compensating consumers for
24 past alleged wrongdoings.

25 5. On February 25, 2013, and March 12, 2013, Class Counsel, Hain, and Hain’s
26 counsel participated in mediation with mediator Randall W. Wulff. Prior to the mediation, Hain
27 provided Plaintiffs with confidential information regarding its California sales of the Challenged
28

1 Products and the Challenged Products labeling during the class period. At the mediation, the
2 Parties reached an agreement in principle to resolve this litigation. While finalizing the terms of
3 the settlement agreement, an issue arose that precluded the Parties from finalizing the settlement.
4 Though the Parties continued to make efforts to resolve the issue, they were unable to do so.

5 6. Following denial of Hain's summary judgment motion, the Parties participated in
6 two full day settlement conferences with the Court in April and May 2014. The Parties were
7 unable to reach an agreement at that time. The Parties again entered into settlement negotiations
8 after the Court granted Plaintiffs' three motions for summary judgment in May 2015. On June 15,
9 2015, the court referred the Parties to Magistrate Judge Spero for a settlement conference, which
10 took place on July 20, 2015. The settlement conference with Judge Spero culminated in an
11 agreement in principle resolving the case. Over the past two months, the Parties have negotiated
12 the detailed terms of the Settlement.

13 7. On December 23, 2014, the Court approved the Parties' class notice program. ECF
14 No. 279. In accordance with the notice program, the class notice was disseminated beginning on
15 January 6, 2015. The deadline for absent class members to exclude themselves from the class
16 closed on March 9, 2015 and there were no requests for exclusion.

17 8. In addition to the significant motion practice in this case, the Parties conducted an
18 extensive amount of discovery. As the Court is well aware, discovery in this case was particularly
19 contentious. The Plaintiffs served over five sets of requests for production of documents, four sets
20 of interrogatories and three sets of requests for admissions. Defendant served three sets of
21 requests for admissions and two sets of requests for production of documents and interrogatories.
22 The Parties engaged in numerous meet and confer sessions, resulting in the submission of four
23 discovery dispute letters to the Court for resolution. Plaintiffs also subpoenaed over thirty third
24 parties including wholesalers, retailers and marketing firms. More than 229,000 pages of
25 documents were produced and reviewed by the Parties, and over 10 depositions were conducted of
26 Plaintiffs, senior Hain personnel and Plaintiffs' damages expert. Through this discovery, Plaintiffs
27 obtained vital information from Hain pertaining to the legitimacy and scope of their claims,
28

1 including information regarding the Challenged Products' labels, formulations and sales.

2 9. In my firm's capacity as class counsel, we considered a number of factors in
3 reaching the proposed Settlement Agreement with Defendant. Although Plaintiffs prevailed
4 against the defenses Hain has raised thus far – as well as prevailing on their motion for class
5 certification – there is considerable litigation risk for Plaintiffs going forward. For example, given
6 that the legal issues regarding allegedly false organic representations on consumer products are
7 relatively novel and have not been widely litigated, there is always the risk that the Court's orders
8 denying Hain's motions to dismiss and granting Plaintiffs' motions for summary judgment could
9 be reversed on appeal even if Plaintiffs prevailed at trial. By settling now, Class members secure
10 immediate significant monetary compensation. These benefits will accrue equally to all Class
11 members.

12 10. In agreeing to the monetary payments to the Class under the Settlement, Class
13 Counsel considered that the \$7,500,000 claim fund plus up to \$1,850,000 in coupons paid by Hain
14 represents a substantial portion of the damages sought. The monetary provisions of the Settlement
15 were based in part on a damages model that measures premiums paid by consumers for the
16 Challenged Products over and above the prices paid by consumers for seemingly comparable
17 personal care products that do not claim to be organic. Plaintiffs also seek disgorgement of
18 profits, which while easier to calculate has less precedential support. The 50% of the purchase
19 price made available to Class members pursuant to the Settlement exceeds the restitution and/or
20 damages estimate under either the price premium or disgorgement model.

21 11. Other factors we considered in reaching the Settlement with Hain include the
22 present value of obtaining immediate monetary relief versus the potentially long wait for a
23 recovery after a full trial and the burdens of proof necessary to establish liability. All of these
24 factors indicated that the Settlement to which the Parties agreed would best serve the interests of
25 the Class. Based on our experience, we concluded that the terms of the Settlement are fair and
26 reasonable.

27 12. I and others in my firm spent numerous hours investigating and researching the
28

1 facts of this case, conferring with Plaintiffs, researching applicable law, drafting pleadings,
2 reviewing and analyzing documents and data produced by Defendant, and negotiating the
3 proposed Settlement Agreement. Class Counsel will submit support for the attorneys' fee and
4 costs award called for by the Settlement in connection with the hearing for final approval of the
5 Settlement. While the proposed Settlement provides that Class Counsel may be awarded up to
6 \$4,000,000 as partial compensation for Class Counsel's reasonable attorneys' fees and costs, that
7 amount is significantly less than Plaintiffs' lodestar incurred in prosecuting the action and
8 negotiating the Settlement.

9 13. LLG is a private law firm that has been successfully pursuing cases on behalf of
10 consumers and public interest groups for over a decade. LLG has represented numerous Parties in
11 civil actions of various types and degrees of complexity, including many cases brought as class
12 actions. The LLG's attorneys have substantial experience in false advertising and unfair
13 competition matters. The following is a representative sampling of some of the cases LLG has
14 successfully litigated or is currently involved in:

15 a) *Golloher, et al. v. Todd Christopher International, Inc.*, Case No. CV-12-
16 06002 (N.D. Cal.): Class counsel in case involving misrepresentation of non-organic cosmetic
17 products as organic;

18 b) *Stephenson, et al. v. Neutrogena Corporation*, Case No. C 12-00426 PJH
19 (N.D. Cal.): Named Class Counsel in case involving misrepresentation of cosmetic products as
20 "natural."

21 c) *In re WellPoint Out of Network UCR Rates Litigation*, Case No. MDL 2074
22 (J.P.M.L.): Named interim Class Counsel in antitrust case against health insurer alleging
23 conspiracy to artificially reduce reimbursements on "out of plan" claims by policy holders through
24 the use of the fraudulent Ingenix database;

25 d) *In re Comcast Peer to Peer (P2P) Transmission Contract Litigation*, Case
26 No. 2:08-md-01992 (E.D. Pa.): Named Class Counsel in class action against Comcast for alleged
27 breach of contract and false advertising arising from interference with subscribers' use of peer to
28

1 peer file sharing applications; obtained \$16 million settlement for the class;

2 e) *CEH v. Bristol-Meyers Squibb Co.*, Case No. 307981 (San Francisco
3 County Super. Ct.); *Johnson v. Bristol-Meyers Squibb Co.*, Case No. 308872 (San Francisco
4 County Super. Ct.): Counsel for plaintiffs in consolidated cases against manufacturers and
5 retailers of topical skin care products such as diaper rash ointments containing lead and cadmium;
6 plaintiffs' case included class action claims against defendants for falsely advertising the attributes
7 of their products;

8 f) *In re Kava Kava Litigation*, Case No. BC269717 (Los Angeles County
9 Super. Ct.): Co-counsel for plaintiffs in class and private attorney general action for false
10 advertising on behalf of purchasers of dietary supplements containing Kava-Kava root;

11 g) *Jones v. Microsoft Corporation*, Case No. 405657 (San Francisco County
12 Super. Ct.): Co-counsel for plaintiff in class and private attorney general action for false
13 advertising on behalf of purchasers of Microsoft's Office software;

14 h) *In re TCPA Cases*, Case No. JCCP 4350 (Los Angeles County Super. Ct.):
15 Counsel for plaintiffs in class action on behalf of recipients of unsolicited fax advertisements;

16 i) *Foundation Aiding the Elderly, et al. v. Covenant Care, GranCare, and
17 Ember Care*, Case Nos. RG03087211, RG03083528, and RG03087224 (Alameda County Super.
18 Ct.): Co-counsel for plaintiffs in class and private attorney general action on behalf of residents of
19 understaffed nursing homes; plaintiffs' cases included false advertising claims based on
20 defendants' failure to disclose that their nursing homes are not adequately staffed;

21 j) *In re Automobile Advertising Cases*, Case No. JCCP 4149 (San Francisco
22 County Super. Ct.): Counsel for plaintiff in private attorney general action for false advertising on
23 behalf of automobile consumers;

24 k) *Lombardi v. Stompsoft, Inc.*, Case No. 04CC08816 (Orange County Super.
25 Ct.): Counsel for plaintiff in class action alleging claims for false advertising of computer
26 software;

27 l) *In re Tobacco Cases II*, Case No. JCCP 4042 (San Diego County Super.
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- 1 Ct.): Counsel for City of San Jose in action alleging claims under Proposition 65 and Unfair
2 Competition Law for failure to warn regarding dangers of second hand smoke exposure;
- 3 m) *Dowhal v. Amazon.com, et al.*, Case No. 03-417080 (San Francisco County
4 Super. Ct.): Counsel for plaintiff in class and private attorney general action for false advertising
5 on behalf of purchasers of inkjet printers;
- 6 n) *Robins v. US Airways, Inc.*, Case No. CGC-07-460373 (San Francisco
7 County Super. Ct.): Appointed class counsel in class action alleging breach of contract on behalf
8 of internet customers;
- 9 o) *Gardner v. Chase Bank USA, N.A.*, Case No. SCV 242322 (Sonoma County
10 Super. Ct.): Counsel for plaintiff in class case alleging national bank’s violations of state and
11 federal fair debt collection laws in connection with outstanding consumer credit card debt;
- 12 p) *Dervaes v. California Physicians’ Service*, Case No. RG-06262733
13 (Alameda County Super. Ct.): Counsel for plaintiff in class case challenging health insurer’s
14 unilateral mid-year increase to calendar-year costs.

15 Attached hereto as **Exhibit 2** is a true and correct copy of LLG’s firm resume.

16 14. To the extent that there is any money left over after payment of claims, notice and
17 administration costs, attorneys’ fees and costs and incentive awards, those funds will be paid as *cy*
18 *pres* to the California Consumer Protection Foundation and the Jesse Smith Noyes Foundation.
19 These foundations are well-suited to ensure that any funds paid to them pursuant to the Settlement
20 will be used for the next-best use of the class members. Following receipt of any funds paid from
21 the Settlement, the foundations will send out a request for proposal (“RFP”) to non-profit
22 organizations seeking proposals relating to the matters that will benefit class members such as
23 consumer education regarding the advertising relating to organic products. The two foundations
24 chosen by the Parties are ideally situated fund the RFPs that best match the underling goals of the
25 lawsuit to the benefit of class members.

26 I declare under penalty of perjury under the laws of the United States that the
27 foregoing is true and correct.

28

Exhibit 1

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13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 ROSMINAH BROWN and ERIC LOHELA,
18
19 Plaintiffs,
20
21 v.
22 THE HAIN CELESTIAL GROUP, INC.,
23
24 Defendant.

Civil Case Nos. CV 11-03082 LB, CV 13-02237 LB

CLASS ACTION

STIPULATION OF SETTLEMENT

Judge: Hon. Laurel Beeler

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CLASS ACTION
STIPULATION OF SETTLEMENT
NOS. CV 11-03082 LB, CV 13-02237 LB

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1 This Stipulation of Settlement is made and entered into by Plaintiffs Rosminah Brown,
2 Eric Lohela and Lauren Crivier on behalf of themselves and all others similarly situated, and
3 Defendant The Hain Celestial Group, Inc.

4 **I. DEFINITIONS**

5 A. As used in this Stipulation and annexed Exhibits (which are an integral part of the
6 Stipulation and which are incorporated by reference in their entirety), the following capitalized
7 terms have the meanings specified below:

8 1. “Action” means the case entitled *Brown v. The Hain Celestial Group, Inc.*
9 removed from the Alameda County Superior Court on June 22, 2011, to the United States District
10 Court for the Northern District of California and assigned Case No. CV 11-3082.

11 2. “Approved Claim(s)” means the claims approved by the Claim
12 Administrator according to the claims criteria in Exhibit A.

13 3. “Cash Payment” means the \$7.5 million to be paid by Defendant to be used
14 for payment of the following: (1) Class Members’ claims; (2) Notice and Administration Costs;
15 (3) Fee and Expense Award; and (4) incentive awards to Plaintiffs. The Cash Payment Account
16 shall be administered by the Claim Administrator.

17 4. “Cash Payment Account” means a bank account to be selected and
18 administered by the Claim Administrator that shall hold the Cash Payment.

19 5. “Cash Payment Balance” means the balance of the Cash Payment at the
20 end of the Claim Review Period, consisting of the \$7.5 million paid as the Cash Payment minus:
21 (i) the total amount paid to Class Members who submit Approved Claims; (ii) the total amount
22 for Notice and Administrative Costs, which is estimated to be \$585,500 and shall not exceed
23 \$650,000; (iii) up to four million dollars (\$4,000,000) for Fee and Expense Award; and (iv) any
24 incentive awards to Plaintiffs.

25 6. “CEH Action” means the case entitled *CEH v. The Hain Celestial Group,*
26 *Inc.* filed in the Alameda County Superior Court and assigned Case No. RG 12-620309.

27 7. “Challenged Products” shall mean all Avalon Organics® and
28 JASON® brand cosmetic products at issue in this Action that were manufactured and/or sold

1 during the Class Period, a complete list of which is provided in the Claim Form attached as
2 Exhibit F hereto.

3 8. “Claim Administrator” means the independent company agreed upon by
4 the Parties to provide the Class and Publication Notice and administer the claims process. The
5 Parties agree that Heffler Claims Group will be retained as the Claim Administrator.

6 9. “Claim Form” means the document to be submitted by Settlement Class
7 Members seeking cash and/or Coupons pursuant to the Settlement Agreement. The Claim Form
8 will be available online at the Settlement Website and will be substantially in the form of
9 Exhibit F hereto.

10 10. “Claim Review Period” means the three-month period beginning no later
11 than 10 days after the Effective Date.

12 11. “Claim Submission Period” means the period beginning on the date notice
13 to the Class is first published, and continuing until 30 days prior to the date of the Final Approval
14 Hearing.

15 12. “Class” and/or “Class Members” means all individuals who purchased the
16 Challenged Products in California within the Class Period. Specifically excluded from the Class
17 are (a) Defendant, (b) the officers, directors, or employees of Defendant and their immediate
18 family members, (c) any entity in which Defendant has a controlling interest, (d) any affiliate,
19 legal representative, heir, or assign of Defendant, (e) all federal court judges who have presided
20 over this Action and their immediate family members; (f) all persons who submit a valid request
21 for exclusion from the Class; and (g) those who purchased the Challenged Products for the
22 purpose of resale.

23 13. “Class Counsel” means Mark Todzo and Howard Hirsch of the Lexington
24 Law Group.

25 14. “Class Notice” means the “Notice of Class Action Settlement”
26 substantially in the same form as Exhibit E attached hereto.

27 15. “Class Notice Package” means the information as approved in form and
28 content by Class Counsel and Defendant’s Counsel and to be approved by the Court. Class

1 Notice Packages will include (a) the Class Notice, and (b) the Claim Form. The Class Notice
2 Package will be available in both English and Spanish.

3 16. "Class Period" is from May 11, 2007 to January 30, 2011 for purchases of
4 Jason® brand products and May 11, 2007 to May 11, 2011 for purchases of Avalon Organics®
5 brand products.

6 17. "Coupon" means a piece of paper that entitles the holder to the purchase of
7 (or a discount on the purchase of) any single Avalon Organics® brand or JASON® brand
8 cosmetic product up to the value designated on the coupon. Coupons will be issued in \$2
9 denominations and may not be combined for the purchase of a single product. However, multiple
10 Coupons may be used in a single transaction in which the buyer is purchasing multiple Avalon
11 Organics® brand or JASON® brand cosmetic products provided that only a single Coupon is
12 used toward the purchase of each separate product. Coupons must be redeemed within 12 months
13 following their issuance. The cost of a Coupon includes the face value of the Coupon together
14 with the redemption costs equal to \$0.16 per Coupon.

15 18. "Court" means the U.S. District Court for the Northern District of
16 California.

17 19. "Defendant" means The Hain Celestial Group, Inc., also referred to herein
18 as "Hain."

19 20. "Defendant's Counsel" or "Hain's Counsel" means William Stern and
20 James Schurz of Morrison & Foerster, LLP.

