

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

COMMISSIONERS OF PUBLIC WORKS OF)	Action No. 2:21-CV-00042
THE CITY OF CHARLESTON (d.b.a.)	
Charleston Water System), Individually and on)	<u>CLASS ACTION</u>
Behalf of All Others Similarly Situated,)	
)	STIPULATION OF SETTLEMENT
Plaintiff,)	
)	
vs.)	
)	
COSTCO WHOLESALE CORPORATION,)	
CVS HEALTH CORPORATION,)	
KIMBERLY-CLARK CORPORATION, THE)	
PROCTER & GAMBLE COMPANY,)	
TARGET CORPORATION, WALGREEN)	
CO. and WAL-MART, INC.,)	
)	
Defendants.)	
)	
)	

Representative Plaintiff Commissioners of Public Works of the City of Charleston (“Plaintiff”), on behalf of itself and all Settlement Class Members (defined below) and defendant Walgreen Co. (“Defendant” or “Walgreens”) and non-party Nice-Pak Products, Inc. (“Nice-Pak”) (collectively, the “Settling Parties”), hereby enter into this Stipulation of Settlement (“Stipulation”), subject to approval of the Court.¹

WHEREAS, Defendant and Nice-Pak manufacture and/or sell flushable wipes in the United States under various brand names and have done so in the past.

WHEREAS, on January 6, 2021, Plaintiff filed this Action, alleging common law causes of action for nuisance, trespass, strict products liability—defective design, strict products liability—failure to warn, and negligence against Defendant and others, in connection with the manufacturing, design, marketing and/or sale of flushable wipes, which lawsuit is currently pending as *Commissioners of Public Works of the City of Charleston (D.B.A. Charleston Water System) v. Costco Wholesale Corporation, et al.*, No. 2:21-cv-42-RMG (D.S.C.). In the Action, Plaintiff seeks injunctive relief and class certification pursuant to Federal Rules of Civil Procedure 23(a) and (b)(2), on behalf of itself, as well as a nationwide class and a South Carolina class of entities that own and/or operate sewage or wastewater conveyance and treatment systems, including municipalities, authorities and wastewater districts (“STP Operators”).

WHEREAS, Plaintiff alleges that the flushability-related claims made on the labeling and packaging of the wipe products sold by Defendant are false, deceptive, or misleading.

WHEREAS, Defendant denies that this case is suitable for class treatment other than in the context of a settlement, and denies and continues to deny any wrongdoing or legal liability for any

¹ Nice-Pak is a non-party, but has manufactured, or is currently manufacturing, some or all of the Product (defined below) for Defendant.

alleged wrongdoing; does not admit or concede any actual or potential fault, wrongdoing, or legal liability in connection with any facts or claims that have been or could have been alleged by Plaintiff; and contends that neither Plaintiff nor any of the proposed Settlement Class Members have been injured or are entitled to any relief.

WHEREAS, to avoid the costs, disruption, and distraction of further litigation, and without admitting the validity of any allegations made by Plaintiff, or any liability with respect thereto, Defendant has concluded that it is desirable to settle the claims against it, which will be dismissed on the terms reflected in this Stipulation.

WHEREAS, Plaintiff believes the claims against Defendant alleged in the Action have merit, but, based on the informal discovery exchanged in the Action, the knowledge of Plaintiff's counsel through this and other litigation regarding flushable wipes, and Plaintiff's counsel's work with consultants who have long studied flushable wipes and non-flushable wipes, Plaintiff and Plaintiff's counsel remain of the view that a settlement of the claims against Defendant in the Action on the terms reflected in this Stipulation is fair, reasonable, adequate, and in the best interests of Plaintiff and the Settlement Class.

WHEREAS, the agreement reflected in this Stipulation was reached after protracted, arm's-length negotiations over many months;

WHEREAS, the Settling Parties recognize the tremendous time and expense that would be incurred by further litigation in this matter and the uncertainties inherent in any such litigation, and that their interests would be best served by a settlement of the litigation;

WHEREAS, until the class settlement is final (*i.e.*, approved by the district court and no longer subject to judicial review), this Stipulation and its entire contents are governed by Rule 408 of the Federal Rules of Evidence and the parallel provisions of the Evidence Codes of each of the

50 states and the District of Columbia. Until that time, nothing in this Stipulation is binding on any Settling Party or the Settlement Class Members, whether by way of agreement, estoppel, or reliance, except as necessary to seek approval of such binding and final class settlement. The Settling Parties further agree that neither the existence of this Stipulation nor its recitals may be cited or relied upon by any tribunal, except as concerns the approval of and compliance with this Stipulation.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, it is hereby STIPULATED AND AGREED, by and among the Settling Parties to this Stipulation, through their respective attorneys, subject to approval of the Court pursuant to Fed. R. Civ. P. 23 and satisfaction of all the terms and conditions set forth herein, that the released claims shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms.

I. DEFINITIONS

1.1 “Action” means *Commissioners of Public Works of the City of Charleston v. Costco Wholesale Corporation, et al.*, Case No. 2:21-CV-00042, pending in the United States District Court for the District of South Carolina, Charleston Division.

1.2 “Class Counsel” means the law firms of Robbins Geller Rudman & Dowd LLP and AquaLaw PLC, subject to approval by the Court.

1.3 “Complaint” means the Amended Class Action Complaint filed against Walgreens, Costco Wholesale Corporation (“Costco”), CVS Health Corporation (“CVS”), Target Corporation (“Target”), Wal-Mart, Inc. (“Wal-Mart”), The Procter & Gamble Company (“P&G”), and Kimberly-Clark Corporation (“Kimberly-Clark”) in this Action.

1.4 “Court” means the United States District Court for the District of South Carolina, Charleston Division.

1.5 “Defendant” means Walgreen Co.

1.6 “Defendant’s Released Claims” means any and all claims Defendant or Nice-Pak may have against Plaintiff, each and all of the Settlement Class Members, and/or Class Counsel, including those for damages or injunctive relief arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Action, including, but not limited to, Unknown Claims.

1.7 “Defense Counsel” means the law firms of Chuhak & Tecson, and Reynolds & Stephens, LLC.

1.8 “Effective Date” means the later of: (a) the expiration of the time to appeal the final judgment and order with no appeal having been filed; (b) if any such appeal is filed, the termination of such appeal on terms that affirm the final judgment and order or dismiss the appeal with no material modification of the final judgment and order; or (c) the expiration of the time to obtain any further appellate review of the final judgment and order. A modification or reversal on appeal of the amount of the attorneys’ fees and expenses awarded by the Court to counsel for Plaintiff and the Settlement Class or the amount of any class representative service award shall not prevent the settlement agreement from becoming final and effective if all other aspects of the final judgment and order have been affirmed.

1.9 “Fee and Expense Application” means Class Counsel’s application to the Court for an award of Class Counsel’s attorneys’ fees and expenses in connection with the settlement of the claims against Defendant in this Action, as well as any interest thereon.

1.10 “Fee and Expense Award” means an order by the Court granting Class Counsel’s Fee and Expense Application in whole or in part.

1.11 “Final Approval Hearing” means the hearing at or after which the Court will consider whether or not to issue a Final Judgment.

1.12 “Final Judgment” means the order issued by the Court finally approving the Stipulation in all material respects as fair, reasonable, and adequate under Rule 23(e)(2), and the judgment entered pursuant to that order after the Final Approval Hearing, a form of which is attached hereto as Exhibit A.

1.13 “Formula” means base formula and substrate combination.

1.14 “Notice” means the notice of Settlement pursuant to Federal Rule of Civil Procedure 23(e)(1) to be disseminated as set forth in §7 below, the form of which is attached hereto as Exhibit B. The Settling Parties understand that “[u]nlike Rule 23(b)(3), Rule 23(b)(2) neither requires that absent class members be given notice of class certification nor allows class members the opportunity to opt-out of the class action.” *Thorn v. Jefferson-Pilot Life Ins.*, 445 F.3d 311, 330 & n.25 (4th Cir. 2006).

1.15 “Plaintiff” means Commissioners of Public Works of the City of Charleston.

1.16 “Plaintiff’s Released Claims” means any and all claims of Plaintiff and the Settlement Class Members for injunctive relief that arise from or relate to the claims and allegations in the Complaint, including Unknown Claims, and the acts, facts, omissions, or circumstances that were or could have been alleged by Plaintiff in the Action, including but not limited to all claims for injunctive relief related to any wipe products (flushable and non-flushable) currently or formerly manufactured, marketed, or sold by Defendant or any of its affiliates or licensees. For the avoidance of doubt, “Plaintiff’s Released Claims” do not include claims for damages or other monetary relief, including, but not limited to, claims for monetary relief under the law of nuisance.

1.17 “Preliminary Approval Order” means a Court order, providing for, among other things, preliminary approval of the Settlement.

1.18 “Product” means moist wipes products labeled as flushable and manufactured by Nice-Pak or other flushable wipes manufacturers and sold in the United States by Defendant under its store-brands (*e.g.*, Walgreens, Well Beginnings).

1.19 “Released Persons” means the parties receiving a release, including Plaintiff, Class Counsel, Defendant, Nice-Pak, Radienz fka U.S. Nonwovens (“Radienz”), and their present, former, and future, direct and indirect, parents, subsidiaries, affiliates, assigns, divisions, predecessors, and successors, and all of their respective officers, agents, administrators, and employees, Defense Counsel, and all Settlement Class Members.

1.20 “Releasing Parties” means the parties granting a release, including Plaintiff, all Settlement Class Members, Defendant, and Nice-Pak.

1.21 “Settlement” means the settlement of this Action as between Plaintiff and Defendant as set forth in this Stipulation. Plaintiff previously settled with defendant Kimberly-Clark and has negotiated or is negotiating separate settlements with defendants Costco, CVS, Target, Wal-Mart, and P&G.

1.22 “Settlement Class” means “All STP Operators in the United States whose systems were in operation between January 6, 2018 and the date of preliminary approval.”

1.23 “Settlement Class Member” means a person or entity that falls within the definition of the Settlement Class.

1.24 “Settlement Class Period” means the period between January 6, 2018 and the date of preliminary approval.

1.25 “Settling Parties” means Plaintiff, Defendant, Nice-Pak, and all Settlement Class Members.

1.26 “Unknown Claims” means Plaintiff’s Released Claims and all of Defendant’s Released Claims that any of the Settling Parties or Settlement Class Members do not know or suspect to exist in his, her, or its favor at the time of the release, which if known by him, her, or it, might have affected his, her, or its decision not to object to this Settlement or release of the Released Persons, Plaintiff, Class Counsel, or Settlement Class Members. With respect to any and all Plaintiff’s Released Claims and Defendant’s Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settling Parties shall, to the fullest extent permitted by law, fully, finally, and forever expressly waive and relinquish with respect to such claims, any and all provisions, rights, and benefits of Section 1542 of the California Civil Code and any and all similar provisions, rights, and benefits conferred by any law of any state or territory of the United States or principle of common law that is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

1.27 The plural of any term defined herein includes the singular, and vice versa.

II. SETTLEMENT TERMS

1. Rule 23(b)(2) Class Certification

1.1 The Settling Parties consent to certification of the Settlement Class for the claims raised against Defendant in this Action pursuant to Fed. R. Civ. P. 23(b)(2), for purposes of settlement only.

1.2 Defendant does not agree to certification of the Settlement Class for any purpose other than to effectuate this Stipulation. In the event that this Stipulation is terminated pursuant to its terms or is not approved in all material respects by the Court, or such approval is reversed, vacated, or modified in any material respect by this or any other court, the certification of the Settlement Class shall be deemed vacated, the Action shall proceed as if the Settlement Class had never been certified, and no reference to the Settlement Class, this Stipulation, or any documents, communications, or negotiations related in any way thereto shall be made for any purpose in this Action or any other action or proceeding.

2. Consideration to the Settlement Class: Injunctive Relief, and Associated Commitments by Plaintiff

2.1 In consideration for the Releases (Paragraphs 3.1 and 4.1 below), Defendant and Nice-Pak have agreed to be bound by the following permanent injunction in the Court's Final Judgment approving the Settlement of the claims made by Plaintiff and the putative Classes against Defendant in the Action:

a. Product and Testing Criteria

(i) Defendant commits that their flushable wipes manufactured or sold in the United States do not contain plastic, as defined in Section 5.3.5 of IWSFG 2020: PAS 2.

(ii) Defendant commits to purchasing flushable wipes that meet the current International Water Services Flushability Group ("IWSFG") Publicly Available Specification ("PAS") 3 (Disintegration Test) (hereinafter referred to as "IWSFG 2020: PAS 3") flushability specifications for the Product manufactured on or after April 1, 2024, whereby the average percentage of the total initial dry mass of the sample (as described in IWSFG 2020: PAS 3) passing through a 25 mm sieve for the five test pieces drawn from each of the four (or, at Defendant's election, more) packages of the Product (as further detailed below) after 30 minutes

of testing shall be equal to or greater than 80% (at the temperature (20 degrees Celsius +/-2 degrees), volume (4 liters) and RPM (18) specified in IWSFG 2020: PAS 3). If Defendant is able to attain IWSFG compliance prior to April 1, 2024, it can provide written notice to Plaintiff, which will initiate the monitoring period set forth in Paragraph 2.1(b)(ii).

(iii) Once the Product meets the IWSFG 2020: PAS 3 specification and all other IWSFG 2020 specifications, Defendant may represent that Product is IWSFG 2020 compliant for a period of at least five years, subject to the on-going testing requirements set forth herein, irrespective of whether IWSFG adopts heightened testing specifications.

b. Testing Implementation/Monitoring

(i) If Plaintiff elects, Defendant, Nice-Pak, and/or other flushable wipes manufacturers that supply flushable wipes to Defendant, as applicable, will meet with Plaintiff (virtually if requested by Defendant) after the final Stipulation of Settlement is signed to discuss the Product's performance/certification and plan to achieve the performance criteria for wipes manufactured on or after April 1, 2024.

(ii) Defendant, Nice-Pak, and/or other flushable wipes manufacturers that supply flushable wipes to Defendant as applicable, at their election, will submit to and either (1) host periodic independent testing of the Product, including funding of Reasonable Costs for a Plaintiff-selected representative to participate in the same, or (2) submit the Product at their cost to a mutually acceptable lab for independent testing (Parties agree in advance that the Integrated Paper Services ("IPS") lab and SGS are acceptable independent labs), beginning on April 1, 2024 (or before at Defendant's election) in accordance with agreed-to IWSFG 2020: PAS 3 testing protocols. The PAS 3 testing will be conducted approximately every four months for a period of 24 months with five test pieces drawn from each of at least four (or more at Defendant's election) packages of each formula of the Product manufactured on or after April 1, 2024 (or such earlier

manufacture date that Defendant indicates to Plaintiff that the Product is IWSFG 2020: PAS 3 compliant) to be selected by Plaintiff. To the extent Plaintiff enters into a similar settlement agreement with defendants Costco, CVS, and Target containing a similar PAS 3 testing compliance date, if the same formula is used for Walgreens and defendants Costco, CVS, or Target at the time of testing, the tests will be performed once per formula. Plaintiff will provide Defendant with the lot number for the test pieces to confirm the manufacturer, formula, and the manufacturing date. The monitoring period will end after 24 months.

(iii) Defendant and/or Nice-Pak, and/or other flushable wipes manufacturers as applicable, shall have the right to observe (virtually if requested by Defendant) all testing conducted pursuant to Paragraph 2.1(b)(ii). If any such tests find that the Product is not compliant with IWSFG 2020: PAS 3, Defendant has the right to object to the results of that testing and submit its own results or data. If the results or data submitted with Defendant's objection finds that the Product is compliant with IWSFG 2020: PAS 3 and the Parties cannot resolve inconsistent results, Defendant shall submit the Product to IPS for independent testing, in accordance with agreed to IWSFG 2020: PAS 3 testing protocols, within 60 days of receiving the conflicting results. If the Product is thereafter found non-compliant, Defendant shall have 150 days to regain compliance in its wipes manufacturing operations.

(iv) Reasonable Costs, as noted in Paragraph 2.1(b)(ii), consist of reimbursement of Plaintiff's selected representative for up to 12 hours of testing per testing cycle (*i.e.*, three times per year) at a reasonable hourly rate agreed upon by the Parties, or a reasonable flat rate agreed upon by the Parties, along with reimbursement of flight, hotel, and incidental travel expenses for Plaintiff's selected representative.

c. Label Changes

(i) Defendant and/or Nice-Pak will add or cause to be added certain labeling changes, as described below, for its non-flushable wipes products nationwide within 18 months from the date of the settlement agreement.

(ii) Defendant will add or cause to be added prominent language or illustration on their store-brand non-flushable wipes products identifying the non-flushable wipes products as “non-flushable” or instructing users not to flush the non-flushable wipes products (*e.g.*, “Do Not Flush”), consistent with the provisions in Paragraph 2.1(c)(iii).