21 21. "Distribution Plan" means a written final accounting and plan of
22 distribution prepared by the Claim Administrator, identifying (a) each claimant whose claim was
23 approved, including the dollar amount of any Cash Payment awarded to each such claimant, the
24 dollar amount of any pro rata reduction of any Cash Payment required by Section III.B.4; the
25 dollar amount and number of any Approved Claims for Coupons awarded to each such claimant;
26 and the dollar amount of any pro rata reduction of any Coupons required by Section III.B.5;
27 (b) each claimant whose claim was rejected; (c) the dollar amount of the Cash Payment Balance
28

1 to be disbursed to the recipient(s) selected by the Court as provided in Section III.B.6; and (d) a
2 final accounting of all Notice and Administration Costs incurred by the Claim Administrator.

3 22. “Effective Date” means the date described in Section VII.A.

4 22. “Fee and Expense Award” means the amount awarded to Plaintiffs’
5 Counsel by the Court for attorneys’ fees, costs and expenses, up to four million dollars
6 (\$4,000,000).

7 23. “Final Approval Hearing” means the hearing to be held by the Court to
8 consider and determine whether the proposed settlement of the Action as contained in this
9 Stipulation should be approved as fair, reasonable, and adequate, and whether the Final
10 Settlement Order and Judgment approving the settlement contained in this Stipulation should be
11 entered.

12 24. “Final Settlement Order and Judgment” means an order and judgment
13 entered by the Court:

14 (a) Giving final approval to the terms of this Stipulation as fair,
15 adequate, and reasonable;

16 (b) Providing for the orderly performance and enforcement of the terms
17 and conditions of the Stipulation;

18 (c) Dismissing the Action with prejudice;

19 (d) Discharging the Released Parties of and from all further liability for
20 the Released Claims to the Releasing Parties; and

21 (e) Permanently barring and enjoining the Releasing Parties from
22 instituting, filing, commencing, prosecuting, maintaining, continuing to prosecute, directly or
23 indirectly, as an individual or collectively, representatively, derivatively, or on behalf of them, or
24 in any other capacity of any kind whatsoever, any action in the California Superior Courts, any
25 other state court, any federal court, before any regulatory authority, or in any other tribunal,
26 forum, or proceeding of any kind, against the Released Parties that asserts any Released Claims
27 that would be released and discharged upon final approval of the Settlement as provided in
28 Sections IV.A, B and C of this Stipulation.

1 (f) The actual form of the Final Settlement Order and Judgment
2 entered by the Court may include additional provisions as the Court may direct that are not
3 inconsistent with this Stipulation, and will be substantially in the form attached hereto as
4 Exhibit G.

5 25. "Household" means any number of persons occupying the same dwelling
6 unit.

7 26. "Notice and Administration Costs" means all costs and expenses actually
8 incurred by the Claim Administrator, including, but not limited to, expenses related to publication
9 and dissemination of the Class Notice, maintaining the Cash Payment Account (such as taxes that
10 may be owed by the Cash Payment Account) and printing and mailing Cash Payments and
11 Coupons to Class Members, which costs and expenses have been estimated by the Claim
12 Administrator to be \$585,500 and shall not exceed \$650,000.

13 27. "Notice Plan" or "Notice Program" means the plan for dissemination of the
14 Publication Notice and Class Notice Package as described in Section VI.

15 28. "Parties" means Plaintiffs and Defendant.

16 29. "Plaintiff" or "Plaintiffs" means Rosminah Brown, Eric Lohela and Lauren
17 Crivier.

18 30. "Preliminary Approval Order" means the "Order Granting Preliminary
19 Approval of Class Action Settlement," substantially in the form of Exhibit B.

20 31. "Publication Notice" means information as approved in form and content
21 by Class Counsel and Defendant's Counsel and to be approved by the Court, substantially in the
22 form of Exhibit C and available in English and Spanish.

23 32. "Rejected Claims" means all claims rejected according to the claims
24 criteria in Exhibit A.

25 33. "Released Claims" means those claims released pursuant to Section IV.A,
26 B and C of this Stipulation.

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1 34. “Released Parties” means Defendant and each of its parent, affiliated and
2 subsidiary corporations and all of their agents, employees, partners, predecessors, successors,
3 assigns, insurers, attorneys, officers, and directors.

4 35. “Releasing Parties” means Plaintiffs, individually and as representatives of
5 all those similarly situated, and the Class Members who do not exclude themselves pursuant to
6 Section VI.D.

7 36. “Settlement Website” means the website established by the Claim
8 Administrator that will contain documents relevant to the settlement, including the Class Notice
9 Package. Claim Forms may be submitted by Class Members via the Settlement Website.

10 37. “Stipulation of Settlement” and/or “Stipulation” means this Stipulation of
11 Settlement, including its attached exhibits (which are incorporated herein by reference), duly
12 executed by Plaintiffs, Class Counsel, Defendant, and Defendant’s Counsel.

13 38. “Total Settlement Value” means the Cash Payment plus the up to \$2
14 million towards Coupons and associated redemption cost (which is equivalent to up to \$1,850,000
15 in the face value of the Coupons together with up to \$150,000 in redemption costs).

16 B. Capitalized terms used in this Stipulation, but not defined above, shall have the
17 meaning ascribed to them in this Stipulation and the exhibits attached hereto.

18 **II. RECITALS**

19 A. On May 11, 2011, Plaintiff Brown filed an initial complaint in the Alameda
20 County Superior Court. Brown was joined on the complaint by the Center for Environmental
21 Health (“CEH”), a non-profit environmental organization. Brown alleged claims under California
22 consumer protection statutes for injunctive and monetary relief on behalf of a class of similarly
23 situated consumers who purchased certain Avalon Organics® and/or JASON® brand personal
24 care products based on purported representations that such products were “organic” when they
25 were allegedly comprised primarily of non-organic ingredients. Specifically, Brown’s complaint
26 alleged that Hain misleadingly used the term “organics” in the “Avalon Organics®” brand name
27 and misleadingly used the term “pro organic” on the principal display panel on some of those
28 products. Brown also alleged that Hain misleadingly used the term “Pure, Natural & Organic” on

1 the principal display panel and elsewhere on certain JASON® brand products and violated: (1)
2 the California Organic Products Act's ("COPA's") restrictions on selling, labeling, or
3 representing cosmetic products "as organic or made with organic ingredients" unless the products
4 contain a minimum of 70% organically produced ingredients, Cal. Health & Safety Code §§
5 110838 *et seq.*; (2) the unlawful, unfair, and fraudulent prongs of California's Unfair Competition
6 Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200 *et seq.*; (3) the California Consumers Legal
7 Remedies Act ("CLRA"), Cal. Civil Code §§ 1750 *et seq.*; and (4) the express-warranty
8 provisions of California's Commercial Code, Cal. Com. Code § 2313. Class Counsel confirm
9 that, before commencing the Action, they conducted an examination and evaluation of the
10 relevant law and facts to assess the merits of the claims and to determine how to best serve the
11 interests of the members of the Class.

12 B. On June 22, 2011, Defendant removed Plaintiff Brown and CEH's action to this
13 Court. Because CEH raised only a claim pursuant to California Health & Safety Code section
14 111910 seeking injunctive relief based on violations of COPA, CEH lacked injury sufficient to
15 give it standing under Article III of the United States Constitution. Accordingly, CEH and
16 Settling Defendant entered into a stipulation to dismiss CEH as a party to this Action.

17 C. On March 2, 2012, Defendant moved to dismiss Plaintiff Brown's complaint for
18 lack of subject matter jurisdiction, arguing that the Organic Foods Production Act of 1990
19 ("OFPA"), 7 U.S.C. §§ 6501-6524, expressly preempts COPA. In supplemental briefing, Hain
20 also argued that the Court should dismiss the complaint because the USDA has primary
21 jurisdiction over Plaintiff Brown's claims. On August 1, 2012, the Court denied Defendant's
22 motion in its entirety. On August 9, 2012, Defendant requested that the Court certify the order
23 denying Defendant's motion to dismiss for interlocutory appeal to the Ninth Circuit, and the
24 Court did so. On December 17, 2012, the Ninth Circuit denied Defendant's petition for
25 permission to appeal the denial of Defendant's first motion to dismiss.

26 D. Plaintiff Brown filed an amended complaint on August 21, 2012, in order to add
27 Plaintiff Lohela as a class representative and to conform the complaint to the federal rules
28 regarding class certification. On October 9, 2012, Defendant filed a second motion to dismiss

1 together with a motion to strike. On December 20, 2012, the Court denied Defendant's second
2 motion to dismiss and motion to strike in their entirety.

3 E. Meanwhile, because CEH lacked standing in federal court, on March 7, 2012, it re-
4 filed its COPA claim against Defendant in the Alameda County Superior Court, thus commencing
5 the CEH Action.

6 F. In addition, on April 6, 2012, Lauren Crivier filed a complaint in the United States
7 District Court for the Central District of California alleging violations of California's False
8 Advertising Law (FAL), Cal. Bus. & Prof. Code §§ 17500 *et seq.*, the UCL, and the CLRA based
9 on the same allegedly misleading product tagline "Pure, Natural & Organic" appearing on the
10 principal display panels of some JASON® brand products, as well as other iterations,
11 combinations, or uses of the words "natural" and "organic" on the brand's product labels and
12 advertising. Plaintiff Crivier alleged that the composition of the JASON® brand products were
13 not "natural" or "organic." Ms. Crivier's case, titled *Crivier v. The Hain Celestial Group, Inc.*,
14 was transferred to this Court on May 9, 2013 and assigned Case No. CV 13-2237. Ms. Crivier's
15 case has been stayed since its transfer to this Court. The parties agree that as part of the
16 settlement of the Action, the operative Complaint will be deemed amended to add Ms. Crivier as
17 a named plaintiff herein. Also as part of the settlement of this action, Ms. Crivier and Defendant
18 stipulated to dismissal of her complaint which was entered on September 2, 2015.

19 G. On February 21, 2013, Defendant provided Plaintiffs' Counsel with a letter from
20 the California Department of Public Health ("CDPH") to William J. Friedman dated February 19,
21 2013 ("CDPH Letter") regarding some of the Challenged Products. The CDPH Letter resolved in
22 Hain's favor a complaint received by CDPH in 2011 regarding those Challenged Products. The
23 CDPH Letter noted that Hain has certified its Avalon Organics® products as containing 70%
24 organic ingredients under the ANSI/NSF 305 standard and had removed the "Pure, Natural &
25 Organic" tagline from its JASON® products. The CDPH Letter concluded that, prior to these
26 changes, the Challenged Products were not represented as "organic" and did not use the word
27 "organic" to identify ingredients or modify the product's content on the principal display panel.
28

1 H. On February 25, 2013, and March 12, 2013, Class Counsel, Hain, and Hain's
2 Counsel participated in mediation with mediator Randall W. Wulff. Prior to the mediation, Hain
3 provided Plaintiffs with confidential information regarding its California sales of the Challenged
4 Products and the Challenged Products labeling during the Class Period. At the mediation, the
5 Parties reached an agreement in principle to resolve this litigation. While finalizing the terms of
6 the settlement agreement, an issue arose that precluded the Parties from finalizing the settlement.
7 Though the Parties continued to make efforts to resolve the issue, they were unable to do so. On
8 September 19, 2013, the Parties requested that the Court reinstate a litigation schedule.

9 I. On November 1, 2013, Hain filed a motion for summary judgment, arguing that a
10 CDPH letter dated February 19, 2013 barred Plaintiffs' claims. The Court denied Hain's motion
11 for summary judgment on February 10, 2014.

12 J. Following the denial of Hain's motion seeking summary judgment, but before
13 class certification, the Parties participated in two full-day settlement conferences with Judge
14 Beeler in April and May 2014. The Parties were unable to reach an agreement.

15 K. On November 14, 2014, the Court granted Plaintiffs' motion for class certification.
16 The Classes that were certified consist of all California purchasers of Avalon Organics® brand
17 cosmetic products from May 11, 2007 up through the date of class notice (January 5, 2015) and
18 all purchasers of JASON® brand cosmetic products from May 11, 2007 up through January 30,
19 2011. The Classes exclude products that are certified USDA Organic.

20 L. On December 23, 2014, the Court approved the Parties' class notice program and
21 the notice program was implemented shortly thereafter.

22 M. On October 1, 2014, Plaintiffs filed their first motion for summary adjudication.
23 On February 12, 2015, Plaintiffs filed their second motion for summary adjudication. On April
24 23, 2015, Plaintiffs filed their third motion for summary adjudication. The Court granted
25 Plaintiffs' first two motions for summary adjudication on May 26, 2015, and granted Plaintiffs'
26 third motion for summary adjudication in part on May 30, 2015, resolving certain legal elements
27 of Plaintiffs' claims in their favor.
28

1 N. In addition to the motion practice described above, the Parties conducted an
2 extensive amount of discovery. The Plaintiffs served over five sets of requests for production of
3 documents, four sets of interrogatories and three sets of requests for admissions. Defendant
4 served three sets of requests for admissions and two sets of requests for production of documents
5 and interrogatories. The Parties engaged in numerous meet and confer sessions, resulting in four
6 discovery dispute letter submissions to the Court for resolution. Plaintiffs subpoenaed over thirty
7 third parties including wholesalers, retailers, and marketing firms. More than 229,000 pages of
8 documents were produced and reviewed by the Parties, and over 10 depositions were conducted
9 of Plaintiffs, senior Hain personnel, and Plaintiffs' expert.

10 O. Hain has denied and continues to deny each and all of the claims and contentions
11 alleged by Plaintiffs. Hain has expressly denied and continues to deny all charges of wrongdoing
12 or liability against it arising out of any of the conduct, labels, statements, acts or omissions
13 alleged, or that could have been alleged, in the Action and states that its advertising and
14 marketing of the Challenged Products was not false or misleading. Hain further denies that any
15 of the Class Members or anyone has suffered any harm or damage or is entitled to any money or
16 equitable relief whatsoever in connection with the Action.

17 P. Nonetheless, Hain has concluded that further defense of the Action would be
18 protracted and expensive, and that it is desirable that the Action be fully and finally settled in the
19 manner and upon the terms and conditions set forth in the Stipulation. Defendant also has taken
20 into account the uncertainty and risks inherent in any litigation. Hain, therefore, has determined
21 that it is desirable and beneficial to it that the Action be settled in the manner and upon the terms
22 and conditions set forth in the Stipulation.

23 Q. Class Counsel have concluded, after extensive litigation, investigation of the facts,
24 consultation with their experts, extensive discovery, and careful consideration of the
25 circumstances of the Action and the possible legal and factual defenses thereto, that it would be in
26 the best interests of the Class to enter into this Stipulation to avoid the uncertainties of litigation
27 and to assure that the benefits reflected herein are obtained for the Class herein defined. Class
28 Counsel considers the Settlement set forth in this Stipulation to be fair, reasonable and adequate

1 and in the best interests of the Settlement Class.

2 **III. SETTLEMENT RELIEF**

3 In consideration of the covenants set forth herein and the settlement of this Action, the
4 Parties agree that Hain shall pay a \$7.5 million Cash Payment, and up to \$2 million toward
5 Coupons and associated redemption cost (which is equivalent to up to \$1,850,000 in the face
6 value of the Coupons together with up to \$150,000 in redemption cost), to be allocated as
7 follows:

8 A. Cash Payment

9 Hain primarily sells the Challenged Products to distributors, not directly to consumers,
10 and thus has no way to identify individual Class Members. Additionally, an individual Class
11 Member's recovery may be too small to make traditional methods of proof economically feasible.
12 In order to assure that Class Members have access to the proceeds of this settlement, a Cash
13 Payment Account is proposed to be established and administered as follows:

14 1. Hain shall pay a total of \$7.5 million in cash for payment of approved
15 Class Member claims, attorneys' fees and costs in accordance with Section VIII.A below,
16 Plaintiffs' incentive awards in accordance with Section VIII.B below, and for the payment of
17 Notice and Administration Costs, on the following schedule:

18 (a) Not more than 30 days after the Court's order granting Preliminary
19 Approval, Hain shall pay \$585,500 to the Cash Payment Account to cover any Notice and
20 Administration Costs;

21 (b) Within 30 days after the Effective Date, Hain shall pay the
22 remaining \$6,914,500 into the Cash Payment Account.