(iii) Defendant will ensure that its store-brand non-flushable wipes products labeling will meet the current “do not flush” labeling standards set forth in Chapter 590 of Assembly Bill No. 818 of California State, which took effect on July 1, 2022 (“AB818”), Section 3 of House Bill 2565 of Washington State, which took effect on March 26, 2020 (“HB2565”), and Section 1 of House Bill 2344 of Oregon State, which took effect on September 25, 2021 (“HB2344”), to the extent such products are “Covered Products” as defined in AB818, HB2565, and HB2344. Defendant agrees to exceed the standards herein insofar as it will include “do not flush” symbols or warnings (or cause such warnings to be included), or disposal instructions, on not only the principal display panel, but also at least two additional panels of packaging for non-flushable baby wipes products, except for packages that only have two panels. If AB818, HB2565, or HB2344 cease to remain effective for any reason, Defendant will no longer be required to meet the labeling standards set forth in the law(s) that is no longer in effect.

(iv) Upon request, Defendant will provide one representative labeling for each of their store-brand baby wipes products to Plaintiff to confirm that it complies with the required labeling changes.

d. Acknowledgement and Endorsement

(i) After Defendant and/or Nice-Pak implements the injunctive relief described herein, the Product shall be deemed “flushable,” biodegradable, safe for sewer systems, and capable of breaking down after flushing, as advertised, subject to compliance with the testing provisions in Paragraphs 2.1(a)(ii) above.

(ii) After Defendant and/or Nice-Pak implements the injunctive relief described herein, Plaintiff will take the following steps to endorse the Product: (1) provide its endorsement of compliance with IWSFG 2020 as representative of the Settlement Class; (2) solicit commitment of U.S. municipal wastewater treatment industry (including members of IWSFG, such as NACWA) to provide acknowledgment that the Product are, in fact, flushable, biodegradable, safe for sewer systems, and capable of breaking down after flushing, as advertised; and (3) provide a sample press release for approval to Defendant and/or Nice-Pak acknowledging the Product’s performance and compliance with IWSFG 2020.

e. Purchase of Wipes from Manufacturers

(i) In the event Defendant stops purchasing flushable wipes manufactured by Nice-Pak, the Settlement Agreement and Paragraphs 2.1(a)-(c) of the Stipulation of Settlement will not impose any obligations on Nice-Pak regarding the non-Nice-Pak manufactured flushable wipes.

3. Release by Plaintiff and the Settlement Class

3.1 Upon the Effective Date, Plaintiff and each Settlement Class Member release and discharge Defendant, Nice-Pak, and any other suppliers for Defendant, their present, former, and future, direct and indirect, parents, subsidiaries, affiliates, assigns, divisions, predecessors, licensees, insurers, and successors, and all of their respective officers, agents, administrators, and employees, and Defense Counsel, of and from all Plaintiff’s Released Claims, including Unknown

Claims, provided, however, that Plaintiff's Released Claims shall not include any claims to enforce the terms of this Stipulation.

4. Releases by Defendant and Nice-Pak

4.1 Defendant, Nice-Pak, and any other suppliers for Defendant will release and discharge Plaintiff, the Injunctive Relief Settlement Class members, and counsel for Plaintiff and the Settlement Class from all claims arising from or relating to the institution, prosecution, or settlement of this Action; any defenses or compulsory counterclaims Defendant, Nice-Pak, or any other supplier for Defendant may have in the Action; and the Settlement Class's settlement of their claims. The released claims will not include any claims to enforce the terms of the settlement agreement. For the avoidance of doubt, the releases described in this Stipulation shall not include a release of Defendant's claims for indemnity against Nice-Pak.

5. No Admission of Liability

5.1 Defendant and Nice-Pak deny any liability in this Action, and they deny the appropriateness of certification of a litigation class in the Action or any other case except in the context of settlement. This Stipulation reflects, among other things, the compromise and settlement of disputed claims among the Parties.

5.2 This Stipulation, the fact of settlement, the releases contained herein, any actions taken to carry out the settlement agreement, and any related documents or proceedings are not intended to be (nor may they be deemed or construed to be) an admission or concession of liability or the validity of any claim, defense, allegation, point of fact, or point of law.

5.3 This Stipulation, the fact of settlement, the releases contained herein, any actions taken to carry out the settlement agreement, and any related documents or proceedings shall not be used as an admission of any fault or offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by the Parties in any proceeding.

6. Payment of Attorneys' Fees and Expenses.

6.1 Class Counsel will apply to the Court for separate awards of attorneys' fees and expenses (including the court costs), not to exceed \$400,000. If approved by the Court, Defendant and/or Nice-Pak shall pay Class Counsel up to \$400,000 in attorneys' fees and expenses, inclusive, as the Fee and Expense Award.

6.2 Defendant and/or Nice-Pak shall pay the Fee and Expense Award to Class Counsel within 21 days of entry of the order awarding such fees and expenses and Class Counsel's submission of its W-9 to the Defendant. Defendant may deliver the settlement funds to Plaintiff via wire transfer, and Class Counsel and Plaintiff shall cooperate with Defendant by providing the necessary bank information in a timely manner to facilitate the wire transfer of funds.

7. Notice to the Settlement Class Pursuant to Rule 23(e)(1)

7.1 The Notice is designed to provide the Settlement Class with information regarding the proposed Settlement and their rights thereunder, including a description of the material terms of the Settlement; Class Counsel's Fee and Expense Application; the date of the Final Approval Hearing; and the date by which any objection by Settlement Class Members to any aspect of the Settlement and/or the Fee and Expense Award must be received.

7.2 The Notice, as approved by the Court, will be provided by email to, for example, the following entities:

Water Environment Federation. <https://www.wef.org/>

National Association of Clean Water Agencies. <https://www.nacwa.org/>

National Rural Water Association. <http://www.nrwa.org/>

National Association of Counties. <https://www.naco.org/>

National League of Cities. www.nlc.org

American Public Works Association. www.awwa.org

US Water Alliance. <http://uswateralliance.org/about/our-members>

State POTW wastewater associations. The Notice will be provided to State POTW wastewater associations, including:

South Carolina Water Quality Association. <http://www.scwqa.org/>

California Association of Sanitation Authorities. <https://casaweb.org/>

Illinois Association of Wastewater Agencies. www.ilwastewater.org

Maine Wastewater Control Association. www.mwwca.org

Maryland Association of Municipal Wastewater Agencies.
<http://www.mamwa.org/>

Association of **Missouri** Cleanwater Agencies. <http://www.amoca.info/>

New England Water Works Association – www.newwa.org

North Carolina Water Quality Association. <http://ncwqa.com/>

New Jersey Association of Environmental Authorities.
<https://www.aeanj.org/>

Oregon Association of Water Utilities. <https://oawu.net/>

Association of **Ohio** Metropolitan Wastewater Agencies.
<https://www.aomwa.org/>

Pennsylvania Municipal Authorities Association.
<https://www.municipalauthorities.org/>

Texas Association of Clean Water Agencies. <https://www.tacwa.org/>

Virginia Association of Municipal Wastewater Agencies.
<http://www.vamwa.org/>

West Virginia Municipal Water Quality Association. <http://wvmwqa.org/>

Wisconsin wastewater operator's association – www.wwoa.org

7.3 The Settling Parties shall also establish a website dedicated to the Settlement, which shall include a copy of the Notice and other Settlement-related documents and which shall list all Settlement-related dates and deadlines.

7.4 The Summary Notice in the form attached hereto as Exhibit C, shall be published through a press release issued by the Settling Parties and in an industry publication such as the Water Environment Federation's magazine *Water Environment & Technology*, and mailed directly to identifiable publicly owned sewage treatment plant operators in the United States via First-Class mail, as provided in the Notice Order.

7.5 Defendant agrees to bear the costs associated with providing publication and postcard notice, however, given the settlements between Plaintiff and other defendants who are not a party to this Stipulation of Settlement, Defendant here may share any notice costs with any other settling defendants to the extent practicable. Plaintiff agrees to bear the costs, if any, associated with providing email notice to the class members and hosting the settlement administration website.

7.6 Within ten (10) business days of the filing of Plaintiff's motion for preliminary approval of the Settlement, Defendant, at its expense, will direct notice of the proposed Settlement to the federal and state officials required to be notified by the Class Action Fairness Act of 2005, 28 U.S.C. §1715.

8. Order Preliminarily Approving the Settlement; Final Fairness Hearing

8.1 As soon as reasonably practicable after execution of this Stipulation, Class Counsel will move the Court for an order preliminarily approving the Settlement, *see* Exhibit D, and for a stay of all proceedings in the Action as to Defendant until the Court renders a final decision on approval of the Settlement. At the same time, voluntary notice will be provided as detailed *supra*, §II.7.

8.2 The Settling Parties will ask the Court to schedule a Fairness Hearing to determine whether the Settlement should receive Final Approval, with that hearing to occur no earlier than

100 calendar days after the Court enters an order preliminarily approving the Settlement. By no later than the dates ordered by the Court, Class Counsel will move the Court for appropriate orders approving and effectuating the Settlement, including orders:

(a) certifying the Settlement Class for settlement purposes pursuant to Fed. R. Civ. P. 23(b)(2) and fully and finally approving the Settlement contemplated by this Stipulation and its terms as being fair, reasonable, and adequate within the meaning of Rule 23 and directing its consummation pursuant to its terms and conditions;

(b) directing that the Action, to the extent that it is brought against Defendant, be dismissed with prejudice;

(c) discharging and releasing the Released Persons from Plaintiff's Released Claims;

(d) permanently barring and enjoining the institution and prosecution, by Plaintiff and Settlement Class Members, of any other action against the Released Persons, in any court, asserting any Plaintiff's Released Claims;

(e) discharging and releasing Plaintiff, Class Counsel, and the Settlement Class from Defendant's Released Claims;

(f) reserving continuing and exclusive jurisdiction over the Settlement, including all future proceedings concerning the consummation and enforcement of this Stipulation;

(g) determining pursuant to Fed. R. Civ. P. 54(b) that there is no just reason for delay and directing entry of a Final Judgment as to Defendant in the Action;

(h) granting the Fee and Expense Application; and

(i) containing such other and further provisions consistent with the terms of this Stipulation to which the Settling Parties expressly consent in writing.

9. Miscellaneous Provisions

9.1 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Action. The Settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Final Judgment will contain a finding that, during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Action, including that the Action was brought or defended in bad faith or without a reasonable basis.

9.2 If, for any reason, the Settlement is not approved by the Court, is terminated, overturned, or materially modified on appeal or as a result of further proceedings on remand, or otherwise does not become effective, unless the Settling Parties shall agree otherwise, the Settling Parties shall revert to their litigation positions immediately prior to the execution of this Stipulation, without waiver of any rights, claims, or defenses; nothing in this Stipulation, or the motion for preliminary approval of the Settlement shall be cited by the Settling Parties or relied on by the Court for any purpose other than in connection with disputes concerning the Settlement.

9.3 The Settling Parties acknowledge and agree that this Stipulation memorializes the entire agreement among the Settling Parties, that they have not executed this Stipulation in reliance on any promise, representation, inducement, covenant, or warranty except as expressly set forth herein, and that this Stipulation supersedes all other prior statements or agreements, whether oral or written, to the extent any provision hereof is inconsistent with any such prior oral or written statements or agreements.

9.4 This Stipulation may not be amended except by a writing executed by all Settling Parties hereto or their respective successors-in-interest.

9.5 The Court will retain jurisdiction with respect to implementation and enforcement of the terms of this Stipulation and over any disputes arising under this Stipulation, and all Settling Parties hereby submit to the jurisdiction of the Court for such purposes.

9.6 Each Settling Party represents and warrants to all other Settling Parties that such Settling Party: (a) was represented by attorneys of the Settling Party's choosing in connection with the execution of this Stipulation; (b) has read and understood all aspects of this Stipulation and all of its effects; and (c) has executed this Stipulation as a voluntary act of the Settling Party's own free will and without any threat, force, fraud, duress, or coercion of any kind.

9.7 If any provision of this Stipulation is declared by the Court to be invalid, void, or unenforceable, the remaining provisions of this Stipulation will continue in full force and effect, unless the provision declared to be invalid, void, or unenforceable is material, at which point the Settling Parties shall attempt to renegotiate the Stipulation or, if that proves unavailing, either Settling Party can terminate the Stipulation without prejudice to any Settling Party. For purposes of this Paragraph, the Releases laid out in Paragraphs 3.1 and 4.1 are considered material to this Stipulation.

9.8 This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties hereto. Without limiting the generality of the foregoing, each and every covenant and agreement herein by Plaintiff and Class Counsel shall be binding upon all Settlement Class Members.

9.9 This Settlement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to South Carolina's principles governing choice of law. The Settling Parties agree that any dispute arising out of or relating in any way to the Settlement

shall not be litigated or otherwise pursued in any forum or venue other than the Court, and the Settling Parties expressly waive any right to demand a jury trial as to any such dispute.

9.10 The provisions contained in this Stipulation shall not be deemed a presumption, concession, or admission by Defendant of any fault, liability, or wrongdoing as to any facts or claims that have been or might be alleged or asserted in the Action, or any other action or proceeding that has been, will be, or could be brought, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, for any purpose other than as provided expressly herein.

9.11 This Stipulation will be construed as if the Settling Parties jointly prepared it, and any uncertainty or ambiguity will not be interpreted against any one Settling Party because of the manner in which this Stipulation was drafted or prepared.

9.12 The headings used in this Stipulation are for convenience only and will not be used to construe its provisions.

9.13 The Settlement may be executed in any number of counterparts and by each of the different Settling Parties on several counterparts, each of which when so executed and delivered will be an original. The executed signature page(s) from each counterpart may be joined together and attached and will constitute one and the same instrument.

9.14 This Stipulation of Settlement is confidential until publicly filed with the Court. The Parties must use all reasonable efforts to ensure that information relating to the settlement of the Action is not disclosed, except as provided below. Before the Effective Date, the Parties shall not publish or release any statement or information to the media or the public relating to the Parties settlement discussions. After the Effective Date, any information published or released relating to

the settlement must be truthful and adhere strictly to information that appears as part of the public record related to the approval of the settlement agreement. If any media outlet contacts any of the Parties or counsel for the Parties seeking information or a statement regarding the settlement or the Action, any information provided must be truthful and consistent with the public record and terms of the settlement. Any discussions, negotiations, documents, statements, or actions relating to the settlement of the Action are prohibited from disclosure in any other case, unless that information appears as part of the public record.

9.15 All claims that were asserted in the Action will be dismissed with prejudice in the Court's order and judgment of final approval. If for any reason the Effective Date does not occur, all claims and defenses will revert to their status before preliminary settlement approval.

IN WITNESS WHEREOF, the Settling Parties have executed this Stipulation effective as of the date set forth below.

[SIGNATURE PAGE TO FOLLOW]

DATED: October 26, 2023



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EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

COMMISSIONERS OF PUBLIC WORKS OF)	Civil Action No. 2:21-CV-00042
THE CITY OF CHARLESTON (d.b.a.)	
Charleston Water System), Individually and on)	<u>CLASS ACTION</u>
Behalf of All Others Similarly Situated,)	
Plaintiff,)	[PROPOSED] FINAL JUDGMENT AND
vs.)	ORDER OF DISMISSAL OF COSTCO
COSTCO WHOLESALE CORPORATION,)	WHOLESALE CORPORATIONS, CVS
CVS HEALTH CORPORATION,)	HEALTH CORPORATION, THE PROCTER
KIMBERLY-CLARK CORPORATION, THE)	& GAMBLE COMPANY, TARGET
PROCTER & GAMBLE COMPANY,)	CORPORATION, WALGREEN CO. AND
TARGET CORPORATION, WALGREEN)	WAL-MART, INC. WITH PREJUDICE
CO. and WAL-MART, INC.,)	
Defendants.)	
_____)	

This matter is before the Court pursuant to the Order Granting Unopposed Motion for Preliminary Approval of Class Action Settlements with Costco Wholesale Corporation, CVS Health Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc. (“Defendants”) (“Notice Order”) dated _____, 2023, on the application of the Plaintiff, the Settlement Class and Defendants (together “the Parties”) for final approval of the Settlements set forth in the Stipulations dated [REDACTED], 2023 (“Stipulations”). Due and adequate notice having been given to the Settlement Class as required in the Notice Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment incorporates by reference the definitions in the Stipulations, and all terms used herein shall have the same meanings as set forth in the Stipulations, unless otherwise set forth herein.

2. This Court has jurisdiction over the subject matter of the Action and over all the Parties to the Settlements, including all members of the Settlement Class.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby affirms its determination in the Notice Order and finally certifies for purposes of settlement only a Settlement Class defined as: “All entities that own[ed] and/or operate[d] sewage or wastewater conveyance and treatment systems, including municipalities, authorities and wastewater districts in the United States between January 6, 2018 and _____ [the date of preliminary approval].”

4. Pursuant to Fed. R. Civ. P. 23(e), the Court finds that the Stipulations and Settlements are fair, reasonable, and adequate as to each of the Settling Parties, and that the Stipulations and Settlements are hereby finally approved in all respects, and the Settling Parties are hereby directed to perform its terms.

5. Accordingly, the Court authorizes and directs implementation of all the terms and provisions of the Stipulations, as well as the terms and provisions hereof. The Court hereby dismisses the Action and all Plaintiff's Released Claims with prejudice, without costs as to any of the Released Parties or Released Persons, except as and to the extent provided in the Stipulations and herein.