23 2. The Cash Payment shall be applied as follows:

24 (a) To reimburse or pay the Notice and Administration Costs
25 reasonably and actually incurred by the Claims Administrator, which are estimated in good faith
26 to be \$585,500 and shall not exceed \$650,000;

27 (b) To pay attorneys' fees and costs in accordance with Section VIII.A;
28

1 (c) To pay incentive awards to Plaintiffs in accordance with Section
2 VIII.B; and

3 (d) To distribute to Class Members who submit Approved Claims to
4 the Claim Administrator.

5 B. Class Member Benefits Under the Settlement

6 1. Class Members shall have the opportunity to submit a claim to the Claim
7 Administrator during the Claim Submission Period. Class Members must fill out a Claim Form
8 substantially in the form of Exhibit F and submit it as described in Exhibits C and E. A
9 maximum of one claim, submitted on a single Claim Form, may be submitted by each Class
10 Member or his or her Household. Proof of claim for cash and Coupons must be submitted as
11 follows:

12 (a) For a Class Members making a claim for up to \$50 in cash or up to
13 \$80 in cash and Coupons combined, Class Members must provide the identity and contact
14 information for the claimant and either: (1) include information on the Claim Form confirming
15 under penalty of perjury (i) the specific Challenged Product(s) purchased in California and (ii) the
16 approximate purchase date(s) within the Class Period in California; or (2) provide a receipt or
17 receipts showing each Challenged Product purchased in California on which the claim is based, or
18 other similar documentation that reflects an eligible purchase (i.e., retailer card statement or
19 product packaging).

20 (b) For a Class Member making a claim in excess of \$50 in cash or \$80
21 in cash and Coupons combined, Class Member must provide their identity and contact
22 information and must submit a receipt or receipts showing each Challenged Product purchase in
23 California on which the claim is based, or other similar documentation that reflects an eligible
24 purchase (i.e., retailer card statement or product packaging).

25 2. Class Members who properly and timely submit the Claim Form are
26 eligible to receive, for each product purchased, either (i) a Cash Payment or (ii) a Cash Payment
27 and Coupon(s), at the Class Member's election. For purposes of claims made pursuant to this
28

1 Stipulation only, the claimant will select the Challenged Product(s) purchased in California, a
2 complete list of which is provided in the Claim Form attached as Exhibit F hereto.

3 (a) If the claimant elects for a Cash Payment only, the claimant will
4 receive 50% of the purchase price of each of the Challenged Product(s) purchased in California.
5 The purchase price for each of the Challenged Products will be based on the manufacturer's
6 suggested retail price of such product as of January 30, 2011 as set forth on the Claim Form
7 attached hereto as Exhibit F. For example, if the total sum of the purchase prices of the products
8 identified on an individual claimant's Claim Form total \$100, the Cash Payment will be \$50.

9 (b) If the claimant elects for a Cash Payment and Coupon(s), the
10 claimant will receive 50% of the value of the combined purchase price of the Challenged
11 Products(s) purchased in California and Coupon(s) calculated such that 20% of the total Cash
12 Payment will be payable in Coupons at a ratio between cash and Coupons of 1:4 (\$1 cash to \$4 in
13 Coupons). For example, a claimant filing a claim for \$100 of product purchases under this
14 section would receive \$40 in cash (80% of the \$50 Cash Payment) and \$40 in Coupons (20% of
15 the \$50 Cash Payment multiplied by 4). As a further example, a claimant making a claim for \$80
16 worth of products or what would be \$40 in Cash Payment would, under this section, receive \$32
17 in cash and \$32 in Coupons. In the event the calculated value of the Coupons is not divisible by
18 2, the amount of the Coupon will be rounded up to the next integer divisible by 2.

19 3. Each Class Member is limited to a maximum payment under Section
20 III.B.1(a) to either \$50 in Cash Payment or a combination of \$40 in Cash Payment plus \$40 in
21 Coupons based on the formula above. There is no limit to the claim amount for an individual
22 claiming under Section III.B.1(b).

23 4. If the cash amounts to be paid from the Cash Payment Account under
24 Section III.A.2(d) exceed the Cash Payment Balance, all Approved Claims for Cash Payments
25 will be reduced pro rata, based on the respective dollar amounts of the Approved Claims, until the
26 total aggregate of Approved Claims equals the Cash Payment Balance.

27 5. If the value of Approved Claims for Coupons exceeds \$1,850,000 in the
28 face value of the Coupons, all Approved Claims for Coupons will be reduced pro rata, based on

1 the respective dollar amounts of the Approved Claims, until the total aggregate of Approved
2 Claims for Coupons equals \$1,850,000 in the face value of the Coupons.

3 6. If the amounts to be paid from the Cash Payment Account under
4 Section III.A.2(d) do not equal or exceed the Cash Payment Balance, the remainder shall be
5 distributed equally between the California Consumer Protection Foundation and the Jesse Smith
6 Noyes Foundation for use in a manner that the recipients determine will provide the next best use
7 of compensation to Class Members arising out of claims that have been made by Plaintiffs in this
8 Action and as consideration for the extinguishment of those claims.

9 7. The claim process will be administered by a Claim Administrator,
10 according to the criteria set forth in Exhibit A, and neither Class Counsel nor Hain shall
11 participate in resolution of such claims.

12 8. All expenses of the Claim Administrator shall be paid as provided in
13 Section III.A.2(a).

14 9. The Claim Administrator shall approve or reject all claims according to the
15 claims criteria in Exhibit A. The Claim Administrator is authorized to audit claims received from
16 addresses outside of California as well as those requesting checks or vouchers to be mailed to
17 addresses outside of California. The determination of claims shall occur during the Claim
18 Review Period. The decision of the Claim Administrator shall be final and binding on Hain and
19 all Class Members submitting Claims, and neither Hain nor such Class Members shall have the
20 right to challenge or appeal the Claim Administrator's decision.

21 10. Within 15 days after conclusion of the Claim Review Period, the Claim
22 Administrator shall provide to Hain and Class Counsel the Distribution Plan. No sooner than 20
23 days, but not later than 90 days after delivering the Distribution Plan, the Claim Administrator
24 shall disburse the remaining amounts in the Cash Payment Account as well as any Coupons
25 claimed in accordance with the Distribution Plan and mail letters to all claimants with Rejected
26 Claims explaining the rejection. In no event shall a Class Member's claim be paid until the
27 conclusion of the Claim Review Period.

28

1 11. Any distribution checks mailed to Class Members that are returned as
2 non-deliverable, or are not cashed within 180 days of the date of the check, or are otherwise not
3 payable, will be void. Any such funds shall be disbursed as follows: first to reimburse the Claim
4 Administrator for any documented settlement administration costs in excess of the cap set forth in
5 Section III.A.2(a), including additional mailing and postage costs; and second to the recipient(s)
6 ordered by the Court as provided in Section III.B.6.

7 **IV. RELEASES**

8 A. As of the Effective Date, in consideration of the settlement obligations set forth
9 herein, any and all claims, demands, rights, causes of action, suits, petitions, complaints, damages
10 of any kind, liabilities, debts, punitive or statutory damages, penalties, losses, and issues of any
11 kind or nature whatsoever, asserted or unasserted, known or unknown (including, but not limited
12 to, any and all claims relating to or alleging deceptive or unfair business practices, false or
13 misleading advertising, intentional or negligent misrepresentation, negligence, concealment,
14 omission, unfair competition, promise without intent to perform, unsuitability, unjust enrichment,
15 and any and all claims or causes of action arising under or based upon any statute, act, ordinance,
16 or regulation governing or applying to business practices generally, including, but not limited to,
17 any and all claims relating to or alleging violation of COPA, UCL, FAL, CLRA, the express-
18 warranty provisions of the California Commercial Code (or any and all other federal, state, or
19 local statutes analogous or similar to the California statutes cited herein)), arising out of or related
20 to Defendant's use of the word "organic" or "organics" in connection with the Challenged
21 Products, that were asserted or reasonably could have been asserted in the Action by or on behalf
22 of all Releasing Parties, whether individual, class, representative, legal, equitable, administrative,
23 direct or indirect, or any other type or in any other capacity, against any Released Party
24 ("Released Claims") shall be finally and irrevocably compromised, settled, released, and
25 discharged with prejudice. The Released Claims include any and all such claims related to the
26 Challenged Products, without regard to when such products were, or are in the future, purchased
27 by Class Members. Notwithstanding anything in this Agreement, Released Claims do not include
28 the claims alleged in the case titled *Astiana v. The Hain Celestial Group, Inc. et al.*, Case No.

1 4:11-cv-06342 (N.D. Cal.).

2 B. Each of the Releasing Parties hereby waives any and all rights and benefits arising
3 out of the facts alleged in the Action by virtue of the provisions of California Civil Code section
4 1542, or any other provision in the law of the United States or any state or territory of the United
5 States, or any principle of common law or equity that is similar, comparable, or equivalent to
6 Civil Code section 1542, with respect to this release. The Releasing Parties are aware that Civil
7 Code section 1542 provides as follows:

8 A general release does not extend to claims which the creditor does
9 not know or suspect to exist in his favor at the time of executing the
10 release, which if known by him must have materially affected his
11 settlement with the debtor.

12 C. The Releasing Parties expressly acknowledge that they may hereafter discover
13 facts in addition to or different from those which they now know or believe to be true with respect
14 to the subject matter of the Released Claims, but the Releasing Parties, upon the Effective Date,
15 shall be deemed to have, and by operation of law shall have, fully, finally, and forever settled,
16 released, and discharged any and all Released Claims, known or unknown, suspected or
17 unsuspected, whether or not concealed or hidden, that now exist or heretofore have existed upon
18 any theory of law or equity, including, but not limited to, Released Claims based on conduct that
19 is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule,
20 without regard to the subsequent discovery or existence of such different or additional facts. The
21 Parties agree that the Released Claims constitute a specific and not a general release.

22 D. The Releasing Parties shall be deemed to have agreed that the release set forth in
23 Sections IV.A, B and C will be and may be raised as a complete defense to and will preclude any
24 action or proceeding based on the Released Claims.

25 E. As of the Effective Date, by operation of entry of judgment, the Released Parties
26 shall be deemed to have fully released and forever discharged Plaintiffs, all other Class Members
27 and Class Counsel from any and all claims of abuse of process, malicious prosecution, or any
28 other claims arising out of the initiation, prosecution, or resolution of the Action, including, but

1 not limited to, claims for attorneys' fees, costs of suit or sanctions of any kind, or any claims
2 arising out of the allocation or distribution of any of the consideration distributed pursuant to this
3 Stipulation of Settlement.

4 **V. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

5 On November 14, 2014, the Court granted Plaintiffs' motion for class certification, which
6 certified a Jason Class and an Avalon Organics Class. For purposes of this settlement only, the
7 Parties agree to certification of the modified Class of all persons or entities in California who
8 purchased the Challenged Products during the Class Period. Plaintiffs shall make this request for
9 certification to the Court in the Action currently assigned to the Honorable Laurel Beeler. Class
10 Counsel shall request that the Court to enter an order that, among other things, certifies the Class
11 for settlement purposes as set forth in this paragraph. Hain contends that certification of the
12 alleged class (other than on a settlement basis) would not be possible absent this settlement
13 because individual issues would predominate.

14 In the event this Stipulation of Settlement and the settlement proposed herein is not finally
15 approved, or is terminated, canceled, or fails to become effective for any reason whatsoever, the
16 class certified for settlement purposes, to which the parties have stipulated solely for the purpose
17 of the settlement of the Action, shall be null and void and the Parties will revert to their respective
18 positions immediately prior to the execution of this Stipulation of Settlement. Under no
19 circumstances may this Stipulation of Settlement be used as an admission or as evidence
20 concerning the appropriateness of class certification in these or any other actions against Hain.

21 **VI. CLASS NOTICE AND COURT APPROVAL**

22 A. Notice Order; Preliminary Approval

23 Within 30 days after the execution of the Stipulation of Settlement, the Parties shall apply
24 to the Court for a Preliminary Approval Order substantially in the form and content of Exhibit B,
25 conditionally certifying the Class for settlement purposes as defined in Section V, for preliminary
26 approval of the settlement, for scheduling a final approval hearing, and for approving the contents
27 and method of dissemination of the proposed Publication Notice and Class Notice Package.
28

1 B. The Notice Program

2 The notice program shall consist of notice by publication (the Publication Notice,
3 Exhibit C) which generally describes the settlement and directs all interested parties to a detailed
4 Class Notice available on the Settlement Website and, at the request of interested parties, by U.S.
5 Mail. Class Counsel shall also place a link to the Settlement Website on the websites of the
6 Lexington Law Group and Kirtland & Packard LLP for a period starting from the date the
7 Publication Notice is published, and continuing no longer than the end of the Claim Submission
8 Period. The cost associated with the Publication Notice and Class Notice Package shall be paid
9 from the Cash Payment Account as described in Section III.A.2(a), except those costs associated
10 with posting and maintaining notice on Class Counsel's Internet websites.

11 1. Publication Notice

12 Commencing at least 90 days before the Final Approval Hearing or some other date set by
13 the Court, the Claim Administrator shall cause to be published the Publication Notice
14 substantially in the form and content of Exhibit C pursuant to the Notice Plan described in
15 Exhibit D.

16 2. Class Notice Package

17 The Class Notice Package shall be available in electronic format on the Settlement
18 Website and mailed as a hard copy by the Claim Administrator upon request. Each Class Notice
19 Package shall contain a Class Notice substantially in the form of Exhibit E and the Claim Form
20 substantially in the form of Exhibit F.

21 3. Notice of Deadlines and Objections

22 Both the Publication Notice and the Class Notice shall inform Class Members of the dates
23 by which they must file any objections, requests for exclusions, and submit a Claim Form. Class
24 Members must file any objections, notices of intent to appear at the Final Approval Hearing, or to
25 submit exclusion requests no later than 30 days prior to the Final Approval Hearing. Class
26 Members will have the opportunity to submit a Claim Form during the Claim Submission Period.
27 Any Class Member may object to the Stipulation of Settlement by mailing a written statement of
28 their objection to the Court at the following address: Clerk of Court, United States District Court

1 for the Northern District of California, Philip E. Burton Courthouse and Federal Building, 450
2 Golden Gate Ave., San Francisco, CA 94102, with copies to the Administrator, Class Counsel,
3 and Defendant's Counsel. In order for the objection to be valid, it must: (a) be postmarked no
4 later than 30 days prior to the Final Approval Hearing, reference the name of the Action, "*Brown*
5 *v. The Hain Celestial Group, Inc.*, Case No. CV 11-3082," and include the Class Members name,
6 current postal address, current telephone number, and any email address; (b) demonstrate their
7 standing (i.e. membership in the Class); (c) explain the basis for the Class Members' objection
8 and include any written material on which their objection is based or on which they intend to rely;
9 and (d) state whether the Class Member and their lawyer intends to appear at the Final Approval
10 Hearing. The Parties have the right to conduct reasonable discovery as to the basis of any
11 objection on an expedited basis.

12 C. Final Approval Hearing

13 The Parties shall request that, after notice is given, the Court: hold a Final Approval
14 Hearing for the purpose of determining whether final approval of the settlement of the Action as
15 set forth herein is fair, adequate, and reasonable to the Class Members; and enter a Final
16 Settlement Order and Judgment dismissing the Action with prejudice substantially in the form
17 and content of Exhibit G.

18 D. Requests for Exclusion

19 To be excluded from Class, a Class Member shall send a written request for exclusion to
20 the Administrator, with a copy to Class Counsel and Defendant's Counsel. The exclusion request
21 must: (a) contain the Class Member's name, current postal address, current telephone number,
22 any email address, and the original signature of the Class Member; (b) reference the name of the
23 Action, "*Brown v. The Hain Celestial Group, Inc.*, Case No. CV 11-3082;" and (c) be postmarked
24 no later than 30 days prior to the Final Approval Hearing. If, prior to the Final Approval Hearing,
25 the number of putative Class Members who timely request exclusion from the class in accordance
26 with the provisions of the Preliminary Approval Order exceeds 500, Hain shall have the right, but
27 not the obligation, to terminate this Stipulation of Settlement or to seek appropriate modifications
28 to this Stipulation of Settlement that adequately protect the Parties. Copies of all Requests for

1 Exclusion received by the Claim Administrator, together with copies of all written revocations of
2 Requests for Exclusion received, shall be delivered to the Parties' counsel no later than 8 days
3 after the Class Members' deadline to submit such exclusion requests, or at such other time as the
4 Parties may mutually agree in writing.