6. Upon the Effective Date hereof, and as provided in the Stipulations, Plaintiff and each of the Settlement Class Members shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged Defendants and their present, former, and future, direct and indirect, parents, subsidiaries, affiliates, assigns, divisions, predecessors, licensees, insurers, and successors, and all of their respective officers, agents, administrators, and employees, and Defense Counsel of and from all Plaintiff's Released Claims (including, but not limited to, Unknown Claims (as defined in the Stipulations)).

7. Upon the Effective Date hereof, if applicable and as provided in the Stipulations, Defendants and their subsidiaries, affiliates, and all of their respective officers and employees, shall be deemed to have, and by operation of this Final Judgment, shall have, fully, finally, and forever released, relinquished, and discharged Plaintiff, each and all of the Settlement Class Members, and Class Counsel from all Defendants' Released Claims (including, but not limited to, Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution or settlement of the Action.

8. Upon the Effective Date hereof, and as provided in the Stipulation with The Procter & Gamble Company, Plaintiff, Class Counsel, The Procter & Gamble Company, and Defense Counsel shall be deemed to have, and by operation of this Final Judgment, shall have, fully, finally, and

forever released, relinquished, and discharged each other from any and all claims relating in any way to any party or counsel's conduct in the Action as provide in paragraph 4.1 of the Stipulation.

9. The Notice given to the Settlement Class in accordance with the Notice Order was appropriate under the circumstances of these proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Stipulations, to all Persons entitled to such notice, and said notice fully satisfied the requirements of Fed. R. Civ. P. 23(e) and due process.

10. Any order entered regarding any attorneys' fee and expense application shall in no way disturb or affect this Final Judgment and shall be considered separate from this Final Judgment.

11. Neither the Stipulations nor the Settlements contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulations or the Settlements: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of any Released Party or Released Person; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Released Party or Released Person, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. Any Released Party or Released Person may file any of the Stipulations and/or this Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

12. Without affecting the finality of this Final Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) implementation of the Settlements; (b) hearing and determining applications for attorneys' fees and expenses in the Action; and (c) all Settling Parties hereto for the purpose of construing, enforcing, and administering the Stipulations.

13. The Court finds that during the course of the Action, the Parties and their respective counsel at all times complied with the requirements of Fed. R. Civ. P. 11.

14. In the event that the Settlements do not become effective in accordance with the terms of the Stipulations, or the Effective Date does not occur, then this Final Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulations and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulations.

15. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulations.

16. The Court directs immediate entry of this Final Judgment by the Clerk of the Court.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGE

EXHIBIT B

Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. Costco Wholesale Corporation, CVS Health Corporation, Kimberly-Clark Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc.
Case No. 2:21-CV-00042

United States District Court for the District of South Carolina, Charleston Division

IF YOU ARE A SEWAGE TREATMENT SYSTEM OPERATOR IN THE UNITED STATES WHOSE SYSTEM WAS IN OPERATION BETWEEN JANUARY 6, 2018 AND _____, 2023 [THE DATE OF PRELIMINARY APPROVAL], CLASS ACTION SETTLEMENTS MAY AFFECT YOUR RIGHTS.

A federal court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

- Proposed settlements (“Settlements”) have been reached in the above class action against the remaining Defendants in the case, Costco Wholesale Corporation (“Costco”), CVS Health Corporation (“CVS”), The Procter & Gamble Company (“P&G”), Target Corporation (“Target”), Walgreen Co. (“Walgreens”), and Wal-Mart, Inc. (“Wal-Mart” and collectively “Defendants”). The Court has already approved a settlement with Kimberly-Clark Corporation (“Kimberly-Clark”). The action challenges the manufacturing, design, marketing and/or sale of multiple Defendants’ flushable wipes.¹ Defendants deny the allegations about their flushable wipes and there has been no finding of liability against Costco, CVS, P&G, Target, Walgreens, or Wal-Mart. Defendants have agreed to the Settlements to avoid the uncertainties and expenses associated with continuing the case.
- You are a Settlement Class Member if you own[ed] and/or operate[d] sewage or wastewater conveyance and treatment systems.
- If you are a Settlement Class Member, your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

Do Nothing	If you do nothing, then you will automatically receive benefits under the Settlements in the form of Defendants’ business modifications that are further described in this Notice.
Object	Write to the Court about why you do not like something about the Settlements or Class Counsel’s requested attorneys’ fees and expenses such that it is received no later than [Objection Deadline] .

¹ The terms of the Settlements are in the Stipulations of Settlement, dated _____, 2023 (the “Stipulations”), which can be viewed at [www.\[WEBSITE\].com](http://www.[WEBSITE].com). All capitalized terms not defined in this Notice have the same meanings as in the Stipulations.

**Attend a hearing on
[Final Approval
Hearing Date]**

Ask to speak in Court about your opinion of the Settlements and/or the requests for attorneys' fees and expenses. Requests to speak must be received by the Court and counsel for the Parties **no later than** _____, 2023.

- **There is no need to submit a claim form.** The Settlements provide benefits in the form of business practice modifications that are further detailed on pages ■ - ■ of this Notice. If you do nothing, then you will automatically receive the benefits of the Settlements.
- These rights and options – **and the Court-ordered deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this litigation still has to decide whether to approve the Settlements with Costco, CVS, P&G, Target, Walgreens, and Wal-Mart.

A. WHAT THIS NOTICE CONTAINS

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GETTING MORE INFORMATION PAGE

15. How do I get more information?

BASIC INFORMATION

1. Why should I read this Notice?

The Court authorized this Notice because you have a right to know about proposed settlements of a class action lawsuit, and about all of your rights and options, before the Court decides whether to approve the Settlements.

If you operate a sewage or wastewater conveyance and treatment plant, such as a municipality, authority or wastewater district in the United States whose system was in operation between January 6, 2018 and _____, 2023 [**date of preliminary approval**], you are part of the Settlement Class.

This Notice explains the lawsuit, the Settlements with Defendants, and your rights.

The Honorable Judge Richard M. Gergel of the United States District Court for the District of South Carolina is overseeing this class action. The lawsuit is known as *Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. Costco Wholesale Corporation, CVS Health Corporation, Kimberly-Clark Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc.*, Case No. 2:21-CV-00042.

2. What is this lawsuit about?

This lawsuit challenges the manufacturing, design, marketing and/or sale of flushable wipes by Defendants, including Costco, CVS, P&G, Target, Walgreens, and Wal-Mart.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” (in this case, Commissioners of Public Works of the City of Charleston) sue on behalf of other people who have similar claims. The people together are a “Settlement Class” or “Settlement Class Members.” The people who sue – and all the Settlement Class Members like them – are called the “Plaintiffs.” The company or companies the Plaintiffs sue (in this case, Costco, CVS, P&G, Target, Walgreens, Wal-Mart, and Kimberly-Clark) is or are called the “Defendant” or “Defendants.” If the court certifies (or approves) the Settlement Class, then one court can resolve the issues for everyone in the Settlement Class.

4. Why are there Settlements?

The Court has not decided whether Plaintiff City of Charleston or Defendants Costco, CVS, P&G, Target, Walgreens, or Wal-Mart should win this case. Instead, the respective parties agreed to settle. That way the respective parties avoid the cost and risks of trial, and Costco, CVS, P&G, Target, Walgreens, and Wal-Mart will agree to make changes to their policies and practices to benefit Settlement Class Members now rather than years from now, if at all.

More information about the Settlements and the lawsuit is available in the “Court Documents” section of the Settlements Website: www.WEBSITE.com.

WHO IS IN THE SETTLEMENT CLASS?

You need to decide whether you are affected by this lawsuit.

5. Am I part of the Settlement Class?

If you own[ed] or operate[d] a sewage or wastewater conveyance and treatment system, such as a municipality, authority or wastewater district in the United States whose system was in operation between January 6, 2018 and _____, 2023 [**Preliminary Approval Date**], you are part of the Settlement Class.

THE SETTLEMENTS' BENEFITS

6. What are the benefits of the Settlements with Defendants?

Defendants have agreed to implement certain modifications to their business practices with respect to the flushable wipes Products, including Charmin-branded flushable wipes, Kirkland Signature flushable wipes, Equate-branded flushable wipes, Great Value-branded flushable wipes, up & upTM flushable wipes, Walgreens-branded flushable wipes, Well Beginnings-branded flushable wipes, CVSTM flushable wipes, and Total Home® flushable wipes.

Walgreens

a. Product and Testing Criteria

(i) Defendant commits that their flushable wipes manufactured or sold in the United States do not contain plastic, as defined in Section 5.3.5 of IWSFG 2020: PAS 2.

(ii) Defendant commits to purchasing flushable wipes that meet the current International Water Services Flushability Group (“IWSFG”) Publicly Available Specification (“PAS”) 3 (Disintegration Test) (hereinafter referred to as “IWSFG 2020: PAS 3”) flushability specifications for the Product manufactured on or after April 1, 2024, whereby the average percentage of the total initial dry mass of the sample (as described in IWSFG 2020: PAS 3) passing through a 25 mm sieve for the five test pieces drawn from each of the four (or, at Defendant’s election, more) packages of the Product (as further detailed below) after 30 minutes of testing shall be equal to or greater than 80% (at the temperature (20 degrees Celsius +/-2 degrees), volume (4 liters) and RPM (18) specified in IWSFG 2020: PAS 3). If Defendant is able to attain IWSFG compliance prior to April 1, 2024, it can provide written notice to Plaintiff, which will initiate the monitoring period set forth in Paragraph 2.1(b)(ii).

(iii) Once the Product meets the IWSFG 2020: PAS 3 specification and all other IWSFG 2020 specifications, Defendant may represent that Product is IWSFG 2020 compliant for a period of at least five years, subject to the on-going testing requirements set forth herein, irrespective of whether IWSFG adopts heightened testing specifications.

b. Testing Implementation/Monitoring

(i) If Plaintiff elects, Defendant, Nice-Pak, and/or other flushable wipes manufacturers that supply flushable wipes to Defendant, as applicable, will meet with Plaintiff

(virtually if requested by Defendant) after the final Stipulation of Settlement is signed to discuss the Product's performance/certification and plan to achieve the performance criteria for wipes manufactured on or after April 1, 2024.

(ii) Defendant, Nice-Pak, and/or other flushable wipes manufacturers that supply flushable wipes to Defendant as applicable, at their election, will submit to and either (1) host periodic independent testing of the Product, including funding of Reasonable Costs for a Plaintiff-selected representative to participate in the same, or (2) submit the Product at their cost to a mutually acceptable lab for independent testing (Parties agree in advance that the Integrated Paper Services ("IPS") lab and SGS are acceptable independent labs), beginning on April 1, 2024 (or before at Defendant's election) in accordance with agreed-to IWSFG 2020: PAS 3 testing protocols. The PAS 3 testing will be conducted approximately every four months for a period of 24 months with five test pieces drawn from each of at least four (or more at Defendant's election) packages of each formula of the Product manufactured on or after April 1, 2024 (or such earlier manufacture date that Defendant indicates to Plaintiff that the Product is IWSFG 2020: PAS 3 compliant) to be selected by Plaintiff. To the extent Plaintiff enters into a similar settlement agreement with defendants Costco, CVS, and Target containing a similar PAS 3 testing compliance date, if the same formula is used for Walgreens and defendants Costco, CVS, or Target at the time of testing, the tests will be performed once per formula. Plaintiff will provide Defendant with the lot number for the test pieces to confirm the manufacturer, formula, and the manufacturing date. The monitoring period will end after 24 months.

(iii) Defendant and/or Nice-Pak, and/or other flushable wipes manufacturers as applicable, shall have the right to observe (virtually if requested by Defendant) all testing conducted pursuant to Paragraph 2.1(b)(ii). If any such tests find that the Product is not compliant with IWSFG 2020: PAS 3, Defendant has the right to object to the results of that testing and submit its own results or data. If the results or data submitted with Defendant's objection finds that the Product is compliant with IWSFG 2020: PAS 3 and the Parties cannot resolve inconsistent results, Defendant shall submit the Product to IPS for independent testing, in accordance with agreed to IWSFG 2020: PAS 3 testing protocols, within 60 days of receiving the conflicting results. If the Product is thereafter found non-compliant, Defendant shall have 150 days to regain compliance in its wipes manufacturing operations.

(iv) Reasonable Costs, as noted in Paragraph 2.1(b)(ii), consist of reimbursement of Plaintiff's selected representative for up to 12 hours of testing per testing cycle (*i.e.*, three times per year) at a reasonable hourly rate agreed upon by the Parties, or a reasonable flat rate agreed upon by the Parties, along with reimbursement of flight, hotel, and incidental travel expenses for Plaintiff's selected representative.

c. Label Changes

(i) Defendant and/or Nice-Pak will add or cause to be added certain labeling changes, as described below, for its non-flushable wipes products nationwide within 18 months from the date of the settlement agreement.

(ii) Defendant will add or cause to be added prominent language or illustration on their store-brand non-flushable wipes products identifying the non-flushable wipes products as "non-flushable" or instructing users not to flush the non-flushable wipes products (*e.g.*, "Do Not Flush"), consistent with the provisions in Paragraph 2.1(c)(iii).

(iii) Defendant will ensure that its store-brand non-flushable wipes products labeling will meet the current “do not flush” labeling standards set forth in Chapter 590 of Assembly Bill No. 818 of California State, which took effect on July 1, 2022 (“AB818”), Section 3 of House Bill 2565 of Washington State, which took effect on March 26, 2020 (“HB2565”), and Section 1 of House Bill 2344 of Oregon State, which took effect on September 25, 2021 (“HB2344”), to the extent such products are “Covered Products” as defined in AB818, HB2565, and HB2344. Defendant agrees to exceed the standards herein insofar as it will include “do not flush” symbols or warnings (or cause such warnings to be included), or disposal instructions, on not only the principal display panel, but also at least two additional panels of packaging for non-flushable baby wipes products, except for packages that only have two panels. If AB818, HB2565, or HB2344 cease to remain effective for any reason, Defendant will no longer be required to meet the labeling standards set forth in the law(s) that is no longer in effect.

(iv) Upon request, Defendant will provide one representative labeling for each of their store-brand baby wipes products to Plaintiff to confirm that it complies with the required labeling changes.

d. Acknowledgement and Endorsement

(i) After Defendant and/or Nice-Pak implements the injunctive relief described herein, the Product shall be deemed “flushable,” biodegradable, safe for sewer systems, and capable of breaking down after flushing, as advertised, subject to compliance with the testing provisions in Paragraphs 2.1(a)(ii) above.

(ii) After Defendant and/or Nice-Pak implements the injunctive relief described herein, Plaintiff will take the following steps to endorse the Product: (1) provide its endorsement of compliance with IWSFG 2020 as representative of the Settlement Class; (2) solicit commitment of U.S. municipal wastewater treatment industry (including members of IWSFG, such as NACWA) to provide acknowledgment that the Product are, in fact, flushable, biodegradable, safe for sewer systems, and capable of breaking down after flushing, as advertised; and (3) provide a sample press release for approval to Defendant and/or Nice-Pak acknowledging the Product’s performance and compliance with IWSFG 2020.

e. Purchase of Wipes from Manufacturers

(i) In the event Defendant stops purchasing flushable wipes manufactured by Nice-Pak, the Settlement Agreement and Paragraphs 2.1(a)-(c) of the Stipulation of Settlement will not impose any obligations on Nice-Pak regarding the non-Nice-Pak manufactured flushable wipes.

Costco, Target, and CVS

[TO BE INSERTED]

P&G

[TO BE INSERTED]

Wal-Mart

[TO BE INSERTED]

7. What am I giving up by not objecting to the Settlement Class?

As a Settlement Class Member, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or the Released Parties or Released Persons about the Plaintiff's Released Claims (as defined below) in this case. It also means that all of the Court's orders will apply to you and legally bind you. If the Settlements are approved, you will give up all claims (as defined below), including "Unknown Claims" (as defined below), against the "Released Parties" (as defined below):

- "Plaintiff's Released Claims" means any and all claims of Plaintiff and the Settlement Class Members for injunctive relief that arise from or relate to the claims and allegations in the Complaint, including Unknown Claims, and the acts, facts, omissions, or circumstances that were or could have been alleged by Plaintiff in the Action, including but not limited to all claims for injunctive relief related to any wipe products (flushable and non-flushable) currently or formerly manufactured, marketed, or sold by Defendants or any of its affiliates or licensees. For the avoidance of doubt, "Plaintiff's Released Claims" do not include claims for damages or other monetary relief, including, but not limited to, claims for monetary relief under the law of nuisance.
- "Released Parties" or "Released Persons" means the parties or persons receiving a release, including Plaintiff, Class Counsel, Defendants, Nice-Pak, Radienz, and their present, former, and future, direct and indirect, parents, subsidiaries, affiliates, assigns, divisions, predecessors, licensees, insurers, and successors, and all of their respective officers, agents, administrators, and employees, Defense Counsel, and all Settlement Class Members.
- "Unknown Claims" means Plaintiff's Released Claims that arise from or relate to the Action and all of Defendants' Released Claims that any of the Settling Parties or Settlement Class Members do not know or suspect to exist in his, her, or its favor at the time of the release, which if known by him, her, or it, might have affected his, her, or its decision not to object to these Settlements or release of the Released Parties, Plaintiff, Class Counsel, or Settlement Class Members. With respect to any and all of Plaintiff's Released Claims and Defendants' Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settling Parties shall, to the fullest extent permitted by law, fully, finally, and forever expressly waive and relinquish with respect to such claims, any and all provisions, rights, and benefits of Section 1542 of the California Civil Code and any and all similar provisions, rights, and benefits conferred by any law of any state or territory of the United States or principle of common law that is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

YOUR RIGHTS AND OPTIONS

8. How do I object to the Settlements or to the request for attorneys' fees and expenses?

You can object to the Settlements and/or Class Counsel's request for attorneys' fees and expenses.