5 E. Parties' Duty to Defend

6 From the date of execution of this Stipulation, the Parties, via Class Counsel and
7 Defendant's Counsel, shall take all reasonable steps to defend the terms of this Stipulation as fair,
8 reasonable, and adequate, shall defend the proposed Class as meeting the requirements of Federal
9 Rule of Civil Procedure 23 as applied to proposed settlement class, and shall defend the notice
10 program set forth in the Stipulation as meeting the requirements of Federal Rule of Civil
11 Procedure 23 and giving the best and most reasonable notice practicable under the circumstances.

12 **VII. CONDITIONS; TERMINATION**

13 A. This Settlement shall become final on the first date after which all of the following
14 events and conditions have been met or have occurred (the "Effective Date"):

15 1. The Court has preliminarily approved this Stipulation (including all
16 attachments), the settlement set forth herein, and the method for providing notice to the Class;

17 2. The Court has entered a Final Settlement Order and Judgment in the
18 Action; and

19 3. One of the following has occurred:

20 (a) The time to appeal from such orders has expired and no appeals
21 have been timely filed;

22 (b) If any such appeal has been filed, it has finally been resolved and
23 the appeal has resulted in an affirmation of the Final Settlement Order and Judgment; or

24 (c) The Court, following the resolution of any such appeals, has
25 entered a further order or orders approving the Settlement of the Action on the terms set forth in
26 this Stipulation of Settlement, and either no further appeal has been taken from such order(s) or
27 any such appeal has resulted in affirmation of such order(s).

28

1 B. If the Settlement is not made final (per the provisions of Section VII.A), this entire
2 Stipulation shall become null and void as set forth in Section V, except that the Parties shall have
3 the option to agree in writing to waive the event or condition and proceed with this settlement, in
4 which event the Stipulation of Settlement shall be deemed to have become final on the date of
5 such written agreement.

6 **VIII. COSTS, FEES, AND EXPENSES**

7 A. Attorneys' Fees and Expenses

8 1. The Parties agree that any award of attorneys' fees and expenses to Class
9 Counsel must be approved by the Court as set forth herein.

10 2. Class Counsel shall make an application for an award of attorneys' fees
11 and expenses of up to \$4,000,000 for the Action and the *Crivier* Action. Class Counsel's
12 application for attorneys' fees and expenses shall be made in accordance with COPA, the CLRA
13 and Cal. Code of Civil Procedure §1021.5. The Claim Administrator may pay the award of Class
14 Counsels' fees and expenses from the Cash Payment Account within 30 days after the entry of the
15 Final Settlement Order and Judgment.

16 3. Attorneys' fees and expenses awarded by the Court shall be payable as set
17 forth above, notwithstanding the existence of any timely filed objections thereto, or potential for
18 appeal therefrom, or collateral attack on the settlement or any part thereof, subject to Class
19 Counsel's obligation to make appropriate refunds or repayments to the Cash Payment Account, if
20 and when, as a result of any appeal or further proceedings on remand, or successful collateral
21 attack, the fee or award of expenses is reduced or reversed. If any part of the attorneys' fees and
22 expenses is paid prior to the Effective Date, Plaintiffs' Counsel shall first provide undertakings
23 satisfactory to Defendant's Counsel and the Claims Administrator to repay such attorneys' fees
24 and expenses if the Settlement is not finally approved or the award of attorneys' fees and
25 expenses is later modified or reversed for any reason. Such undertaking may be in the form of a
26 Promissory Note acceptable to Defendant's Counsel and the Claims Administrator.

27 4. In the event the Judgment entered pursuant to this settlement does not
28 become final or is ultimately overturned on appeal as set forth in Section VII.B, Class Counsel

1 shall immediately return in full the amount of attorneys' fees and expenses paid to them pursuant
2 to this provision.

3 5. In the event the amount of the attorneys' fees requested is decreased or
4 denied by the Court, such denial or decrease in the requested fees shall have no effect on this
5 Stipulation and shall not invalidate the settlement agreed to herein.

6 6. Class Counsel, in their sole discretion, shall allocate and distribute the
7 award of attorneys' fees and expenses among counsel for the class members including Plaintiff
8 Crivier. In the event that any Class Members object to any aspect of this Stipulation of
9 Settlement, Hain shall under no circumstances be obligated or required to pay attorneys' fees or
10 costs claimed by or associated with such objectors (if any).

11 B. Class Representative Awards

12 Plaintiffs will apply for class representative service awards to be paid out of the Cash
13 Payment Account to Plaintiffs in an amount not to exceed \$7,500 each for Plaintiffs Brown and
14 Lohela and \$1,500 to Plaintiff Crivier. Such awards shall be paid within 30 days after the
15 Effective Date or within 30 days after the issuance of an order awarding such amount, whichever
16 is later. In the event that a Class Member appeals the award of attorneys' fees and costs, or the
17 class representative service awards, Hain shall not take a position contrary to this Stipulation.

18 C. Claim Administration Costs and Costs of Class Notice

19 The costs associated with the administration of the claim process and with notifying the
20 Class of this proposed settlement shall be paid from the Cash Payment Account as described in
21 Section III.

22 **IX. COVENANTS AND WARRANTIES**

23 A. Authority to Enter Agreement

24 Plaintiffs and Defendant each covenant and warrant that they have the full power and
25 authority to enter into this Stipulation of Settlement and to carry out its terms, and that they have
26 not previously assigned, sold, or otherwise pledged or encumbered any right, title, or interest in
27 the claims released herein or their right, power, and authority to enter into this Stipulation of
28 Settlement. Any person signing this Stipulation of Settlement on behalf of any other person or

1 entity represents and warrants that he or she has full power and authority to do so and that said
2 other person or entity is bound hereby.

3 B. Represented by Counsel

4 In entering into this Stipulation of Settlement, the Parties represent that: they have relied
5 upon the advice of attorneys of their own choice concerning the legal consequences of this
6 Stipulation of Settlement; the terms of this Stipulation of Settlement have been explained to them
7 by their attorneys; and the terms of this Stipulation of Settlement are fully understood and
8 voluntarily accepted by the Parties.

9 C. No Other Actions

10 As of the date of executing this Stipulation, Plaintiffs and Class Counsel represent and
11 warrant that, aside from *Skye Astiana v. The Hain Celestial Group, Inc. and Jason Natural*
12 *Products, Inc.*, Case No. 4:11-cv-06342 (N.D. Cal.), they are not aware of any action or potential
13 action, other than the Action, the CEH Action, and the Crivier Action that (1) raises allegations
14 similar to those asserted in the Action, and (2) is pending or is expected to be filed in any forum
15 by any person or entity against Hain. Until the Effective Date, Plaintiffs and Class Counsel shall
16 have a continuing duty to notify Hain if Plaintiffs or Class Counsel become aware of any such
17 action.

18 **X. MISCELLANEOUS**

19 A. Governing Law

20 The interpretation and construction of this Stipulation of Settlement shall be governed by
21 the laws of the State of California.

22 B. Counterparts

23 This Stipulation of Settlement may be executed in counterparts. All counterparts so
24 executed shall constitute one agreement binding on all of the Parties hereto, notwithstanding that
25 all Parties are not signatories to the original or the same counterpart.

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1 C. No Drafting Party

2 Any statute or rule of construction that ambiguities are to be resolved against the drafting
3 party shall not be employed in the interpretation of this Stipulation of Settlement, and the Parties
4 agree that the drafting of this Stipulation has been a mutual undertaking.

5 D. Entire Agreement

6 All agreements, covenants, representations and warranties, express or implied, written or
7 oral, of the Parties hereto concerning the subject matter hereof are contained in this Stipulation of
8 Settlement and the exhibits hereto. Any and all prior or contemporaneous conversations,
9 negotiations, drafts, terms sheets, possible or alleged agreements, covenants, representations and
10 warranties concerning the subject matter of this Stipulation of Settlement are waived, merged
11 herein, and superseded hereby.

12 E. Retained Jurisdiction

13 The Court shall retain jurisdiction with respect to the implementation and enforcement of
14 the terms of this Stipulation, and all Parties hereto submit to the jurisdiction of the Court for
15 purposes of implementing and enforcing the settlement embodied in this Stipulation.

16 F. Cooperation

17 Each of the Parties hereto shall execute such additional pleadings and other documents
18 and take such additional actions as are reasonably necessary to effectuate the purposes of this
19 Stipulation of Settlement.

20 G. Amendments in Writing

21 This Stipulation of Settlement may only be amended in writing signed by Class Counsel
22 and Defendant's Counsel.

23 H. Binding Effect; Successors and Assigns

24 This Stipulation of Settlement shall inure to the benefit of, and shall be binding upon, the
25 Parties hereto as well as the legal successors and assigns of the Parties hereto and each of them.

26 I. Construction

27 As used in this Stipulation of Settlement, the terms "herein" and "hereof" shall refer to this
28 Stipulation in its entirety, including all exhibits and attachments, and not limited to any specific

1 sections. Whenever appropriate in this Stipulation of Settlement, the singular shall be deemed to
2 refer to the plural, and the plural to the singular, and pronouns of any gender shall be deemed to
3 include both genders.

4 J. Waiver in Writing

5 No waiver of any right under this Stipulation of Settlement shall be valid unless in
6 writing.

7 K. Computation of Time

8 All time periods set forth herein shall be computed in business days, if seven days or
9 fewer, and calendar days, if eight days or more, unless otherwise expressly provided. In
10 computing any period of time prescribed or allowed by this Stipulation or by order of the Court,
11 the day of the act, event, or default from which the designated period of time begins to run shall
12 not be included. The last day of the period so computed shall be included, unless it is a Saturday,
13 a Sunday, or a legal or court holiday, or, when the act to be done is the filing of a paper in Court,
14 a day in which weather or other conditions have made the office of the clerk of the Court
15 inaccessible, in which event the period shall run until the end of the next day as not one of the
16 aforementioned days. As used in this subsection, "legal or court holiday" includes New Year's
17 Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day,
18 Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as
19 a holiday by the President or the Congress of the United States or by the State of California.

20 L. No Admission of Liability

21 Each of the Parties understands and agrees that he, she, or it has entered into this
22 Stipulation of Settlement for purpose of purchasing peace and preventing the risks and costs of
23 any further litigation or dispute. This settlement involves disputed claims; specifically, Hain
24 denies any wrongdoing, and the Parties understand and agree that neither this Stipulation of
25 Settlement, nor the fact of this settlement, may be used as evidence or admission of any
26 wrongdoing by Hain.
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M. Notice

Any notice to the Parties required by this Stipulation of Settlement shall be given in writing by first-class U.S. Mail and e-mail to:

For Plaintiff:

Mark N. Todzo
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117
Telephone: (415) 913-7800
mtodzo@lexlawgroup.com

For Defendant:

Denise Faltischek
Executive Vice President and General Counsel, Chief Compliance Officer
1111 Marcus Avenue
Lake Success, NY 11042
Telephone: (516) 587-5010
denise.faltischek@hain.com

Stipulation of Settlement as of the dates set forth below.

DATED: 21 Sept, 2015



ROSMINAH BROWN

DATED: _____, 2015

ERIC LOHELA

DATED: _____, 2015

LAUREN CRIVIER

DATED: _____, 2015

THE HAIN CELESTIAL GROUP, INC.

BY: DENISE FALTISCHEK
Executive Vice President and General Counsel,
Chief Compliance Officer

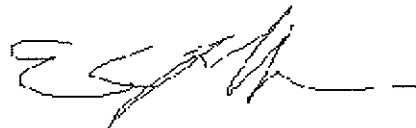
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IN WITNESS WHEREOF, the parties hereto have executed this Stipulation of Settlement as of the dates set forth below.

DATED: _____, 2015

ROSMINAH BROWN

DATED: September, 21, 2015



ERIC LOHELA

DATED: _____, 2015

LAUREN CRIVIER

DATED: _____, 2015

THE HAIN CELESTIAL GROUP, INC.

BY: DENISE FALTISCHEK
Executive Vice President and General Counsel,
Chief Compliance Officer

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IN WITNESS WHEREOF, the parties hereto have executed this Stipulation of Settlement as of the dates set forth below.

DATED: _____, 2015

ROSMINAH BROWN

DATED: _____, 2015

ERIC LOHELA

DATED: 09/19/15, 2015



LAUREN CRIVIER

DATED: _____, 2015

THE HAIN CELESTIAL GROUP, INC.

BY: DENISE FALTISCHEK
Executive Vice President and General Counsel,
Chief Compliance Officer

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IN WITNESS WHEREOF, the parties hereto have executed this Stipulation of Settlement as of the dates set forth below.

DATED: _____, 2015

ROSMINAH BROWN

DATED: _____, 2015

ERIC LOHELA

DATED: _____, 2015

LAUREN CRIVIER

DATED: September 22, 2015

THE HAIN CELESTIAL GROUP, INC.

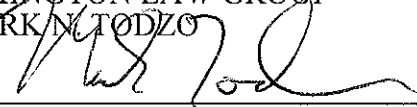


BY: DENISE FALTISCHEK
Executive Vice President and General Counsel,
Chief Compliance Officer

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DATED: Sept. 22, 2015

LEXINGTON LAW GROUP
MARK N. TODZO



MARK N. TODZO

503 Divisadero Street
San Francisco, CA 94117
Telephone: (415) 913-7800

KIRTLAND & PACKARD LLP
BEHRAM V. PAREKH

BEHRAM V. PAREKH

2361 Rosecrans Avenue, Fourth Floor
El Segundo, CA 90245
Telephone: (310) 536-1000

DATED: _____, 2015

MORRISON & FOERSTER LLP
WILLIAM STERN

WILLIAM STERN
JAMES M. SCHURZ
Attorneys for Defendant THE HAIN CELESTIAL
GROUP, INC

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DATED: _____, 2015

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Telephone: (310) 536-1000

DATED: _____, 2015

MORRISON & FOERSTER LLP
WILLIAM STERN

WILLIAM STERN
JAMES M. SCHURZ
Attorneys for Defendant THE HAIN CELESTIAL
GROUP, INC

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DATED: _____, 2015

LEXINGTON LAW GROUP
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Telephone: (415) 913-7800

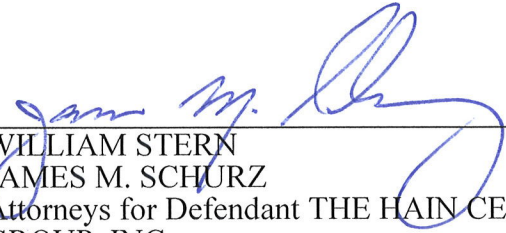
KIRTLAND & PACKARD LLP
BEHRAM V. PAREKH

BEHRAM V. PAREKH

2361 Rosecrans Avenue, Fourth Floor
El Segundo, CA 90245
Telephone: (310) 536-1000

DATED: Sept. 22, 2015

MORRISON & FOERSTER LLP
WILLIAM STERN



WILLIAM STERN
JAMES M. SCHURZ
Attorneys for Defendant THE HAIN CELESTIAL
GROUP, INC

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LIST OF EXHIBITS

- A. Claims Administration Protocols
- B. Order re: Preliminary Approval of Class Action Settlement
- C. Publication Notice
- D. Notice Plan
- E. Notice of Class Action Settlement
- F. Claim Form
- G. Final Settlement Order and Judgment

Exhibit A

EXHIBIT A

CLAIM ADMINISTRATION PROTOCOLS

These Claim Administration Protocols (“Protocols”) are part of the Stipulation of Settlement (“Stipulation”) between Plaintiffs and The Hain Celestial Group, Inc. (“Hain”). All provisions of the Stipulation are incorporated into these Protocols by reference, including without limitation all definitions. All capitalized terms used here shall have the same meaning given them in the Stipulation. These Protocols shall define the duties of the Claim Administrator retained to implement the claim process as described in Section III. of the Stipulation.

A.1 Control of Cash Payment Account

The Cash Payment Account described in Sections I.A.4, III.A.1, and 2 of the Stipulation shall be maintained by the Claim Administrator. Disbursement from the Cash Payment Account shall be pursuant to the directions provided in these Protocols and Section III.A and III.B, and Section VIII, of the Stipulation.