You can ask the Court to deny approval of the Settlements by filing an objection. You cannot ask the Court to order a different settlement or settlements; the Court can only approve or reject the Settlements. If the Court denies approval of the Settlements, no benefits in the form of modifications of Defendants' business practices will be made, and the litigation will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlements must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections must contain the following:

- the name and case number of this lawsuit (*Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. Costco Wholesale Corporation, CVS Health Corporation, Kimberly-Clark Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc.*, Case No. 2:21-CV-00042);
- your full name, mailing address, email address, and telephone number;
- an explanation of why you believe you are a Settlement Class Member, including documents sufficient to establish the basis for your standing as a Settlement Class Member;
- all reasons for your objection or comment, including all citations to legal authority and evidence supporting the objection;
- whether you intend to personally appear and/or testify at the Final Approval Hearing (either personally or through counsel), and what witnesses you will ask to speak;
- the name and contact information of any and all attorneys representing, advising, and/or assisting you, including any counsel who may be entitled to compensation for any reason related to your objection or comment, who must enter an appearance with the Court in accordance with the Local Rules;
- the name and case number of all class action settlements to which you or your counsel have objected; and
- your handwritten or electronically imaged signature (an attorney's signature or typed signature is not sufficient).

To be considered by the Court, your objection must be received by the Court either by mailing it to the Class Action Clerk, United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401, or by filing it in person at any location of the United States District Court for the District of South Carolina.

To be considered, your objection must be received on or before the [objection deadline].

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court decided that the law firms of Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) and AquaLaw PLC are qualified to represent you and all Settlement Class Members. These firms are called “Class Counsel” and are experienced in handling similar class action cases. More information about Robbins Geller and AquaLaw are available at www.rgrdlaw.com and www.aqualaw.com, respectively.

Class Counsel believe, after investigating and litigating the case for several years, that the Stipulations are fair, reasonable, and in the best interests of the Settlement Class. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

10. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you will have to pay for that lawyer. For example, you can ask him or her to appear in court for you if you want someone other than Class Counsel to speak for you.

11. How will the lawyers be paid?

Class Counsel’s attorneys’ fees and expenses will be paid in an amount to be determined and awarded by the Court. Defendants have also agreed to pay reasonable attorneys’ fees and expenses.

Class Counsel will ask the Court to approve attorneys’ fees and expenses from Defendants of no more than \$1,900,000.

The final amount of attorneys’ fees and expenses will be determined by the Court.

Class Counsel’s application for an award of attorneys’ fees and expenses will be made available on the “Court Documents” page of the Settlements Website at [www.\[WEBSITE\].com](http://www.[WEBSITE].com) on the date it is filed or as quickly thereafter as possible.

THE COURT’S FINAL APPROVAL HEARING

12. When and where will the Court decide whether to approve the Settlements with

Defendants?

The Court is scheduled to hold the Final Approval Hearing on [REDACTED], 2023 at [REDACTED].m. in Courtroom ___ of the United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401. The hearing may be rescheduled to a different date, time, or location without another notice to Settlement Class Members. Especially given the national health emergency, the date, time, or location of the hearing may be subject to change, as will the manner in which Settlement Class Members might appear at the hearing. Please review the Settlements Website for any updated information regarding the hearing.

At the Final Approval Hearing, the Court will consider whether the Settlements with Defendants are fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may listen to people who appear at the hearing and who have provided notice of their intent to appear at the hearing. The Court may also consider Class Counsel's application for attorneys' fees and expenses.

13. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you submit a written objection, you do not have to come to the Court to talk about it. As long as you submit your written objection on time, and follow the requirements above, the Court will consider it. You may also pay your own attorney to attend, but it is not required.

14. May I speak at the Final Approval Hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. At the hearing, the Court, in its discretion, will hear any objections and arguments concerning the fairness of the Settlements and/or Class Counsel's request for attorneys' fees and expenses.

To do so, you must include in your objection or comment a statement saying that it is your Notice of Intent to Appear in *Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. Costco Wholesale Corporation, CVS Health Corporation, Kimberly-Clark Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc.*, Case No. 2:21-CV-00042 (D.S.C.). It must include your name, address, email, telephone number, and signature as well as the name and address of your lawyer, if one is appearing for you. Your submission and Notice of Intent to Appear must be filed with the Court and be received **no later than [objection deadline]**.

GETTING MORE INFORMATION**15. How do I get more information?**

This Notice summarizes the proposed Settlements. For precise terms and conditions of the Settlements, please see the Stipulations available at [www.\[WEBSITE\].com](http://www.[WEBSITE].com), by contacting Class Counsel at (____) ____-____, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.scd.uscourts.gov/cgi-bin/login.pl>, or by visiting the office of the Clerk of Court for the United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street,

Charleston, South Carolina 29401, between 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

PLEASE DO NOT TELEPHONE OR WRITE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THE SETTLEMENTS.

All questions regarding the Class Settlements should be directed to Class Counsel.

DATED: _____, 2023

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF
SOUTH CAROLINA

THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGE

EXHIBIT C

*Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System)
v. Costco Wholesale Corporation, CVS Health Corporation, Kimberly-Clark Corporation,
The Procter & Gamble Company, Target Corporation, Walgreen Co.
and Wal-Mart, Inc.*

Case No. 2:21-CV-00042

United States District Court for the District of South Carolina, Charleston Division

IF YOU ARE A SEWAGE TREATMENT SYSTEM OPERATOR IN THE UNITED STATES WHOSE SYSTEM WAS IN OPERATION BETWEEN JANUARY 6, 2018 AND _____, 2023 [THE DATE OF PRELIMINARY APPROVAL], CLASS ACTION SETTLEMENTS MAY AFFECT YOUR RIGHTS.

A federal court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

- Proposed settlements (“Settlements”) have been reached in the above class action with Defendants Costco Wholesale Corporation, CVS Health Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc. (“Defendants”). The action challenges the manufacturing, design, marketing and/or sale of multiple Defendants’ flushable wipes.¹ Defendants deny the allegations about their flushable wipes and there has been no finding of liability against Defendants. Defendants have agreed to the Settlements to avoid the uncertainties and expenses associated with continuing the case.

WHO IS IN THE SETTLEMENT CLASS?

If you own[ed] or operate[d] a sewage or wastewater conveyance and treatment plant, such as a municipality, authority or wastewater district in the United States whose system was in operation between January 6, 2018 and _____, 2023 [Preliminary Approval Date], you are part of the Settlement Class.

The Court-certified Settlement Class is defined as “All STP (Sewage Treatment Plant) Operators in the United States whose systems were in operation between January 6, 2018 and the date of preliminary approval.”

WHAT DO THE SETTLEMENTS PROVIDE?

Defendants have agreed to implement certain modifications to their business practices and the Settling Parties have made certain representations and commitments with respect to the flushable wipes Products, including Charmin-branded flushable wipes, Kirkland Signature flushable wipes, Equate-branded flushable wipes, Great Value-branded flushable wipes, up & upTM flushable wipes, Walgreens-branded flushable wipes, Well

¹ The terms of the Settlements are in the Stipulations of Settlement, dated _____, 2023 (the “Stipulations”), which can be viewed at [www.\[WEBSITE\].com](http://www.[WEBSITE].com). All capitalized terms not defined in this Notice have the same meanings as in the Stipulations.

Beginnings-branded flushable wipes, CVS™ flushable wipes, and Total Home® flushable wipes. The details of these business practice modifications are set forth in the Notice which is located at [www.\[WEBSITE\].com](http://www.[WEBSITE].com).

YOUR RIGHTS AND OPTIONS

Do Nothing

By doing nothing, you will receive the benefits of the Settlements with Defendants in the form of business practice modifications described in the Notice. You will automatically receive the benefits of this Settlements.

Object to the Settlements or the request for attorneys' fees and expenses.

You can object to the Settlements and/or Class Counsel's request for attorneys' fees and expenses of up to \$[to be inserted]. Objections must be received no later than [REDACTED], 2023, by the Court, either by mailing it to the Class Action Clerk, United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401, or by filing it in person at any location of the United States District Court for the District of South Carolina..