A.2 Timing

The Claim Administrator shall begin to review the claims no later than 10 days after the Effective Date, and shall conclude the review process during the time provided in Section I.A.10 of the Stipulation (the “Claim Review Period”). The deadline for Class members to submit their claim to the Claim Administrator (the “Claim Deadline”) shall be 30 days prior to the date of the Final Approval Hearing or such other date as may be set by order of the Court or agreement of the parties. The Claim Deadline shall be specified in the Class Notice and Publication Notice. In no event shall payments be made to Class Members until the conclusion of the Claim Review Period.

A.3 Communications with claimants

No communications with a claimant or others shall be initiated by the Claim Administrator unless necessary or appropriate to resolve the claims according to these Protocols or to verify claims. Where necessary or appropriate to resolve the claims, the Claim Administrator may communicate with the claimant or others relating to the claim. If the claimant has indicated to the Claim Administrator that he or she has counsel, the Claim Administrator shall only contact the claimant through his or her counsel unless the claimant or the claimant's designated counsel instructs otherwise. In all communications, the Claim Administrator shall treat the claimant with courtesy, responsiveness and professionalism. The Claim Administrator also shall establish a toll free number which will have recorded information answering questions about the claims submission process and representatives available to answer questions.

A.4 Maintenance and Preservation of Records

The Claim Administrator shall keep a clear and careful record of all communications with claimants, all claims decisions, all expenses, and all tasks performed in administering the claims process. The Claim Administrator shall preserve all such records until notified in writing by both Hain and Class Counsel that the claim process is concluded and that preservation of records is no longer necessary.

A.5 Method of Submitting Claims

Claims may be submitted on the Claim Forms by mail, or electronically through internet-based Claim Forms. The Claim Administrator shall establish and maintain a special internet site, easily accessible through commonly used internet service providers, for the submission of claims. The internet site may be the same site as the Settlement Website. The site shall be

maintained continuously until six months after the Effective Date. The site address shall be identified in the Class Notice and the Publication Notice. The Claim Administrator shall be solely responsible for receiving and processing requests for Claim Forms and for promptly delivering Claim Forms to the Class Members who request them. The Claim Forms on the internet site and the hard copy Claim Forms shall be identical in content.

A.6 Approval or Denial of Claims

After the deadline for submitting claims has passed, the Claim Administrator shall gather all Claim Forms, whether submitted by internet website, or by mail. Before the end of the Claim Review Period, the Claim Administrator shall select the claims which will be paid and the amount of each such payment (“Approved Claims”) and claims that will not be paid (“Rejected Claims”). The Claim Administrator shall determine whether claims are Approved Claims or Rejected Claims, subject to pro rata reduction, by the following criteria:

A.6.1 Duplicative Claims

A maximum of one claim, submitted on a single Claim Form, may be submitted by each Class Member or his or her Household, and two or more claimants may not submit Claim Forms for the same alleged product purchases. The Claim Administrator shall determine whether there is any duplication of claims, if necessary by contacting the claimant(s). The Claim Administrator shall award settlement relief to only one claimant for the same alleged product purchases and designate as appropriate duplicative claims as Rejected Claims.

A.6.2 Claims Process

Claimants that purchased one or more of the Avalon Organics and/or JASON brand personal care products in California during the Class Period may submit claims using the Claim Form. The claimant must provide information that allows the Claim Administrator to determine:

(1) the identity and contact information for each claimant; (2) the specific Avalon Organics and/or JASON brand product each claimant purchased and the number of such products that the claimant purchased in California; and (3) the approximate date the purchases occurred. For a Class Member making a claim for up to \$50 in cash or up to \$80 in cash and Coupons combined, the Claim Administrator shall verify that the Claim Form has been executed under penalty of perjury if the Claimant does not provide a receipt or receipts showing each Challenged Product purchase in California on which the claim is based, or other similar documentation that reflects an eligible purchase (i.e., retailer card statement or product packaging). For a Class Member making a claim in excess of \$50 in cash or \$80 in cash and Coupons combined, the Claim Administrator shall verify that the Class Member has submitted a receipt or receipts showing each Challenged Product purchase in California on which the claim is based, or other similar documentation that reflects an eligible purchase (i.e., retailer card statement or product packaging).

Once the Claim Administrator has verified that the claimant has complied with each of these requirements to the satisfaction of the Claim Administrator, the claim shall be designated as an Approved Claim without further inquiry aside from the duplicative determination process described above. However, the Claim Administrator in its discretion may examine and verify a random sample of Claims to prevent fraud and abuse. The Claim Administrator is also authorized to audit claims received from addresses outside of California as well as those requesting checks or vouchers to be mailed to addresses outside of California. If a claimant has not complied with all of these requirements to the satisfaction of the Claim Administrator, the claim shall be designated as a Rejected Claim.

A.6.3 Untimely or Incomplete Claims

The Claim Administrator shall, in its discretion, decide whether to accept Claim Forms submitted after the Claims Deadline. In deciding whether to accept a late-submitted Claim Form, the Claim Administrator shall take into account the length of time the Claim Form was submitted after the Claims Deadline, including whether the late-submitted claim would delay the distribution of the Cash Payment Account to claimants and the reasons for the late submission of the Claim Form. In the event the Claim Administrator determines that a Claim Form is incomplete, but may be cured by the claimant, the Claim Administrator shall contact the claimant if reasonably practical to cure any deficiency with the Claim Form.

A.7 Distribution Plan

Within 15 days after conclusion of the Claim Review Period, the Claim Administrator shall deliver the Distribution Plan as described in Section III.B.10 of the Stipulation.

A.8 Claim Administrator's Fees and Expenses

As provided in Section III.A.1.(a) and Section III.B.11 of the Stipulation, the actual costs incurred by the Claim Administrator shall be paid out of the Cash Payment Account. The Claim Administrator shall take all reasonable efforts to administer the claims efficiently and avoid unnecessary fees and expenses. The Claim Administrator shall only be reimbursed for fees and expenses supported by detailed and clear timesheets and receipts for costs. As soon as work commences, the Claim Administrator shall provide a detailed written accounting of all fees and expenses on a monthly basis to Hain and Class Counsel, and shall respond promptly to inquiries by Hain and Class Counsel concerning fees and expenses.

A.9 Access to Information from the Claim Administrator

The Parties are entitled to observe and monitor the performance of the Claim

Administrator to assure compliance with the Stipulation of Settlement and these protocols. The Claim Administrator shall promptly respond to all inquiries and requests for information made by either Hain or Class Counsel. In addition, the Claim Administrator will provide bi-weekly reports throughout the Claim Submission Process updating the Parties as to the number, type and amount of Claims.

Exhibit B

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EXHIBIT B

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROSMINAH BROWN and ERIC LOHELA,)	Civil Case Nos. CV 11-03082 LMB, CV 13-
on behalf of themselves and all others)	02237 LB
similarly situated,)	
)	
Plaintiffs,)	<u>CLASS ACTION</u>
)	
v.)	[PROPOSED] ORDER PRELIMINARILY
)	APPROVING CLASS ACTION
THE HAIN CELESTIAL GROUP, INC.,)	SETTLEMENT, CONDITIONALLY
)	CERTIFYING THE SETTLEMENT CLASS,
)	PROVIDING FOR NOTICE AND
)	SCHEDULING ORDER
Defendant.)	

1 WHEREAS, Plaintiffs¹ in the Action and The Hain Celestial Group, Inc. have entered into a
2 Stipulation of Settlement, filed September 22, 2015, after arms-length settlement discussions
3 conducted in good faith with the assistance of the Honorable Joseph Spero;

4 WHEREAS, the Court has received and considered the Stipulation, including the
5 accompanying exhibits;

6 WHEREAS, the Parties have made an application for an order preliminarily approving the
7 settlement of this Action, conditionally certifying the settlement class, providing for notice and
8 scheduling order, and for its dismissal with prejudice upon the terms and conditions set forth in the
9 Stipulation; and

10 WHEREAS, the Court has reviewed the Parties' application for such order, and has found
11 good cause for same.

12 NOW, THEREFORE, IT IS HEREBY ORDERED:

13 **A. The Settlement Class Is Conditionally Certified.**

14 1. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby amends the classes
15 previously certified by order dated November 14, 2014 and certifies the following Class for
16 settlement purposes only:

17 All individuals who purchased the Challenged Products in California within the Class
18 Period. Specifically excluded from the Class are (a) Defendant, (b) the officers,
19 directors, or employees of Defendant and their immediate family members, (c) any
20 entity in which Defendant has a controlling interest, (d) any affiliate, legal
21 representative, heir, or assign of Defendant, (e) all federal court judges who have
22 presided over this Action and their immediate family members; (f) all persons who
23 submit a valid request for exclusion from the Class; and (g) those who purchased the
24 Challenged Products for the purpose of resale.

25 2. With respect to the Class and for settlement purposes only, the Court preliminarily
26 finds the prerequisites for a class action under Federal Rules of Civil Procedure 23(a) and (b)(3)
27 have been met, including: (a) numerosity; (b) commonality; (c) typicality; (d) adequacy of the class

28 ¹ All capitalized terms herein shall have the same meanings as set forth in the Stipulation
unless otherwise specifically defined.

1 representatives and Class Counsel; (e) predominance of common questions of fact and law among
2 the Class for purposes of settlement; and (f) superiority.

3 3. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby appoints the
4 Plaintiffs in the Action, Rosminah Brown, Eric Lohela, and Lauren Crivier, as the class
5 representatives.

6 4. Having considered the factors set forth in Federal Rule of Civil Procedure 23(g)(1),
7 the Court hereby appoints Mark N. Todzo and the Lexington Law Group as Class Counsel.

8 **B. The Stipulation Is Preliminarily Approved and Final Approval**
9 **Schedule Set.**

10 5. The Court hereby preliminarily approves the Stipulation and the terms and conditions
11 of settlement set forth therein, subject to further consideration at the Final Approval Hearing
12 described below.

13 6. The Court has conducted a preliminary assessment of the fairness, reasonableness,
14 and adequacy of the Stipulation, and hereby finds that the settlement falls within the range of
15 reasonableness meriting possible final approval. The Court therefore preliminarily approves the
16 proposed settlement as set forth in the Stipulation.

17 7. Pursuant to Federal Rule of Civil Procedure 23(e), the Court will hold a Final
18 Approval Hearing on _____, at _____ a.m./p.m., in the Courtroom of the Honorable
19 Laurel Beeler, United States District Court for the Northern District of California, San Francisco
20 Courthouse, Courtroom C - 15th Floor, 450 Golden Gate Ave, San Francisco, CA 94102, for the
21 following purposes:

22 (a) finally determining whether the Class meets all applicable requirements of
23 Federal Rule of Civil Procedure 23 and, thus, the Class should be certified for purposes of
24 effectuating the settlement;

25 (b) determining whether the proposed settlement of the Action on the terms and
26 conditions provided for in the Stipulation is fair, reasonable and adequate and should be approved by
27 the Court;

1 (c) considering the application of Class Counsel for an award of attorneys' fees
2 and reimbursement of expenses, as provided for under the Stipulation;

3 (d) considering the applications of Plaintiffs for class representative incentive
4 awards, as provided for under the Stipulation;

5 (e) considering whether the Court should enter the [Proposed] Final Settlement
6 Order and Judgment;

7 (f) considering whether the release of the Released Claims as set forth in the
8 Stipulation should be provided; and

9 (g) ruling upon such other matters as the Court may deem just and appropriate.

10 8. The Court may adjourn the Final Approval Hearing and later reconvene such hearing
11 without further notice to Class Members.

12 9. The Parties may further modify the Stipulation prior to the Final Approval Hearing so
13 long as such modifications do not materially change the terms of the settlement provided thereunder.
14 The Court may approve the Stipulation with such modifications as may be agreed to by the Parties, if
15 appropriate, without further notice to Class Members.

16 10. Any application for an award of attorneys' fees and expenses and/or class
17 representative incentive awards must be filed with the Court and served at least forty days prior to
18 the Final Approval Hearing.

19 11. All papers in support of the settlement, other than the application for an award of
20 attorneys' fees and expenses and/or class representative incentive awards, must be filed with the
21 Court and served at least seven days prior to the Final Approval Hearing.

22 **C. The Court Approves the Form and Method of Class Notice.**

23 12. The Court approves, as to form and content, the proposed Publication Notice and
24 Class Notice (collectively the "Notice"), which are Exhibits C and E, respectively, to the Stipulation.

25 13. The Court finds that the distribution of Notice substantially in the manner and form
26 set forth in the Stipulation meets the requirements of Federal Rule of Civil Procedure 23 and due
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1 process, is the best notice practicable under the circumstances, and shall constitute due and sufficient
2 notice to all persons entitled thereto.

3 14. The Court approves the designation of the Heffler Claims Group to serve as the
4 Court-appointed Claim Administrator for the settlement. The Claim Administrator shall cause
5 the Publication Notice to be published, disseminate Class Notice, and supervise and carry out the
6 notice procedure, the processing of claims, and other administrative functions, and shall respond
7 to Class Member inquiries, as set forth in the Stipulation and this Order under the direction and
8 supervision of the Court.

9 15. The Court directs the Claim Administrator to establish a Settlement Website, making
10 available copies of this Order, Class Notice, Claim Forms that may be downloaded and submitted
11 online, by mail, or by facsimile, the Stipulation and all Exhibits thereto, a toll-free hotline, and such
12 other information as may be of assistance to Class Members or required under the Stipulation. The
13 Class Notice and Claim Forms shall be made available to Class Members through the Settlement
14 Website on the date Publication Notice is first published and continuously thereafter for six months
15 after the Effective date. Class Counsel shall also place a link to the Settlement Website on Class
16 Counsel's Internet websites for a period starting from the date the Publication Notice is published
17 through no longer than the end of the Claim Submission Period.

18 16. The Claim Administrator is ordered to commence publication of the Publication
19 Notice at least 90 days before the Final Approval Hearing.

20 17. The costs of Notice, processing of claims of Class Members, creating and maintaining
21 the Settlement Website, and all other Claim Administrator and Notice expenses shall be paid from
22 the Claim Fund in accordance with the applicable provisions of the Stipulation.

23 **D. Procedure for Class Members to Participate in the Settlement.**

24 18. The Court approves the Parties' proposed Claim Form. Any Class Member who
25 wishes to participate in the settlement shall complete a Claim Form in accordance with the
26 instructions contained therein and submit it to the Claim Administrator no later than 30 days prior to
27 the date of the Final Approval Hearing, which date will be specifically identified in the Claim Form.

1 Such deadline may be further extended without notice to the Class by written agreement of the
2 Parties.

3 19. The Claim Administrator shall have the authority to accept or reject claims in
4 accordance with the Stipulation, including the Claims Administration Protocols.

5 20. Any Class Member may enter an appearance in the Action, at his or her own expense,
6 individually or through counsel who is qualified to appear in the jurisdiction. All Class Members
7 who do not enter an appearance will be represented by Class Counsel.

8 **E. Procedure for Requesting Exclusion from the Class.**

9 21. All Class Members who do not timely exclude themselves from the Class shall be
10 bound by all determinations and judgments in the Action concerning the settlement, whether
11 favorable or unfavorable to the Class.

12 22. Any person or entity falling within the definition of the Class may, upon his, her or its
13 request, be excluded from the Class. Any such person or entity must submit a request for exclusion
14 to the Class Action Administrator, with a copy to Class Counsel and Defendant's Counsel,
15 postmarked or delivered no later than 30 days prior to the date of the Final Approval Hearing, the
16 date for which will be specifically identified in the Publication Notice and Class Notice. Requests
17 for exclusion purportedly filed on behalf of groups of persons or entities are prohibited and will be
18 deemed to be void.

19 23. Any Class Member who does not send a signed request for exclusion postmarked or
20 delivered on or before the time period described above will be deemed to be a Class Member for all
21 purposes and will be bound by all judgments and further orders of this Court related to the
22 Stipulation of Settlement of this Action and by the terms of the Stipulation, if finally approved by the
23 Court. The written request for exclusion must request exclusion from the Class, must be signed by
24 the potential Class Member, must include the Class Member's contact information, and must
25 reference the name of the Action. All persons or entities who submit valid and timely requests for
26 exclusion in the manner set forth in the Stipulation shall have no rights under the Stipulation and
27 shall not be bound by the Stipulation or the Final Judgment and Order.

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1 24. A list reflecting all requests for exclusions shall be filed with the Court by the parties
2 at or before the Final Approval Hearing.

3 **F. Procedure for Objecting to the Settlement**

4 25. Any Class Member who desires to object either to the settlement, application for
5 attorneys’ fees and expenses, or class representative incentive awards must timely file with the Clerk
6 of this Court and timely serve on the Parties’ counsel and the Claim Administrator by hand or first-
7 class mail a notice of the objection(s) and the grounds for such objections, together with all papers
8 that the Class Member desires to submit to the Court no later than 30 days prior to the date of the
9 Final Approval Hearing, the date for which will be specifically identified in the Publication Notice
10 and Class Notice. The Court will consider such objection(s) and papers only if such papers are
11 timely received by the Clerk of the Court and by Class Counsel and by Defendant’s Counsel. Such
12 papers must be sent to each of the following persons:

13 Clerk of the Court,
14 United States District Court
15 Northern District of California
16 450 Golden Gate Avenue
17 San Francisco, CA 94102

Mark N. Todzo
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117

William L. Stern
Morrison & Foerster LLP
425 Market Street
San Francisco, California
94105-2482

16 **Avalon Organics® and**
17 **JASON® Class Settlement**
18 Claims Administrator
19 XXX
20 P.O. Box XXXX
21 XXX

22 26. All objections must: (a) be postmarked no later than 30 days prior to the Final
23 Approval Hearing, reference the name of the Action, “*Brown v. The Hain Celestial Group, Inc.*,”
24 Case No. CV 11-3082,” and include the Class Members name, current postal address, current
25 telephone number, and any email address; (b) demonstrate their standing (i.e. membership in the
26 Class); (c) explain the basis for the Class Members’ objection and include any written material on
27 which their objection is based or on which they intend to rely; and (d) state whether the Class
28 Member and their lawyer intends to appear at the Final Approval Hearing.

1 27. Attendance at the Final Approval Hearing is not necessary; however, any Class
2 Member wishing to be heard orally with respect to approval of the settlement, the applications for
3 attorneys' fees and reimbursement of expenses, or the application for class representative incentive
4 awards are required to provide written notice of their intention to appear at the Final Approval
5 Hearing no later than 30 days prior to the date of the Final Approval Hearing, which date will be
6 specifically identified in the Class Notice. Class Members who do not oppose the settlement, the
7 applications for attorneys' fees and expenses, or class representative incentive awards need not take
8 any action to indicate their approval. A Class Member's failure to submit a written objection in
9 accordance with the procedure set forth in the Class Notice waives any right the Class Member may
10 have to object to the settlement, attorneys' fees and expenses, or class representative incentive
11 awards, to appear at the Final Approval Hearing, or to appeal or seek other review of the Final
12 Judgment and Order.

13 IT IS SO ORDERED.

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15 DATED: _____ THE HONORABLE LAUREL BEELER
16 UNITED STATES MAGISTRATE JUDGE
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Exhibit C

If you purchased certain Avalon Organics® or JĀSÖN® brand cosmetic products in California, this notice of class action settlement may affect your rights.

A proposed settlement has been reached in a California class action lawsuit about the labeling and advertising of certain Avalon Organics® and JASON® brand cosmetic products. The plaintiffs in the lawsuit assert that the packaging and advertising for these products misled consumers to believe that the products were wholly or at least mostly organic. The Hain Celestial Group, Inc. (“Hain”) denies all the plaintiffs’ allegations and is entering into this settlement to avoid burdensome and costly litigation. The settlement is not an admission of wrongdoing. The court has not decided who is right and who is wrong.

Am I a Class Member?

You may be a member of the Class if you purchased at least one Avalon Organics® brand cosmetic product in California during the time period from May 11, 2007 through May 11, 2011 or at least one JASON® brand cosmetic product in California during the time period of May 11, 2007 through January 30, 2011. The specific Avalon Organics® brand cosmetic products sold in California between May 11, 2007 through May 11, 2011 and the specific JASON® brand cosmetic products sold in California during the time period of May 11, 2007 through January 30, 2011 at issue in this litigation are referred to as the “Challenged Products.” A complete list of the Challenged Products can be found on the website below.

What Am I Eligible to Receive?

Hain will establish a \$7.5 million settlement fund to pay approved Class Member claims, notice and administrative costs, incentive awards to the named plaintiffs, and attorneys’ fees and costs. Also, Hain will provide up to \$1.85 million in coupons toward the purchase of any Avalon Organics® brand or JASON® brand cosmetic product. Eligible class members may elect to receive either (i) a cash payment or (ii) a cash payment and coupons. The amount of your payment will depend on the statements in your Claim Form. The amount of the claim paid (cash or cash and coupons) to class members will depend on how many people file claims. Complete details of your options are in the detailed notice found at www._____.

What are My Options?

Submit a claim form – this is the only way to receive a cash payment or a cash payment and coupons. Exclude yourself – Get out of the settlement. You will not receive benefits, but keep your right to sue the Defendant. Object – write to the Court about why you do not like the settlement. Do Nothing – Get no cash or coupons from this settlement. You give up any rights to sue Hain or any of its affiliates on your own about the same legal claims in this

lawsuit. You will also be legally bound by all orders the Court issues and judgments the Court makes in this class action.

The Judge will hold a Final Approval Hearing at ___ on _____ at the United States District Court for the Northern District of California, 450 Golden Gate Ave., San Francisco, CA 94102, in Courtroom C on the 15th Floor. At this hearing, the Judge will consider whether the settlement is fair, reasonable and adequate, and whether to approve attorney fees and costs of up to \$4,000,000 and plaintiff awards not to exceed \$16,500 in total. The motion for attorneys fees and costs will be posted on the website after they are filed. You may appear at the hearing, but you don't have to.

This is only a summary. For more information, visit www.HainOrganicCosmeticsLawsuit.com, or call 1-800-481-7948.

Exhibit D

EXHIBIT D

Notice Plan

- 1. Settlement Website:** A website regarding this action (www.HainOrganicCosmeticsLawsuit.com) was established following the Court's order granting Plaintiffs' motion for class certification in November 2014. Within 30 days following entry of the Preliminary Approval Order, the following Settlement documents will be posted on the website: (1) the Publication Notice; (2) a list of frequently asked questions and answers; (3) key deadlines; (4) downloadable copies of orders of the Court and other pleadings pertaining to the settlement; (5) a downloadable copy of the Stipulation of Settlement; (6) a downloadable copy of the Class Notice and Claim Form; (7) information about how to contact the Claim Administrator via a toll-free number, via email and mail; and (8) other information required for Class Members to file a claim. The Settlement Website will be maintained until the Effective Date. The relevant settlement documents will also be posted on Class Counsel's websites (www.lexlawgroup.com and www.kirtlandandpackard.com) until the Effective Date.
- 2. Toll-Free Telephone Support:** Within 30 days following entry of the Preliminary Approval Order, a toll-free telephone support system will be established that will provide Class Members with: (1) general information about the settlement; (2) frequently asked questions and answers; and (3) the ability to request a Class Notice and Claim Form. The toll-free telephone support system will be maintained until 101 days after entry of Final Settlement Order and Judgment.
- 3. CAFA Notice:** The Claim Administrator will provide notice of the terms of the Stipulation of Settlement and other information to the appropriate federal official and state official in each State within 10 days after the Stipulation of Settlement is filed with the Court for preliminary approval as required by the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4 (2005) ("CAFA").
- 4. Published Notice:** Within thirty-five (35) days following entry of the Preliminary Approval Order, notice of the settlement will be provided by a full page advertisement in the California edition of People magazine. In addition, half-page advertisements in the San Francisco Chronicle will be published four (4) times over the course of approximately a three (3) week period. The notice will direct Class Members to the Settlement Website and the toll-free telephone number referenced above. The specific language of this notice will be substantially as set forth in Exhibit C to the Stipulation of Settlement.
- 5. PR Newswire Press Release:** Within thirty (30) days following entry of the Preliminary Approval Order, a press release in English and Spanish targeting potential Class Members will be disseminated via the PR Newswire. The press release will direct Class Members to the Settlement Website and the toll-free telephone number referenced above. The specific language of this press release will be mutually agreed upon by the Parties.

6. Internet and Mobile Media Advertisements: Within thirty (30) days following entry of the Preliminary Approval Order, internet advertisements in English and Spanish targeting potential Class Members will be run on People.com, Pulpo Media, UsWeekly.com, Xaxis, Sharethrough, Facebook, Twitter and the Mobile & App Network. The advertisements will continue for a period of thirty-one (31) days. The internet and mobile advertisements will direct Class Members to the Settlement Website and the toll-free telephone number referenced above.

Exhibit E

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**IF YOU PURCHASED CERTAIN
AVALON ORGANICS® OR JASON® BRAND COSMETIC PRODUCTS
YOU MAY BE ENTITLED TO MONEY AND OTHER BENEFITS**

THIS NOTICE AFFECTS YOUR RIGHTS.

A Federal Court authorized this notice.

This is not a solicitation from a lawyer.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	The only way to get a cash payment and/or coupon.
EXCLUDE YOURSELF	Get no settlement benefits. Remove yourself from both the settlement and the lawsuit.
OBJECT	Write to the Court about why you don't like the settlement.
DO NOTHING	Get no cash payment or coupon. Give up your rights.

Please read this entire Class Notice carefully.

Your rights and options – **and the deadlines to exercise them** – are explained in this Notice.

WHAT IS THIS LAWSUIT ABOUT?

A proposed settlement has been reached in a California class action lawsuit about the labeling and advertising of certain Avalon Organics® and JASON® brand cosmetic products. The plaintiffs in the lawsuit assert that the packaging and advertising for these products misled consumers to believe that the products were wholly or at least mostly organic. The Hain Celestial Group, Inc. (“Hain”) denies all the plaintiffs’ allegations and is entering into this settlement to avoid burdensome and costly litigation. The settlement is not an admission of wrongdoing. The court has not decided who is right and who is wrong.

WHO IS INCLUDED IN THE SETTLEMENT CLASS?

You may be a member of the Class if you purchased at least one Avalon Organics® brand cosmetic product in California during the time period from May 11, 2007 through May 11, 2011 or at least one JASON® brand cosmetic product in California during the time period of May 11, 2007 through January 30, 2011. The Avalon Organics® brand cosmetic products sold in California between May 11, 2007 through May 11, 2011 at issue in the litigation, and the JASON® brand cosmetic products sold in California during the time period of May 11, 2007 through January 30, 2011 at issue in the litigation, are referred to as the “Challenged Products.” A complete list of the Challenged Products is available at www._____.com.

The following persons are excluded from the settlement class: (a) Defendant; (b) the officers, directors, or employees of Defendant and their immediate family; (c) any entity in which Defendant has a controlling interest; (d) any affiliate, legal representative, heir, or assign of Defendant; (e) all federal court judges who have presided over this Action and their immediate family; (f) all persons who submit a valid request for exclusion from the Class; and (g) those who purchased the Avalon Organics® or JASON® brand cosmetic products for the purpose of resale.

THE SETTLEMENT BENEFITS – WHAT YOU MAY GET**CASH PAYMENTS AND COUPONS FROM THE CLAIM PROCESS**

Hain shall pay a total of \$7.5 million in cash for payment of approved Class Member claims, certain notice and administrative costs, incentive awards to the named plaintiffs, and attorneys’ fees and costs. Hain shall also spend up to \$2 million to make available up to \$1.85 million in coupons, which may be used toward the purchase of any Avalon Organics® brand or JASON® brand cosmetic product. If you purchased one or more Challenged Products, you are eligible to receive your choice of either (i) a cash payment or (ii) a cash payment and coupons. The amount of your payment will depend on the statements in your Claim Form and whether you choose to receive only cash or a combination of cash and coupons. Details are provided below.

HOW YOU GET SETTLEMENT BENEFITS – SUBMITTING A CLAIM FORM**HOW CAN I RECEIVE BENEFITS UNDER THE SETTLEMENT?**

You must return a Claim Form to receive a cash payment and/or coupon(s) under the settlement. A copy of the Claim Form is included in this Notice Package. Claim Forms are also available at www._____.com or by calling 1-800-xxx-xxxx.

HOW MUCH WILL I RECEIVE?**Cash Payment and Coupon Option****A. No Receipts – up to \$40 in cash plus \$40 in coupons**

If you elect to receive the combined cash payment and coupon option and do not have receipts, you will receive 50% of the purchase price for up to \$100 worth of the Challenged Products you purchased in a combination of cash and coupons. The value of the coupons that you receive shall be calculated such that 20% of the total cash payment will be payable in coupons at a ratio between cash and coupons of 1:4 (\$1 cash to \$4 in coupons). Therefore, the maximum recovery under the cash payment and coupon option if you do not have receipts is \$40 cash plus \$40 in coupons for a total value of \$80. Each coupon will have a face value of \$2 so with the maximum recovery under this option you will receive twenty \$2 coupons.

As an example, if you purchased \$60 worth of Challenged Products during the class period and you choose the cash payment and coupon option, you will receive \$24 in cash and \$24 in coupons good for purchases of any Avalon Organics® or JASON® brand cosmetic product.

B. With Receipts – no maximum payment

If you elect to receive the combined cash payment and coupon option and have receipts, you will receive 50% of the purchase price for all of the Challenged Products you purchased in combined cash and coupons. The value of the coupons shall be calculated such that 40% of the total cash payment will be payable in coupons at a ratio between cash and coupons of 1:4 (\$1 cash to \$4 in coupons). Therefore, there is no maximum cash payment if you have receipts for your purchases. Each coupon will have a face value of \$2.

Cash Payment Only Option**A. No Receipts – up to \$50**

If you elect to receive the cash payment only option and do not have receipts, you will receive 50% of the purchase price for up to \$100 worth of the Challenged Products you purchased. Therefore, the maximum cash payment if you do not have receipts is \$50.

As an example, if you purchased \$60 worth of Challenged Products during the class period and you choose the cash payment only option, you will receive a \$30 cash payment.

B. With Receipts – no maximum payment

If you elect to receive the cash payment only option and have receipts, you will receive 50% of the purchase price for all of the Challenged Products you purchased. Therefore, there is no maximum cash payment if you have receipts for your purchases.

HOW WILL THE PURCHASE PRICE FOR MY PURCHASES OF CHALLENGED PRODUCTS BE CALCULATED?

The purchase price for each of the Challenged Products will be based on the manufacturer's suggested retail price of such product as of January 30, 2011 (MSRP). The MSRP for each Challenged Product is set forth on the claim form either in the drop-down menu in the online version of the claim form or an attached list in the hard copy of the claim form.

WHAT ELSE DO I NEED TO KNOW ABOUT THE COUPONS?

The coupons will be issued in \$2 denominations and expire one year from the date of issuance. Coupons may not be combined for the purchase of a single product. However, multiple coupons may be used in a single transaction in which the buyer is purchasing multiple Avalon Organics® brand or JASON® brand cosmetic products provided that only a single coupon is used toward the purchase of each separate product. In the event the value of the coupon you are entitled to is not divisible by 2, the amount of the coupon will be rounded up to the next number divisible by 2. For example, if you purchased \$50.50 worth of Challenged

Products during the class period and you choose the cash payment and coupon option, you will receive \$20.20 in cash and \$22 in coupons (rounded up from \$20.20) good for purchase of any Avalon Organics® or JASON® brand cosmetic product.

DO I NEED TO HAVE MY RECEIPTS TO PARTICIPATE IN THE SETTLEMENT?

You do **not** need to submit receipts if you are submitting a claim for \$100 or less in purchases of Challenged Products. If you are submitting a claim for purchases of Challenged Products that exceeds \$100, you **will** need to submit a receipt or receipts.

HOW DO I SEND IN A CLAIM?

The Claim Forms are simple and easy to complete.

The Claim Form requires that you provide:

- Your name, mailing address, and other contact information;
 - AND
 - If you are submitting a claim for \$100 or less in combined purchases of the Challenged Products, then
 - The JASON® brand cosmetic products you purchased in California between May 11, 2007 through January 30, 2011 (a list of which will be available on the claim form); AND
 - The Avalon Organics® brand cosmetic products you purchased in California between May 11, 2007 and May 11, 2011; AND
 - The approximate purchase date(s) within the class period; AND
 - Your signature, under penalty of perjury, confirming that the information provided is true and correct; OR
 - Provide a receipt or receipts showing each Challenged Product purchase on which the claim is based, or other similar documentation that reflects an eligible purchase (i.e. retailer card statement or product packaging).
- OR
- If you are submitting a claim for \$100 or more worth of Challenged Products, then
 - You must provide a receipt or receipts showing each Challenged Product purchase on which the claim is based, or other similar documentation that reflects an eligible purchase (i.e. retailer card statement or product packaging).

Please return a Claim Form if you think that you have a claim. Returning a Claim Form is the only way to receive a payment from this settlement. No claimant may submit more than one Claim Form, and two or more claimants may not submit Claim Forms for the same alleged purchases.

The Claim Administrator may request additional information if the Claim Form is insufficient to process your claim. Failure to provide any requested documentation may result in the denial of your claim and may limit the type of remedy you receive.

WHEN IS THE CLAIM FORM DUE?

You must file your claim, so that it is postmarked or submitted online, no later than [30 days prior to Final Approval Hearing], 2015.

WHO DECIDES MY CLAIM?

The Claim Forms will be reviewed by an independent Claim Administrator according to criteria agreed to by the parties.

The Claim Administrator may contact you or other persons listed in your Claim Form if he or she needs additional information or otherwise wants to verify information in your Claim Form.

The Claim Administrator's determination is final. Neither you nor Hain can appeal or contest the decision of the Claim Administrator.

WHEN WOULD I GET MY PAYMENT?

The Court will hold a hearing on _____ to decide whether to approve the settlement. If the Court approves the settlement, after that there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. If there are no appeals or other delays, you should be sent your cash payment in approximately _____.

WHAT IF THE FUND IS TOO SMALL? TOO LARGE?

If the total amount of cash claims, certain notice and administrative costs, incentive awards to the named plaintiffs, and attorneys' fees and costs exceeds the cash balance, all approved claims for cash payments will be reduced pro rata, based on the respective dollar amounts of the approved claims, until the total aggregate of approved claims equals the cash balance.

If, after everyone sends in Claim Forms, the total of all approved claims, certain notice and administrative costs, incentive awards to the named plaintiffs, and attorneys' fees and costs are *less than* the cash balance, the unused money will be donated to California Consumer Protection Foundation and the Jesse Smith Noyes Foundation, nonprofit foundations that will donate the funds to charitable organizations that best serve the needs of the Class. Such funds will not be returned to Hain.

WHAT IF THERE ARE NOT ENOUGH COUPONS TO SATISFY CLAIMS?

If the value of approved claims for coupons exceeds \$1.85 million, all approved claims for coupons will be reduced pro rata, based on the respective dollar amounts of the approved claims, until the total aggregate of approved claims for coupons equals \$1.85 million.

WHAT HAPPENS IF I DO NOTHING AT ALL?

You *must* return a Claim Form to receive any payment. If you do nothing, you will get no money or coupons from the settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Hain or any affiliated entities about the legal issues in this case.

EXCLUDING YOURSELF FROM THE SETTLEMENT**HOW DO I GET OUT OF THE SETTLEMENT?**

If you do not wish to be included in the Class and receive settlement benefits, you must send a written request stating that you want to be excluded from this lawsuit. In order for your exclusion request to be valid, it must: (1) contain your name, current postal address, current telephone number, any email address, and your original signature; (b) reference the name of the Action, "*Brown v. The Hain Celestial Group, Inc.*, Case No.

CV 11-3082;” and (c) be postmarked no later than 45 days prior to the Final Approval Hearing and mailed to:

Avalon Organics® and JASON® Class Settlement
Claims Administrator
XXX
P.O. Box XXXX
XXX

If you asked to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Hain or any affiliated entity in the future.

If you have a pending lawsuit against Hain, speak to your lawyer immediately. You may need to exclude yourself from this lawsuit in order to continue your own lawsuit. Remember, the exclusion date is [30 days prior to Final Approval Hearing date].

THE LAWYERS REPRESENTING YOU

DO I HAVE LAWYERS IN THIS CASE?

The Court appointed the law firm of the Lexington Law Group to represent you and other Class Members. These lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

HOW WILL THE LAWYERS BE PAID?

Class Counsel will ask the Court to award them attorneys’ fees and expenses. Class Counsel will make an application to the Court for an amount up to \$4,000,000.

Two of the named plaintiffs, Rosminah Brown and Eric Lohela, will also ask the Court to award them an amount not to exceed \$7,500 each for their extensive time and effort acting as plaintiffs and for their willingness to bring this litigation and act on behalf of consumers. One of the named plaintiffs, Lauren Crivier, will ask the Court to award her an amount not to exceed \$750 for her time and effort acting as a plaintiff. These amounts, if approved by the Court, will be paid from the Claim Fund.

The costs to administer the settlement, to review Claim Forms, and notify Class Members about this settlement will be paid out of the Claim Fund. These costs are estimated to be \$585,500 and shall not exceed \$650,000.

OBJECTING TO THE SETTLEMENT

HOW DO I TELL THE COURT THAT I DO NOT LIKE THE SETTLEMENT?

If you are a Class Member, you can object to the settlement if you do not like any part of it and the Court will consider your views. In order for your objection to be valid, you must send a letter to the Court and the parties and it must (a) reference the name of the Action, “*Brown v. The Hain Celestial Group, Inc.*, Case No. CV 11-3082 (N.D. California)” and include your name, current postal address, current telephone number, and any email address; (b) contain *a statement under penalty of perjury that you purchased one of the Avalon Organics® brand cosmetic products at issue in the litigation in California during the during the time period of May 11, 2007 through May 11, 2011 and/or one of the JASON® brand cosmetic products at issue in the litigation in California during the during the time period of May 11, 2007 through January 30, 2011*; (c) state that you object to the settlement and explain the basis for your objection and include any written material on which your objection is based or on which you intend to rely; and (d) state whether you and your lawyer intends to appear at the Final Approval Hearing. This objection ***must be postmarked*** no later than [30 days prior to

Final Approval Hearing date]. Send your objection to:

Clerk of the Court
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Mark N. Todzo
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117

William L. Stern
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING?

Objecting is telling the Court that you do not like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class or the lawsuit. You cannot request exclusion **and** object to the settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

RELEASE OF CLASS MEMBERS' CLAIMS AND DISMISSAL OF LAWSUIT

IN RETURN FOR THESE SETTLEMENT BENEFITS, WHAT AM I GIVING UP?

If the Court approves the proposed settlement and you do not request to be excluded from the Class, you must release (give up) all claims that are subject to the Released Claims, and the case will be dismissed on the merits and with prejudice. The Released Claims include all claims that were or could have been raised based on the facts alleged in the lawsuit. A copy of the release is attached to this notice as Exhibit 1. **If you remain in the Class, you may not assert any of those claims in any other lawsuit or proceeding. This includes any other lawsuit or proceeding already in progress.**

THE FINAL APPROVAL HEARING

WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Judge will hold a Final Approval Hearing at ___ on _____ at the United States District Court for the Northern District of California, 450 Golden Gate Ave., San Francisco, CA 94102, in Courtroom C on the 15th Floor. At this hearing, the Judge will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Judge will consider them. The Judge will listen to people who have asked to speak at the hearing. After the hearing, the Judge will decide whether to approve the settlement. We do not know how long this decision will take.

DO I HAVE TO COME TO THE HEARING?

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

GETTING MORE INFORMATION**ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?**

This Notice summarizes the proposed settlement. More details are in the Stipulation of Settlement. You can get a copy of the Stipulation of Settlement by writing to **Avalon Organics® and JASON® Class Settlement, Claims Administrator, XXXX** or on the internet at www._____.com.

If you have questions about how to complete a Claim Form, you can call the Claim Administrator at _____. You can also contact attorneys for the class at www._____.com.

PLEASE DO NOT CALL OR WRITE TO THE COURT FOR INFORMATION OR ADVICE.

/s/ Hon. Laurel Beeler

DATED: _____

BY ORDER OF THE U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Exhibit 1 – Released Claims**[Excerpted from pages 15-16 of the Stipulation of Settlement]****IV. RELEASES**

A. As of the Effective Date, in consideration of the settlement obligations set forth herein, any and all claims, demands, rights, causes of action, suits, petitions, complaints, damages of any kind, liabilities, debts, punitive or statutory damages, penalties, losses, and issues of any kind or nature whatsoever, asserted or unasserted, known or unknown (including, but not limited to, any and all claims relating to or alleging deceptive or unfair business practices, false or misleading advertising, intentional or negligent misrepresentation, negligence, concealment, omission, unfair competition, promise without intent to perform, unsuitability, unjust enrichment, and any and all claims or causes of action arising under or based upon any statute, act, ordinance, or regulation governing or applying to business practices generally, including, but not limited to, any and all claims relating to or alleging violation of COPA, UCL, FAL, CLRA, the express-warranty provisions of the California Commercial Code (or any and all other federal, state, or local statutes analogous or similar to the California statutes cited herein)), arising out of or related to Defendant's use of the word "organic" or "organics" in connection with the Challenged Products, that were asserted or reasonably could have been asserted in the Action by or on behalf of all Releasing Parties, whether individual, class, representative, legal, equitable, administrative, direct or indirect, or any other type or in any other capacity, against any Released Party ("Released Claims") shall be finally and irrevocably compromised, settled, released, and discharged with prejudice. The Released Claims include any and all such claims related to the Challenged Products, without regard to when such products were, or are in the future, purchased by Class Members. Notwithstanding anything in this Agreement, Released Claims do not include the claims alleged in the case titled *Astiana v. The Hain Celestial Group, Inc. et al.*, Case No. 4:11-cv-06342 (N.D. Cal.).

B. Each of the Releasing Parties hereby waives any and all rights and benefits arising out of the facts alleged in the Action by virtue of the provisions of California Civil Code section 1542, or any other provision in the law of the United States or any state or territory of the United States, or any principle of common law or equity that is similar, comparable, or equivalent to Civil Code section 1542, with respect to this release. The Releasing Parties are aware that Civil Code section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known

by him must have materially affected his settlement with the debtor.

C. The Releasing Parties expressly acknowledge that they may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims, but the Releasing Parties, upon the Effective Date, shall be deemed to have, and by operation of law shall have, fully, finally, and forever settled, released, and discharged any and all Released Claims, known or unknown, suspected or unsuspected, whether or not concealed or hidden, that now exist or heretofore have existed upon any theory of law or equity, including, but not limited to, Released Claims based on conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Parties agree that the Released Claims constitute a specific and not a general release.

D. The Releasing Parties shall be deemed to have agreed that the release set forth in Sections IV.A, B and C will be and may be raised as a complete defense to and will preclude any action or proceeding based on the Released Claims.

E. As of the Effective Date, by operation of entry of judgment, the Released Parties shall be deemed to have fully released and forever discharged Plaintiffs, all other Class Members and Class Counsel from any and all claims of abuse of process, malicious prosecution, or any other claims arising out of the initiation, prosecution, or resolution of the Action, including, but not limited to, claims for attorneys' fees, costs of suit or sanctions of any kind, or any claims arising out of the allocation or distribution of any of the consideration distributed pursuant to this Stipulation of Settlement.

Exhibit F

EXHIBIT F**Avalon Organics® and JASON® Brand Cosmetic Products (“Challenged Products”)****CLAIM FORM**

You can also submit online at www._____.com.

Use this Claim Form to claim refunds of a portion of the purchase price of one or more of the Challenged Products (up to a maximum of **\$80 in cash plus coupons** (\$40 in cash plus \$40 in \$2 coupons) under the cash payment and coupon option or **\$50 in cash** under the cash payment option if you do not have receipts). This Claim Form is only for claims concerning the purchase(s) of Challenged Products set out on the attached list and only for those purchases made in California during the time period of May 11, 2007 through January 30, 2011 (for JASON® brand products) and May 11, 2007 through May 11, 2011 (for Avalon Organics® brand products). You cannot use this form to make a claim concerning the purchase(s) of any other products manufactured by The Hain Celestial Group, Inc. or another company. You may submit only one Claim Form, and two people cannot submit Claim Forms for the same purchases. **All Claim Forms must be postmarked or submitted online by [30 Days prior to Final Hearing].** If mailing, please return this form to:

Avalon Organics® and JASON® Class Settlement
 Claims Administrator
 XXX Claims Group
 P.O. Box XXXX
 XXX-XXX

1. Class Member Information:

NAME: _____ TELEPHONE OR EMAIL: _____
 ADDRESS: _____
 CITY: _____ STATE: _____ ZIP CODE: _____

2. If you have receipts for all of your Challenged Products purchased in California between May 11, 2007 through January 30, 2011 for JASON® brand products or May 11, 2007 and May 11, 2011 for Avalon Organics® brand products:

Check here and skip to section 5, if not please proceed to section 3 and 4.

(Be sure you have fully completed section 1 and 5, then mail this claim form, along with your receipts, to the address above.)

3. Challenged Products purchased in California between May 11, 2007 through January 30, 2011 for JASON® brand products or May 11, 2007 and May 11, 2011 for Avalon Organics® brand products:

	<u>Approximate Purchase Date</u>	<u>Challenged Product</u>	<u>MSRP from Attached List</u>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
Total MSRP (if over \$100 must attach receipts):			

4. If you are *not* submitting receipts or similar documentation for each Challenged Product, you *must* sign below:**28 U.S.C. §1746 AFFIRMATION**

I UNDERSTAND THAT THE DECISION OF THE CLAIM ADMINISTRATOR IS FINAL AND BINDING ON ME AND ON HAIN.

I SWEAR UNDER PENALTY OF PERJURY THAT THE INFORMATION ON THIS CLAIM FORM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE: _____ DATE: _____

5. Choose Your Payment Option (for more details, please consult the Class Notice, available on the website):

Cash Payment and Product Voucher – Up to \$80 value of cash + coupons without receipts: you get 50% of the total MSRP, 80% percent of that amount will be paid in cash, 20% in \$2 coupons at a ratio between cash and coupons of 1:4 (\$1 cash to \$4.00 in coupons) (if you do not submit receipts, your maximum payment under this option is **\$40 in cash** payment plus **\$40 in coupons**).

Cash Payment Only Option – Up to \$50 without receipts: you get 50% of the total MSRP (if you do not submit receipts, your maximum payment under this option is \$50)

CLAIM FORMS MUST BE RETURNED BY [30 Days prior to Final Hearing].
QUESTIONS? VISIT [WWW. \[REDACTED\].COM](http://www. [REDACTED].COM) OR CALL 1-800-XXX-XXXX.

Exhibit G

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EXHIBIT G

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROSMINAH BROWN and ERIC LOHELA,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

THE HAIN CELESTIAL GROUP, INC.,

Defendant.

) Civil Case Nos. CV 11-03082 LMB, CV 13-
) 02237 LB
)

) CLASS ACTION
)

) **[PROPOSED] FINAL SETTLEMENT**
) **ORDER AND JUDGMENT**
)
)
)
)
)

1 IT IS HEREBY ADJUDGED AND DECREED THAT:

2 1. This Judgment incorporates by reference the definitions in the Stipulation of
3 Settlement dated _____, 2015 (“Stipulation”), attached as Exhibit A, and all capitalized
4 terms used herein shall have the same meanings as set forth in the Stipulation unless set forth
5 differently herein. The terms of the Stipulation are fully incorporated in this Judgment as if set forth
6 fully here.

7 2. The Court has jurisdiction over the subject matter of this action and all Parties to the
8 action, including all Class Members who do not timely exclude themselves from the Class. The list
9 of excluded Class Members is attached as Exhibit B.

10 3. Pursuant to Federal Rule of Civil Procedure 23(b)(3), the Court hereby amends the
11 classes previously certified by order dated November 14, 2014 by certifying the following Class:

12 All individuals who purchased the Challenged Products in California within the
13 Class Period. Specifically excluded from the Class are (a) Defendant, (b) the
14 officers, directors, or employees of Defendant and their immediate family members,
15 (c) any entity in which Defendant has a controlling interest, (d) any affiliate, legal
16 representative, heir, or assign of Defendant, (e) all federal court judges who have
presided over this Action and their immediate family members; (f) all persons who
submit a valid request for exclusion from the Class; and (g) those who purchased the
Challenged Products for the purpose of resale.

17 4. Pursuant to Federal Rule of Civil Procedure 23(c)(3), all such persons or entities who
18 satisfy the Class definition above, except those Class Members who timely and validly excluded
19 themselves from the Class, are Class Members bound by this Judgment.

20 5. For settlement purposes only, the Court finds:

21 (a) Pursuant to Federal Rule of Civil Procedure 23(a), Rosminah Brown, Eric
22 Lohela and Lauren Crivier are members of the Class, their claims are typical of the Class, and they
23 fairly and adequately protected the interests of the Class throughout the proceedings in the Action.
24 Accordingly, the Court hereby appoints Rosminah Brown, Eric Lohela and Lauren Crivier as class
25 representatives;

26 (b) The Class meets all of the requirements of Federal Rules of Civil Procedure
27 23(a) and (b)(3) for certification of the class claims alleged in the First Amended Complaint filed by

1 Rosminah Brown and Eric Lohela, including: (a) numerosity; (b) commonality; (c) typicality; (d)
2 adequacy of the class representative and Class Counsel; (e) predominance of common questions of
3 fact and law among the Class for purposes of settlement; and (f) superiority; and

4 (c) Having considered the factors set forth in Rule 23(g)(1) of the Federal Rules
5 of Civil Procedure, Class Counsel have fairly and adequately represented the Class for purposes of
6 entering into and implementing the settlement. Accordingly, the Court hereby appoints Class
7 Counsel as counsel to represent Class Members.

8 6. Persons or entities that filed timely exclusion requests are not bound by this Judgment
9 or the terms of the Stipulation and may pursue their own individual remedies against Defendant.
10 However, such excluded parties are not entitled to any rights or benefits provided to Class Members
11 by the terms of the Stipulation. The list of persons and entities excluded from the Class because they
12 filed timely and valid requests for exclusion is attached hereto as Exhibit B.

13 7. The Court directed that notice be given to Class members by publication and other
14 means pursuant to the notice program proposed by the Parties in the Stipulation and approved by the
15 Court. The Declaration of [REDACTED], attesting to the dissemination of the notice to
16 the Class, demonstrates compliance with this Court's Preliminary Approval Order. The Class Notice
17 advised Class members of the terms of the settlement; the Final Approval Hearing and their right to
18 appear at such hearing; their rights to remain in or opt out of the Class and to object to the
19 settlement; the procedures for exercising such rights; and the binding effect of this Judgment,
20 whether favorable or unfavorable, to the Class.

21 8. The distribution of the notice to the Class constituted the best notice practicable under
22 the circumstances, and fully satisfied the requirements of Federal Rule of Civil Procedure 23, the
23 requirements of due process, 28 U.S.C. §1715, and any other applicable law.

24 9. Pursuant to Federal Rule of Civil Procedure 23(e)(2), the Court finds after a hearing
25 and based upon all submissions of the Parties and other persons that the settlement proposed by the
26 Parties is fair, reasonable, and adequate. The terms and provisions of the Stipulation are the product
27 of arms-length negotiations conducted in good faith and with the assistance the Honorable Joseph

1 Spero. The Court has considered any timely objections to the Settlement and finds that such
2 objections are without merit and should be overruled. Approval of the Stipulation will result in
3 substantial savings of time, money and effort to the Court and the Parties, and will further the
4 interests of justice.

5 10. Upon the Effective Date, the named Plaintiffs and each Class Member other than
6 those listed on Exhibit B shall be deemed to have, and by operation of this Final Settlement Order
7 and Judgment shall have released, waived and discharged with prejudice Defendant from any and all
8 Released Claims as set forth in Section IV of the Stipulation.

9 11. All Class Members who have not timely and validly submitted requests for exclusion
10 are bound by this Judgment and by the terms of the Stipulation.

11 12. The Plaintiffs in the Action initiated this lawsuit, acted to protect the Class, and
12 assisted their counsel. Their efforts have produced the Stipulation entered into in good faith that
13 provides a fair, reasonable, adequate and certain result for the Class. Plaintiff Brown is entitled to an
14 incentive award of \$_____. Plaintiff Lohela is entitled to an incentive award of \$_____.
15 Plaintiff Crivier is entitled to an incentive award of \$_____. Class Counsel is entitled to
16 reasonable attorneys' fees and expenses, which the Court finds to be \$_____.

17 13. The Court hereby dismisses with prejudice the Action, and the Released Parties are
18 hereby released from all further liability for the Released Claims.

19 14. Without affecting the finality of this Judgment, the Court reserves jurisdiction over
20 the implementation, administration and enforcement of this Judgment and the Stipulation, and all
21 matters ancillary thereto.

22 15. The Court finding that no reason exists for delay in ordering final judgment pursuant
23 to Federal Rule of Civil Procedure 54(b), the clerk is hereby directed to enter this Judgment
24 forthwith.

25 16. The Parties are hereby authorized without needing further approval from the Court to
26 agree to and adopt such modifications and expansions of the Stipulation, including without limitation
27

1 the claim review procedure, that are consistent with this Judgment and do not limit the rights of
2 Class Members under the Stipulation.

3

4 **IT IS SO ORDERED.**

5

6 DATED: _____

7

THE HONORABLE LAUREL BEELER
UNITED STATES MAGISTRATE JUDGE

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Exhibit 2



503 DIVISADERO STREET, SAN FRANCISCO, CALIFORNIA 94117-2212
TELEPHONE (415) 913-7800 FACSIMILE (415) 759-4112

MISSION STATEMENT

The Lexington Law Group is a public interest law firm specializing in consumer protection, antitrust and environmental litigation. We bring creativity and tenacity to plaintiff's public interest litigation in a manner that yields superb results for our clients and the general public. Our cases have resulted in the recovery of millions of dollars for the benefit of consumers and the removal of toxic chemicals from thousands of everyday products.

Our firm is made up of committed people who are passionate about our work. We represent aggrieved individuals, non-profit organizations, and public entities. We are dedicated to our clients and the public interest goals that we set for each case. Our exceptional grasp of complex legal issues enables us to obtain extraordinary results for our clients.

We are aggressive litigators who fight for our clients at every turn, yet we are also professional in our approach and treat all parties with respect. Our goal is to hold corporations accountable and to use the law to forge creative solutions to difficult problems for the benefit of our clients and society.

CURRENT CASES

The following is a list of representative cases we are currently litigating:

- **Out-of-Network UCR Rates Litigation:** Named interim Class Counsel in antitrust case against WellPoint alleging conspiracy to artificially reduce reimbursements on "out of network" claims by policy holders through the use of the fraudulent Ingenix database. (*In Re WellPoint Out-of-Network UCR Rates Litigation, MDL 2074*).
- **Fake Organic Cosmetic Products Litigation:** Class counsel in cases involving misrepresentation of non-organic cosmetic products as organic. (*Brown, et al. v. Hain Celestial Group, CV-11-03082 LB (N.D. CA); Golloher, et al. v. Todd Christopher International, RG 12 653621 (Alameda Sup. Ct.)*).
- **Fake "Naturals" Cosmetic Litigation:** Class counsel in case involving false and misleading representations that certain Neutrogena cosmetic products are natural. (*Stephenson, et al. v. Neutrogena Corp., C 12-00426 JCS*).
- **Lead in Jewelry:** Environmental enforcement action co-litigated with the California Attorney General that has thus far resulted in commitments by hundreds of major retailers, importers and manufacturers of costume jewelry to significantly reduce the levels of lead in their jewelry. This case also led directly to California's landmark lead in jewelry statute, which was itself a precursor to passage of the federal Consumer Product Safety Improvement Act. (*State of California v. Burlington Coat Factory, et al.*).

RESULTS

The following is a representative list of some of our past successes:

- Peer-to-Peer (P2P) Interference: Named Class Counsel in class action against Comcast for alleged breach of contract and false advertising arising from interference with subscribers' use of peer-to-peer file sharing applications. Obtained \$16 million settlement for the class. (*In re: Comcast Peer-to-Peer (P2P) Transmission Contract Litigation*).
- Blue Shield Mid-Year Cost Increases: Named Class Counsel in class action alleging breach of contract and false advertising case challenging health insurer Blue Shield of California's mid-year unilateral increase to deductibles and other calendar year costs. Obtained \$2.7 million settlement for the class. (*Dervaes v. Blue Shield of California*).
- Chase Bank Debt Collection Practices: Named Class Counsel in class action against Chase Bank alleging violations of Federal Debt Collection Practices Act and California's Rosenthal Fair Debt Collection Practices Act in connection with Chase's credit card collection activities. (*Gardner v. Chase Bank USA, N.A.*).
- Greenwashing of Consumer Products: Counsel for non-profit group in private attorney general action resulting in Consent Judgments entered against more than 30 manufacturers and re-sellers requiring compliance with California's marketing and labeling requirements for cosmetic products. Examples of brands which have agreed to Court-ordered compliance with these requirements include Alterna, Aubrey, Beauty Without Cruelty, Blum Naturals, Boots, Curls, Derma E, Episencial, Kiss My Face, Morrocco Method, Nature's Baby, Organic Root Stimulator, Out of Africa, Pacifica, Palmer's, Parnevu, Peter Lamas, Pure & Basic, Shea Moisture, Simply Organic, Suki and Tints of Nature. (*Center for Environmental Health v. Advantage Research et al.*).
- False Advertising of Anti-Aging Products: Successfully prosecuted consumer protection action against maker of multi-million dollar "snake oil" product line falsely advertised as anti-aging cancer cure. (*Center for Environmental Health v. Almon Glenn Braswell*).
- Lead in Diaper Rash Ointment: Class action and private attorney general case that forced more than twenty-five major manufacturers and retailers of diaper rash ointment to reformulate their products to eliminate actionable levels of lead. Defendants included Bristol-Myers Squibb Co., Johnson & Johnson Consumer Companies, Inc., Pfizer, Inc., Schering-Plough HealthCare Products, Inc., and Warner-Lambert Company. (*Center for Environmental Health v. Bristol-Myers Squibb Co., et al., and Kenneth Johnson et al. v. Bristol-Myers Squibb Co., et al.*).
- US Airways Lap Child Litigation: Recovered refunds in a successful consumer class action case alleging that US Airways charged for "lap-children" in breach of its contract of carriage. (*Robins v. US Airways, Inc.*).

- Microsoft Technical Support Litigation: Class action consumer case against Microsoft forcing Microsoft to abandon its unilateral decision to discontinue free technical support for Office 2000 software products. (*Jones v. Microsoft Corporation*).
- Automobile Credit Truth-In-Lending Violations: Plaintiffs' Liaison Counsel in a large multi-party coordinated proceeding against hundreds of automobile dealerships alleging violations of the Truth in Lending Act that resulted in injunctions requiring disclosure of previously undisclosed lease and finance terms in automobile advertising. (*In Re Automobile Advertising Cases*).
- Nursing Home Staffing Litigation: Class action and private attorney general lawsuits against dozens of skilled nursing facilities that resulted in agreements to increase minimum staffing levels as required by California law. (*Foundation Aiding the Elderly v. Covenant Care, et al.*).
- Health Risks From Kava Kava: Represented class of consumers of Kava Kava dietary supplements against more than thirty-five defendants in case about failure to disclose the risk of liver disease from the products. (*In Re: Kava Kava Litigation*).
- Second Hand Smoke: Represented the City of San Jose and a private plaintiff in suit against major tobacco companies regarding failure to warn about second hand smoke in violation of California law. (*In Re Tobacco Cases II*).
- Tobacco Advertising: Represented non-profit group in case against outdoor advertising company defendants alleging violations of California's STAKE Act, which prohibits tobacco advertising within 1,000 feet of public schools, that resulted in the removal of hundreds of tobacco billboards located near schools in California. (*Center For Environmental Health v. Eller Media Corporation, et al.*).

ATTORNEY BACKGROUND AND EXPERIENCE

Eric S. Somers specializes in complex consumer, antitrust and environmental public interest litigation. Mr. Somers recently represented a class of consumers in a case against a major paint manufacturer alleging a manufacturing defect that resulted in nationwide relief for aggrieved consumers. He represented a group of plaintiffs in a case against major inkjet printer manufacturers regarding false and misleading print speed representations and he was plaintiff's counsel in a successful class action case alleging violations of the Fair Debt Collection Practices Act against Chase Bank. Mr. Somers was also Liaison Counsel in a complex coordinated proceeding alleging violations of the Truth In Lending Act by California automobile dealers that resulted in industry wide changes in advertising practices.

Mr. Somers also has significant experience enforcing California's landmark Right-to-Know law, Proposition 65, against Fortune 500 companies in the tobacco, pharmaceutical, chemical, cosmetics, water quality, costume jewelry and retail industries. These cases have led to reformulation of thousands of products designed for children to eliminate toxic

chemicals such as lead, arsenic, toluene, di-n-butyl phthalate (DBP) and di-2-ethylhexyl phthalate (DEHP). Examples of consumer products that have been reformulated include children's playsets (arsenic treated wood), water filters (lead and arsenic) and children's jewelry (lead). Many of these private enforcement actions have been co-litigated with the California Attorney General and other public enforcement agencies.

Mr. Somers founded the Lexington Law Group in 1996 and is a principal of the firm. Mr. Somers received his law degree from Hastings College of the Law and received a B.A. from Tulane University. While attending law school, Mr. Somers externed for the Honorable John P. Vukasin, Jr., United States District Court, Northern District of California.

Mark N. Todzo has devoted his practice of law to the representation of plaintiffs in antitrust, consumer and environmental protection litigation for over fifteen years. In that time, he has represented aggrieved individuals, nonprofit organizations and public entities in litigation that has curbed abusive and illegal corporate practices. Mr. Todzo's varied work has, among other things, helped to remove toxic chemicals from the environment, increased staffing in nursing homes, reformed deceptive advertising practices and recovered millions of dollars for the benefit of consumers. Mr. Todzo has argued cases in state and federal trial courts as well as courts of appeal and the California Supreme Court.

Mr. Todzo has served as class counsel in numerous class action lawsuits as well as liaison counsel in complex coordinated actions. He was recently lead counsel in a MDL case against Comcast on behalf of a class of subscribers who were blocked from using peer-to-peer file sharing programs. Mr. Todzo is currently representing classes of individuals in a variety of different cases, including an antitrust class action against Blue Shield seeking to recover increased health care payments for out of network charges.

Mr. Todzo joined the Lexington Law Group in 1998 and is a principal of the firm. Mr. Todzo received his law degree from Hastings College of the Law in 1993 and received a A.B. from Duke University in 1986.

Howard Hirsch has devoted his career to representing plaintiffs in public interest litigation to enforce consumer protections, conserve natural resources, and protect human health from toxic chemicals. After obtaining two years of training and experience at complex litigation with a large commercial law firm, Mr. Hirsch spent five years as a staff attorney at a national, non-profit environmental group representing individuals and other non-profits in citizen suits against polluters under the Clean Water Act, Clean Air Act, and other federal statutes. In that capacity, Mr. Hirsch helped secure the largest penalty ever assessed against a Pennsylvania polluter in a citizens' suit to date.

Mr. Hirsch joined the Lexington Law Group in 2003 and is a principal of the firm. Since joining LLG, Mr. Hirsch's practice has included significant experience litigating class actions against, among others, technology companies, airlines, and health care providers and insurers as well as enforcing California's Proposition 65. These cases have resulted in changes to deceptive business practices, substantial monetary recoveries for the benefit of consumers, and in

significant reductions in human exposures to toxic chemicals,. Mr. Hirsch has also volunteered his legal services to the homeless community of San Francisco and currently serves as a volunteer arbiter for the San Francisco Department of Human Services resolving disputes between homeless shelters and their residents.

Mr. Hirsch graduated from the University of California Berkeley Boalt Hall School of Law in 1996 and from Boston College in 1993.

Lisa Burger joined the Lexington Law Group as an associate in the Spring of 2008. Since earning her law degree from the University of Notre Dame Law in 2005, Ms. Burger has devoted her practice of law to exclusively representing plaintiffs in environmental, consumer protection, and civil rights litigation. Her current practice focuses on representing consumers in complex class action matters alleging antitrust and unfair and deceptive business practices.

Before joining Lexington Law Group, Ms. Burger was a litigation fellow with Disability Rights Advocates (DRA), a non-profit law center in Berkeley, California, that specializes in class action litigation on behalf of people with disabilities. As the David Boies / LD Access Fellow, Ms. Burger's practice focused on increasing access to standardized testing for people with learning disabilities and ADHD and involved nearly every aspect of civil litigation in both federal and state court.