Should I Hire An Attorney?

You do not need to hire your own attorney because Class Counsel is working on your behalf. If you retain your own attorney, you will need to pay for that attorney.

Final Approval Hearing

The Court will hold the Final Approval Hearing on [REDACTED], 2023, at [REDACTED].m. at the United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401. You can go to this hearing, but you do not have to. The Court will hear any objections, determine if the Settlements with Defendants are fair, and consider Class Counsel's request for an award of attorneys' fees and expenses. Class Counsel's request for fees and expenses will be posted on the Settlements Website after they are filed.

HOW DO I GET MORE INFORMATION?

This Notice is only a summary. For more information, including the Stipulation and other legal documents, visit [www.\[WEBSITE\].com](http://www.[WEBSITE].com).

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

EXHIBIT D

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

COMMISSIONERS OF PUBLIC WORKS OF)	Civil Action No. 2:21-CV-00042
THE CITY OF CHARLESTON (d.b.a.)	
Charleston Water System), Individually and on)	<u>CLASS ACTION</u>
Behalf of All Others Similarly Situated,)	
Plaintiff,)	[PROPOSED] ORDER GRANTING
vs.)	UNOPPOSED MOTION FOR
)	PRELIMINARY APPROVAL OF CLASS
)	ACTION SETTLEMENT
COSTCO WHOLESALE CORPORATION,)	
CVS HEALTH CORPORATION,)	
KIMBERLY-CLARK CORPORATION, THE)	
PROCTER & GAMBLE COMPANY,)	
TARGET CORPORATION, WALGREEN)	
CO. and WAL-MART, INC.,)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). Plaintiff, individually and on behalf of the proposed Settlement Class, and Defendants Costco Wholesale Corporation, CVS Health Corporation, The Procter & Gamble Company, Target Corporation, Walgreen Co., and Wal-Mart, Inc. ("Defendants") have entered into Stipulations of Settlement ("Stipulations") to resolve the above-captioned litigation ("Settlements"). Having considered the Motion, the Stipulations together with all exhibits and attachments thereto, the record, and the briefs in this matter, IT IS HEREBY ORDERED as follows:

1. Unless otherwise defined herein, all terms that are capitalized herein shall have the same meaning ascribed to those terms in the Stipulations.
2. The Court has jurisdiction over this Action, as well as Plaintiff, Settlement Class Members and Defendants (together "the Parties").

PRELIMINARY APPROVAL

3. On [REDACTED], 2023, Plaintiff filed its Motion pursuant to Rule 23(e)(1) of the Federal Rules of Civil Procedure, the Stipulations and exhibits thereto, as well as declarations of Plaintiff's counsel, all in support of the Motion.
4. The Court has reviewed the terms of the proposed Stipulations, the exhibits thereto, Plaintiff's Motion and Memorandum of Law in Support of the Motion, and the declaration of Plaintiff's counsel.
5. Based on its review of these filings, the Court finds that the Stipulations are the result of considerable, informed, arm's-length negotiations conducted between counsel.
6. The Court further finds: (a) the terms of the Stipulations do not improperly grant preferential treatment to any individual or segment of the Settlement Class; and (b) the terms of the Stipulations appear to be fair, reasonable, and adequate.

7. The Court therefore GRANTS preliminary approval of the Stipulations and all of the terms and conditions contained therein, and directs that Notice of the Settlement pursuant to Federal Rule of Civil Procedure 23(e)(1) be disseminated in the form and manner prescribed below.

PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS

8. Pursuant to Fed. R. Civ. P. 23, the Court preliminarily certifies, for settlement purposes only, the Settlement Class defined as follows:

All entities that own[ed] and/or operate[d] sewage or wastewater conveyance and treatment systems, including municipalities, authorities and wastewater districts in the United States between January 6, 2018 and the date of preliminary approval.

9. The Court preliminarily finds that the Settlement Class satisfies the requirements of Fed. R. Civ. P. 23(a): (a) the Settlement Class is comprised of thousands of members; (b) there are questions of law or fact common to the Settlement Class; (c) Plaintiff's claims are typical of those of Settlement Class Members; and (d) Plaintiff and its counsel will fairly and adequately protect, and have adequately protected, the interests of the Settlement Class.

10. The Court preliminarily finds that the Settlement Class satisfies the requirements of Fed. R. Civ. P. 23(b)(2): Defendants allegedly have acted or refused to act on grounds that apply generally to the Settlement Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Settlement Class as a whole.

11. The Court hereby appoints Plaintiff Commissioners of Public Works of the City of Charleston as Class representative.

12. The Court hereby appoints Robbins Geller Rudman & Dowd LLP and AquaLaw PLC as Class Counsel.

NOTICE

13. The Court approves the form of the Notice of Settlements ("Notice"), attached to the Stipulations as Exhibit B, and finds that it satisfies the requirements of due process and Fed. R. Civ.

P. 23(e)(1). The Notice, as well as the plan for disseminating it, are reasonably calculated to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Stipulations, the right of Settlement Class Members to object to the Stipulations, including the terms of the Settlements, Class Counsel's application for an award of attorneys' fees and expenses, and of the Final Approval Hearing.

14. The Court therefore approves the Notice and directs the Parties to proceed with disseminating it pursuant to the terms of the Stipulation and this Order.

15. The Notice, as directed by the terms of the Stipulations, shall be emailed commencing 20 calendar days after entry of this Order ("Notice Date"), and a website dedicated to the Settlements which contains the Notice and other Settlement-related documents, deadlines and information shall be activated no later than the Notice Date.

16. The Court further approves the form of the Summary Notice, attached to the Stipulations as Exhibit C. The Summary Notice shall be disseminated through a press release issued by the Settling Parties no more than 10 calendar days after the entry of the Notice Date.

OBJECTIONS

17. Settlement Class Members who wish to object to the Stipulation(s) may do so only by submitting a written objection to the Court with a copy to the Settling Parties' counsel in accordance with the procedures outlined in the Notice no later than _____, 2023 (a date that is 21 calendar days prior to the Final Approval Hearing).

18. Any Settlement Class Member who does not timely submit a written objection in accordance with the procedures outlined in the Notice shall be deemed to have waived any objection, shall not be permitted to object to the Settlements, and shall be precluded from seeking any review of the Stipulation and/or the Final Order and Judgment by appeal or other means.

FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on _____, 2023 at __:__ a.m./p.m. in Courtroom ____ at the United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401.

20. At the Final Approval Hearing, the Court will consider whether: (a) the Stipulations are fair, reasonable, and adequate; (b) the Settlement Class should be finally certified; (c) a final judgment should be entered; and (d) Class Counsel's motion for an award of attorneys' fees and expenses should be granted.

21. The Court reserves the right to continue the date of the Final Approval Hearing or to hold it telephonically and/or by video conference without further direct notice to Settlement Class Members.

DEADLINES, INJUNCTIONS, AND TERMINATION

22. All proceedings, deadlines, and discovery in this matter, except those necessary to implement this Order and the Stipulation, are hereby stayed and suspended until further order of the Court.

23. In the event that the Stipulations are terminated pursuant to the terms of the Stipulations: (a) the Stipulations and this Order shall become void, shall have no further force or effect, and shall not be used in any action or any other proceedings for any purpose other than as may be necessary to enforce the terms of the Stipulations that survive termination; (b) this matter will revert to the status that existed before execution of the Stipulations; and (c) no term or draft of the Stipulations or any part of the Parties' settlement discussions, negotiations, or documentation (including any briefs filed in support of preliminary or final approval of the Stipulations) shall: (i) be admissible into evidence for any purpose in any action or other proceeding other than as may be

necessary to enforce the terms of the Stipulations that survive termination; (ii) be deemed an admission or concession by any Party including regarding the validity of any Released Claim or the propriety of certifying any class against Defendants; or (iii) be deemed an admission or concession by any Party including regarding the truth or falsity of any facts alleged in the Action or the availability or lack of availability of any defense to Plaintiff's Released Claims.

24. The dates of performance contained herein may be extended by order of the Court, for good cause shown, without further direct notice to the Settlement Class.

SUMMARY OF DEADLINES

25. The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Stipulations and this Order include, but are not limited to:

Notice of Settlement disseminated	20 calendar days after Order Directing Notice
Plaintiff to file motion for final approval and motion for award of attorneys' fees and expenses	No later than 35 calendar days before Final Approval Hearing
Last day for objections to be received	No later than 21 calendar days before Final Approval Hearing
Plaintiff to file any reply to any objection to the Settlement or Class Counsel's fee and expense request	No later than 7 calendar days before Final Approval Hearing
Final Approval Hearing	At least 100 calendar days from the Order Directing Notice of Settlement

IT IS SO ORDERED.

DATED: _____

THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGE