

# **EXHIBIT D**

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA**

<b>In Re:</b>  <b>DISPOSABLE CONTACT LENS ANTITRUST LITIGATION</b>	<b>Case No. 3:15-md-2626-HES-LLL</b>  <b>Judge Harvey E. Schlesinger Judge Virginia M. Hernandez Covington Magistrate Judge Laura L. Lambert</b>
<b>THIS DOCUMENT RELATES TO:</b> <b>All Class Actions</b>	

**DECLARATION OF CAMERON R. AZARI, ESQ. ON SETTLEMENT  
NOTICE PLAN**

I, Cameron Azari, declare as follows:

1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am a nationally recognized expert in the field of legal notice, and I have served as an expert in hundreds of federal and state cases involving class action notice plans.

3. I am a Senior Vice President with Epiq Class Action & Claims Solutions, Inc. (“Epiq”) and the Director of Legal Notice for Hilsoft Notifications (“Hilsoft”), a firm that specializes in designing, developing, analyzing, and implementing large-scale legal notification plans. Hilsoft is a business unit of Epiq.

4. Hilsoft has been involved with some of the most complex and significant notice programs in recent history, examples of which are discussed below. With experience in more than 500 cases, including more than 45 multidistrict litigations, Hilsoft has prepared notices which have appeared in 53 languages and been distributed in almost every country, territory, and dependency in the world. Courts have recognized and approved numerous notice plans developed by Hilsoft, and those decisions have invariably withstood appellate and collateral review.

5. For the three previous Settlements – one for CooperVision, Inc. (“CVI”), one for Bausch & Lomb Inc. (“B&L”), and one for ABB Optical Group, LLC (“ABB”) – and also for the Notice of an order certifying Litigation Classes asserting claims against Alcon Laboratories, Inc. (“Alcon”), Johnson & Johnson Vision Care, Inc. (“JJVC”) and ABB in *In re Disposable Contact Lens Antitrust Litigation*, I previously executed numerous declarations. These included my *Declaration of Cameron R. Azari, Esq. on Notice Plan* executed on August 8, 2019, related to the Settlement with CooperVision, Inc. and my *Supplement Declaration of Cameron R. Azari, Esq. on Notice Plan* executed on September 17, 2019, related to the Settlement with Bausch & Lomb Inc. In both declarations, I detailed Hilsoft’s class action notice experience and attached Hilsoft’s *curriculum vitae* and provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice programs. In addition, I executed my *Declaration of Cameron R. Azari, Esq. on Implementation and Adequacy of Notice Plan* on January 16, 2020, and executed my *Supplemental Declaration of Cameron R. Azari, Esq. on Implementation and Adequacy of Notice Plan* on February 6, 2020. In both declarations, I detailed the implementation of the Notice Program and provided administration statistics.

6. Subsequently, I executed my *Declaration of Cameron R. Azari, Esq. on Notice Plan* on October 22, 2020, related to the Settlement with ABB regarding the Notice Plan. In addition, I executed my *Declaration of Cameron R. Azari, Esq. on Implementation of Notice Plan* on February 26, 2021, and executed my *Supplemental Declaration of Cameron R. Azari, Esq. on Implementation of Notice Plan* on April 12, 2021. In both declarations, I detailed the implementation of the Notice Program and provided administration statistics.

7. This declaration details the Settlement Notice Plan (“Notice Plan” or “Plan”) proposed here for the Johnson & Johnson Vision Care, Inc. (“JJVCI”) and Alcon Vision, LLC

f/k/a Alcon Laboratories, Inc. (“Alcon”) Settlements in *In re Disposable Contact Lens Antitrust Litigation*, Case No. 3:15-md-2626-HES-JRK, in the United States District Court for the Middle District of Florida, Jacksonville Division.

8. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Hilsoft and Epiq.

### **NOTICE PLAN**

9. I have reviewed the Settlement Agreements and the Notice Plan is designed to provide notice to the following Settlement Class:

[A]ll persons and entities residing in the United States who made retail purchases of disposable contact lenses manufactured by JJVCI, Alcon Vision, CooperVision, or B&L during the Settlement Class Period for their own use and not for resale, where the prices for such contact lenses were subject to a “Unilateral Pricing Policy” and the purchase occurred during the period when the Unilateral Pricing Policy was in effect.

Excluded from the Settlement Class are any purchases from 1-800 Contacts of disposable contact lenses subject to B&L’s Unilateral Pricing Policy, where the purchase occurred on or after July 1, 2015. Also excluded from the Settlement Class are Defendants, their parent companies, subsidiaries and affiliates, any alleged co-conspirators, all governmental entities, and any judges or justices assigned to hear any aspect of this action.

10. From review of the Settlement Agreements, I understand that “Settlement Class Period” is defined as the period June 1, 2013 to December 4, 2018.

11. Rule 23 of the Federal Rules of Civil Procedure directs that the best notice practicable under the circumstances must include “individual notice to all members who can be identified through reasonable effort.”<sup>1</sup> The proposed Notice Plan, which is modeled after the Notice Plan implemented for the prior settlements in the litigation, satisfies this requirement. The Notice Plan

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<sup>1</sup> FRCP 23(c)(2)(B).

provides for emailing and/or mailing individual notice to all Settlement Class members who are reasonably identifiable.

12. Because data will not be available for a significant portion of the Settlement Class, an extensive media Notice Plan must be implemented to reach potential Settlement Class members. In order to quantify the performance of the media Notice Plan to the selected target audience (defined as “adults aged 18 years old and older who have purchased disposable contact lenses”), data sources and tools that are commonly employed by experts in this field were used to analyze the reach<sup>2</sup> of the media portion of this Notice Program. These include MRI-Simmons data,<sup>3</sup> which provides statistically significant readership and product usage data, Comscore<sup>4</sup>, and Alliance for Audited Media (“AAM”)<sup>5</sup> statements, which certify how many readers buy or obtain copies of publications. These tools, along with demographic breakdowns indicating how many people use each media vehicle, as well as computer software that takes the underlying data and factor out the

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<sup>2</sup> Reach is defined as the percentage of a class exposed to a notice, net of any duplication among people who may have been exposed more than once. Notice “exposure” is defined as the opportunity to read a notice.

<sup>3</sup> MRI-Simmons is a leading source of publication readership and product usage data for the communications industry. MRI-Simmons is the new name for the joint venture of GfK Mediamark Research & Intelligence, LLC (“MRI”) and Simmons Market Research. MRI-Simmons offers comprehensive demographic, lifestyle, product usage and exposure to all forms of advertising media collected from a single sample. As the leading U.S. supplier of multimedia audience research, the company provides information to magazines, televisions, radio, Internet, and other media, leading national advertisers, and over 450 advertising agencies—including 90 of the top 100 in the United States. MRI-Simmon’s national syndicated data is widely used by companies as the basis for the majority of the media and marketing plans that are written for advertised brands in the U.S.

<sup>4</sup> Comscore is a global Internet information provider on which leading companies and advertising agencies rely for consumer behavior insight and Internet usage data. Comscore maintains a proprietary database of more than two million consumers who have given comScore permission to monitor their browsing and transaction behavior, including online and offline purchasing. Comscore panelists also participate in survey research that captures and integrates their attitudes and intentions.

<sup>5</sup> Established in 1914 as the Audit Bureau of Circulations (“ABC”), and rebranded as Alliance for Audited Media (“AAM”) in 2012, AAM is a non-profit cooperative formed by media, advertisers, and advertising agencies to audit the paid circulation statements of magazines and newspapers. AAM is the leading third party auditing organization in the U.S. It is the industry’s leading, neutral source for documentation on the actual distribution of newspapers, magazines, and other publications. Widely accepted throughout the industry, it certifies thousands of printed publications as well as emerging digital editions read via tablet subscriptions. Its publication audits are conducted in accordance with rules established by its Board of Directors. These rules govern not only how audits are conducted, but also how publishers report their circulation figures. AAM’s Board of Directors is comprised of representatives from the publishing and advertising communities.

duplication among audiences of various media vehicles, allow us to determine the net (unduplicated) reach of a particular media schedule against the selected target. We combine the results of this analysis to help determine notice plan sufficiency and effectiveness.

13. Using this analysis, we can determine that the extensive media plan detailed below will reach at least 70% of potential Settlement Class members (again, defined as “adults aged 18 years old and older who have purchased disposable contact lenses”).

14. Under the Notice Plan, Settlement Class members who already made a timely and valid claim in the CVI, B&L, and/or ABB Settlements will not need to make a new claim to receive compensation from the Alcon or JJVCI Settlements.

#### ***Individual Notice***

15. Epiq previously received 21 files with records of potential Settlement Class members, including available names, addresses, and email addresses as part of the individual notice efforts for two of the previous Settlements – one for CVI and one for B&L – and also for the Notice of an order certifying Litigation Classes asserting claims against Alcon, JJVCI, and ABB in *In re Disposable Contact Lens Antitrust Litigation*. Based on discussions between Epiq and the parties, rules and requirements were formulated to clean, analyze, de-duplicate, roll-up, and upload these files into a “Notice Database.”

16. The Notice Database contains 2,445,403 unique potential Settlement Class member records, approximately 2,445,387 with sufficient data to mail or email notice. The Notice Database will be used to provide individual notice to the Settlement Class for the JJVCI and Alcon Settlements.

17. Based on individual notice efforts for the three previous Settlements, it is estimated that approximately 2 million Email Notices and approximately 500,000 Postcard Notices will be

sent to Settlement Class members. The approximately 2 million Email Notices to be sent includes 82,159 potential Settlement Class members with an email address who filed a claim as part of the three previous Settlements (these Settlement Class member records were not included in the initial Notice Database provided to Epiq). For Email Notices that bounce back as undeliverable after multiple attempts, a Postcard Notice will be sent to Settlement Class members for whom an associated physical address exists. Both the Email and Postcard Notices will direct the recipients to the case website where they can access additional information.

#### *Email Notice*

18. The Email Notice will be disseminated to all potential Settlement Class members for whom a facially valid email address is available. Industry standard best practices will be followed for the Email Notice efforts. The Email Notice will be drafted in such a way that the subject line, the sender, and the body of the message overcome SPAM filters and ensure readership to the fullest extent reasonably practicable. The Email Notice will use an embedded html text format. This format will provide easy to read text without graphics, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. The Email Notices will be sent from an IP address known to major email providers as one not used to send bulk “SPAM” or “junk” email blasts. Each Email Notice will be transmitted with a digital signature to the header and content of the Email Notice, which will allow ISPs to programmatically authenticate that the Email Notices are from our authorized mail servers. Each Email Notice will be transmitted with a unique message identifier. If an item is returned as undeliverable, commonly referred to as a “bounce,” the reason is noted. For any Email Notice for which a bounce code is received indicating that the message was undeliverable, for reasons such as an inactive or disabled account, the recipient’s mailbox was full, technical auto-

replies, etc., at least two additional attempts will be made to deliver the Notice by email. The Email Notice will include an embedded link to the case website. By clicking the link, recipients will be able to easily access a more detailed Notice, the Settlement Agreements, and other information about the Settlements, as well as file a claim online.

### ***Direct Mail***

19. Epiq will send a Postcard Notice to all records with an associated physical address where an Email Notice is not deliverable. The Postcard Notice will be sent via United States Postal Service (“USPS”) first class mail. Prior to mailing, all mailing addresses will be checked against the National Change of Address (“NCOA”) database maintained by the USPS.<sup>6</sup> Any addresses that are returned by the NCOA database as invalid will be updated through a third-party address search service. In addition, the addresses will be certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

20. Postcard Notices returned as undeliverable will be re-mailed to any new address available through the USPS’s information, for example, to the address provided by the USPS on returned pieces for which the automatic forwarding order has expired, or to better addresses that may be found using a third-party lookup service. This process is also commonly referred to as ‘skip-tracing.’ Upon successfully locating better addresses, Postcard Notices will be promptly re-mailed.

### ***Consumer Publication***

21. A Publication Notice will appear once in the national edition of *People* magazine,

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<sup>6</sup> The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and known address.



as a 1/3 page ad unit. *People* is the number one consumer publication in the United States. *People's* circulation is approximately 3.4 million and its readership<sup>7</sup> is over 26 million readers per week.

### ***Internet Banner Notices***

22. Internet advertising has become a standard component in legal notice programs. The internet has proven to be an efficient and cost-effective method to target and provide measurable reach of persons covered by a settlement. According to GfK MRI syndicated research, over 97% of adults who wear contact lenses are online.<sup>8</sup> Accordingly, Banner Notices will run on select websites where Settlement Class members may visit regularly, and utilize networks based on cost efficiency, timing, and their contribution to the overall reach of the target. Banner Notices are image-based graphic displays available on desktops and mobile devices. These ads are used in legal noticing to notify people of a settlement relevant to them. The text of the Banner Notice will allow users to identify themselves as potential Settlement Class members and directly link them to the case website for more information.

23. The Banner Notices will be placed on the selected advertising networks, *Google Display Network* and *Yahoo Audience Network*. Combined, these ad networks cover 90% of the United States' population that is online. Banner Notices will be targeted to adults 18 years old and older ("adults 18+") and other specific targets listed in the table below, and Banner Notices will also be targeted (remarketed) to people who visited the case website after clicking on a Banner Notice. Additionally, online ads will be translated into Spanish and targeted to Spanish speakers via the *Google Display Network*.

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<sup>7</sup> "Readership" refers to the total number of readers of a specific issue of a publication, including the subscriber and any additional readers.

<sup>8</sup> MRI-Simmons 2021 Survey of the American Consumer®.

24. Banner Notices will also be displayed on the social media sites *Facebook* and *Instagram*. *Facebook* is the leading social networking site in the United States and combined with *Instagram* covers over 300 million users in the United States. Banner Notices will be placed online as detailed in the chart below.

Online Banners	Targeting	Language	Ad Sizes	Impressions
<i>Google Display Network</i>	A18+	English & Spanish	728x90, 300x250, 300x600 & 970x250	80,000,000
<i>Google Display Network</i>	Custom Affinity Audiences: Contact Lenses	English & Spanish	728x90, 300x250, 300x600 & 970x250	65,000,000
<i>Google Display Network</i>	Custom Intent Audiences: Contact Lenses	English & Spanish	728x90, 300x250, 300x600 & 970x250	65,000,000
<i>Yahoo Audience Network</i>	A18+	English	728x90, 300x250, 300x600 & 970x250	62,500,000
<i>Facebook</i>	A18+	English	Newsfeed & Right Hand Column	50,000,000
<i>Facebook</i>	Interest: Vision	English	Newsfeed & Right Hand Column	23,500,000
<i>Facebook</i>	Interest: Eyewear	English	Newsfeed & Right Hand Column	23,500,000
<i>Facebook</i>	Interest: Johnson & Johnson; Interest: Alcon	English	Newsfeed & Right Hand Column	18,000,000
<i>Instagram</i>	A18+	English	Newsfeed	15,000,000
<i>Instagram</i>	Interest: Vision	English	Newsfeed	8,000,000
<i>Instagram</i>	Interest: Eyewear	English	Newsfeed	8,000,000
<i>Instagram</i>	Interest: Johnson & Johnson; Interest: Alcon	English	Newsfeed	9,000,000
<b>Total</b>				<b>427,500,000</b>

25. Combined, approximately 427.5 million adult impressions will be generated by the Banner Notices, which will run for 30 days. Clicking on a Banner Notice will link the reader to the case website where they can obtain detailed information about the Settlements.

### ***Internet Sponsored Search Listings***

26. To facilitate locating the case website, sponsored search listings will be acquired online through the highly-visited internet search engines: *Google, Yahoo!* and *Bing*. When search-engine visitors search on common keyword combinations to identify the Settlements, the sponsored search listing generally will be displayed at the top of the page prior to the search results or in the upper right-hand column of the web-browser screen. A list of keywords will be developed in conjunction with counsel. The sponsored search listings will be displayed nationwide and will link directly to the case website.

### ***Informational Release***

27. To build additional reach and extend exposures, a party-neutral Informational Release will be issued broadly over PR Newswire to approximately 5,000 general media (print and broadcast) outlets, including local and national newspapers, magazines, national wire services, television, and radio broadcast media across the continental United States and U.S. Territories as well as approximately 4,500 websites, online databases, internet networks, and social networking sites. In addition, the Informational Release in Spanish will be issued to the Hispanic newswire.

28. The Informational Release will include the address of the case website and the toll-free telephone number. Although there is no guarantee that any news stories will result, the Informational Release will serve a valuable role by providing additional notice exposures beyond that which was provided by the paid media.

### ***Case Website, Toll-free Telephone Number, and Postal Mailing Address***

29. The existing website for the three previous Settlements with an easy to remember domain name ([www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)) will be updated with information regarding the JJVCI and Alcon Settlements. Settlement Class members will be able to obtain detailed information about the case and review key documents, including the Long Form Notice, the

Settlement Agreements, the Complaint and the Preliminary Approval Order, as well as answers to frequently asked questions (“FAQs”). The case website address will be displayed prominently on all notice documents. Visitors to the case website will also be able to easily file an online claim.

30. The existing toll-free telephone number (877-253-3649) for the three previous Settlements will be updated with information regarding the JJVCI and Alcon Settlements. The toll-free telephone number will allow Settlement Class members to call for additional information, listen to answers to FAQs and request that a Notice be mailed to them. The toll-free telephone number will be prominently displayed in the Notice documents as well.

31. A post office box for correspondence about the Settlements will be available, allowing Settlement Class members to contact the administrator by mail with any specific requests or questions, including requests for exclusion.

***Claim Stimulation Notice***

32. After the individual notice and the media notice efforts are initiated as described above, Epiq will coordinate with counsel for the parties to confer whether a claim stimulation notice effort will be implemented to increase the claim filing rate and maximize participation in the Settlements by Settlement Class members. If it is determined that a claim stimulation notice effort will be implemented, it will likely involve a combination of reminder noticing via individual notice and media. If agreed upon, a simple reminder notice will likely be sent to identified Settlement Class members with a valid email address and/or deliverable physical mailing address who have not already filed a Claim at the time of the claim stimulation notice efforts. Any media portion of a reminder notice, if agreed upon by the parties, will be based on the elements of the initial media notice efforts, and may include some or all of the following: digital Banner Notices on prominent ad networks and social media, possible audio and/or video ads, and outreach to third-party consumer organizations. The Reminder Notices will use concise text (stressing the

impending Claim filing deadline) and include links directly to the Claim filing page on the case website.

### **CONCLUSION**

33. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by state and local rules and statutes, and by case law pertaining to the recognized notice standards under Rule 23. This framework directs that the notice program be optimized to reach the class and, in a class action notice situation such as this, that the notice or notice program itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements will be met in this case.

34. Using the combination of individual notice to known Settlement Class members and nationwide print and online media, the Notice Plan will effectively reach at least 70% of the Settlement Class (purchasers of disposable contact lenses). In 2010, the Federal Judicial Center issued a Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide. This Guide states that, “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%.”<sup>9</sup> Here, we have developed a Notice Plan that will readily meet that standard.

35. The Notice Plan described above provides for the best notice practicable under the circumstances of this case, conforms to all aspects of the Rule 23, and comports with the guidance for effective notice set out in the Manual for Complex Litigation, Fourth.

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<sup>9</sup> FED. JUDICIAL CTR, JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at [http://www.fjc.gov/public/pdf.nsf/lookup/NotCheck.pdf/\\$file/NotCheck.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/NotCheck.pdf/$file/NotCheck.pdf).

36. The Notice Plan schedule affords sufficient time to provide full and proper notice to Settlement Class Members before the opt-out and objection deadlines.

37. Attached as Exhibit 1 is a copy of the proposed Long Form Notice.

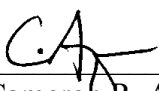
38. Attached as Exhibit 2 is a copy of the proposed Email Notice.

39. Attached as Exhibit 3 is a copy of the proposed Publication Notice.

40. Attached as Exhibit 4 is a copy of the proposed Postcard Notice.

41. Attached as Exhibit 5 are copies of the proposed Banner Notices.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 20, 2022, at Beaverton, Oregon.

  
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Cameron R. Azari

# Exhibit 1

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

**If You Purchased Certain Disposable Contact Lenses For Your Own Use From June 1, 2013 to December 4, 2018, this Litigation and Two Class Action Settlements Could Affect Your Rights.**

*A federal court has authorized this Notice. This is not a solicitation from a lawyer.*

Please read this Notice carefully and in its entirety. You may be a member of the Classes described below and your rights may be affected by a pending class action lawsuit. This Notice advises you of your options regarding the class action and the Settlements.

The purpose of this Notice is to provide information regarding settlements with Alcon Vision LLC f/k/a Alcon Laboratories, Inc. (“Alcon”) and Johnson & Johnson Vision Care, Inc. (“JJVCI”), or “Vistakon.”

This litigation concerns alleged antitrust violations by Alcon; JJVCI; Bausch & Lomb, Inc. (“B&L”); and Cooper Vision, Inc. (“CVI”) (collectively the “Manufacturers”), who all adopted “Unilateral Pricing Policies” (or “UPPs”) on certain brands of disposable contact lenses, and their distributor, ABB Optical Group LLC (“ABB”). ABB and the Manufactures are or were Defendants in antitrust litigation regarding the UPPs.

In 2019, notice was provided regarding settlements with B&L and CVI and the certification of the Litigation Classes. In 2020, notice was provided regarding the settlement with ABB. Alcon and JJVCI have since each agreed to separate settlements. If you are a member of the Settlement Class(es), as defined below, you can participate in the Alcon and JJVCI Settlements regardless of whether you participated in the ABB, B&L, and/or CVI Settlement(s).

If the court approves the Alcon and JJVCI Settlements, the litigation will be fully and finally resolved.

This Notice provides you with a deadline to object to the Alcon and JJVCI Settlements and an opportunity to exclude yourself.

If you already submitted a timely and valid Proof of Claim for the ABB, B&L and/or CVI Settlements, you do not need to submit another Proof of Claim. You will automatically be included in the Alcon and JJVCI Settlements. If you did not submit a timely and valid Proof of Claim as part for the ABB, B&L and/or CVI Settlement(s), you must submit a Proof of Claim in order to share in the Alcon and JJVCI Settlements by [REDACTED]. You will not be able to share in the ABB, B&L and/or CVI Settlements if you did not submit a timely and valid Proof of Claim to those settlements. See below for how to file your claim.

Please do not call or write the court. If you have any questions after reading this Notice, you should contact lead counsel or the administrator, as discussed further below.



**IMPORTANT**

To participate in the Alcon and JJVCI Settlement Class(es), your purchases must be of certain disposable contact lenses (listed below in Paragraph 18) manufactured by any of the following manufacturers: Alcon, B&L, CVI, *or* JJVCI, between June 1, 2013 and December 4, 2018.

You must decide at this time if you want to exclude yourself from the Alcon and/or JJVCI Settlement Class(es) described in this Notice. More detailed information about opting-out can be found in Paragraphs 44-51 below.

If you exclude yourself from a Settlement Class, you will not be eligible for any benefits from that settlement.

If you previously excluded yourself from the Litigation Classes, you will not be eligible to submit a claim for benefits from the Alcon or JJVCI Settlements.

**WHAT IS THIS LAWSUIT ABOUT?**

1. This multidistrict antitrust litigation was centralized before this Court on June 10, 2015, by order of the United States Judicial Panel on Multidistrict Litigation (“MDL Panel”) (ECF No. 1; Transfer Order). It arises out of minimum retail pricing policies adopted by contact lenses manufacturers starting in June 2013 with regard to the distribution and sale of certain contact lenses. These policies were referred to as “Unilateral Pricing Policies” (“UPP”) by the Defendants. The operative complaint, filed on March 1, 2017, alleges that the Defendants used the UPPs to restrain competition from discount and online stores on consumer prices in the retail market for disposable contact lenses.<sup>1</sup> The safety and effectiveness of contact lenses manufactured by the Defendants are not at issue in this litigation.

2. The Class Representatives allege claims for violations of (1) the United States Sherman Act, 15 U.S.C. §§ 1 and 3; (2) the California Cartwright Act, Cal. Bus. & Prof. Code §§ 16720, *et seq.*; (3) the Maryland Antitrust Act, Md. Com. Law §§ 11-201, *et seq.*; (4) the California Unfair Competition Law, Cal. Bus. & Prof Code §§ 17200, *et seq.*; and (5) the Maryland Consumer Protection Act, Md. Com. Law §§ 13-301, *et seq.*

**WHO ARE THE DEFENDANTS AND WHY ARE THERE SETTLEMENTS?**

3. The settling Defendants are Alcon and JJVCI. ABB, B&L, and CVI previously settled this action. With these two settlements, all Defendants have settled, and if the Court approves the Alcon and JJVCI Settlements, the litigation will be fully and finally resolved.

4. The Court has not decided any issue on the merits in favor of the Class Representatives, Alcon, or JJVCI. Instead, the Class Representatives, Alcon and, separately, JJVCI, engaged in lengthy negotiations and have agreed to two separate Settlements. By agreeing to settle, the parties avoid the costs and uncertainty of a trial, and the Members of the Settlement Classes affected will get a chance to receive compensation. The Class Representatives and their attorneys believe the Settlements are best for all members of the Settlement Classes. The proposed Settlements do not mean that any law was broken or that Alcon or JJVCI did anything wrong.

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<sup>1</sup> Please note that this Notice does not describe all of the claims and defenses asserted by the Class Representatives. The operative complaint is posted on the website, [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com).

## **THE CLASS REPRESENTATIVES AND THE SETTLEMENT CLASSES**

5. In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people with similar claims. All of these people together are the “class” or “class members.” The Class Representatives are: Rachel Berg, Alexis Ito, Miriam Pardoll, Jennifer Sineni, Joseph Felson, Tamara O’Brien, Susan Gordon, Catherine Dingle, Elyse Ulino, Amanda Cunha, Sheryl Marean, Brett Watson, Kathleen Schirf, Cora Beth Smith, and John Machikawa. Class actions avoid the necessity of each member of a class having to file his, her, or its own separate lawsuit to obtain relief. Class actions are used to decide legal and factual issues that are common to all members of a class, and one court resolves the issues for all class members, except for those who exclude themselves from the class(es).

6. By Order dated [REDACTED] (ECF No. [REDACTED]), the Court preliminarily certified the following Settlement Class definition for both the Alcon Settlement and the JJVCI Settlement:

All persons and entities residing in the United States who made retail purchases of disposable contact lenses manufactured by Alcon, JJVC, CVI, or B&L during the Settlement Class Period for their own use and not for resale, where the prices for such contact lenses were subject to a “Unilateral Pricing Policy” and the purchase occurred during the period when the Unilateral Pricing Policy was in effect.

Excluded from the Settlement Class are any purchases from 1-800 Contacts of disposable contact lenses subject to B&L’s Unilateral Pricing Policy, where the purchase occurred on or after July 1, 2015. Also excluded from the Settlement Class are Defendants, their parent companies, subsidiaries and affiliates, any alleged co-conspirators, all governmental entities, and any judges or justices assigned to hear any aspect of this action.

The Settlement Class Period is from June 1, 2013 to December 4, 2018.

7. You may be a member of the Settlement Classes. If you are a member of the Settlement Classes, your rights will be affected by this Action. If you do not meet any of the class definitions, this Notice does not apply to you. If you are uncertain whether you are a member of the Settlement Classes, contact Lead Counsel listed in Paragraph 56, the Administrator, or your own attorney.

8. This notice is not an admission by Defendants or an expression of any opinion by the Court as to the merits of the claims made in this Action, or a finding by the Court that the claims asserted by the Class Representatives in this Action are valid. This Notice is intended solely to inform you of the pendency of this Action and of your rights in connection with it, including the right to request exclusion from the Settlement Class(es) or to object to the Alcon and JJVCI Settlements. Defendants have denied all claims and contend that they are not liable for the harm alleged by the Class Representatives.

### **ARE YOU A MEMBER OF ONE OR MORE OF THE CLASSES?**

9. You are a member of the Settlement Classes if you purchased disposable contact lenses manufactured by one of the Defendant Manufacturers for your personal use (*i.e.*, not for resale), the purchase(s) occurred during the period when the Unilateral Pricing Policy, or UPP, was in effect, and those disposable contact lenses were subject to a UPP.

10. You are *not* a member of the Settlement Classes if you purchased disposable contact lenses (a) manufactured by a company other than the named Defendants, (b) for resale, (c) that were not subject to a UPP, or (d) at a period when the UPP was not in effect. You are also *not* a member of any of the Classes if you are (i) one of the Defendants, their parent companies, subsidiaries or affiliates, or

an alleged co-conspirator, (ii) a governmental entity, (iii) counsel for the parties, or (iv) a judge or justice assigned to hear any aspect of this Action.

11. The disposable contact lenses that were subject to the UPPs, and the period during which each UPP was in effect, are set forth below:

#	Contact Lens	UPP Price	Time Period in Effect
<b>Alcon</b>			
1	Air Optix Colors	6 Pack: \$84.00	April 2014 - December 2016
		2 Pack: \$30.00	June 2015 - December 2016
2	Dailies AquaComfort Plus Multifocal	30 Pack: \$39.00	January 2014 - December 2016
		90 Pack: \$89.00	
3	Dailies AquaComfort Plus Toric	30 Pack: \$34.00	January 2014 - December 2016
		90 Pack: \$79.00	
4	Dailies Total 1	30 Pack: \$39.00	June 2013 - December 2016
		90 Pack: \$95.00	
5	Dailies Total 1 Multifocal	30 Pack: \$50.00	July 2016 - December 2016
		90 Pack: \$124.00	
<b>B&amp;L</b>			
6	BioTrue ONEday for Presbyopia	30 Pack: \$33.00	June 2014 - February 2017
		90 Pack: \$89.00	December 2016 - February 2017
7	Ultra	6 Pack: \$60.00	February 2014 - February 2017
8	Ultra for Presbyopia	6 Pack: \$85.00	March 2016 - February 2017
Excluded from the Class are any purchases from 1-800 Contacts of disposable contact lenses subject to B&L's Unilateral Pricing Policy, where the purchase occurred on or after July 1, 2015.			
<b>CVI</b>			
9	Biofinity Energys	6 Pack: \$60.00	July 2016 - December 2017
10	Biofinity XR Toric	6 Pack: \$140.00	January 2016 - March 2017
11	Clariti 1 Day	90 Pack: \$65.00	January 2014 - March 2017
12	Clariti 1 Day Multifocal	30 Pack: \$39.00	January 2014 - March 2017
		90 Pack: \$89.00	
13	Clariti 1 Day Toric	30 Pack: \$34.00	January 2014 - March 2017
		90 Pack: \$79.00	
14	MyDay	90 Pack: \$85.00	June 2015 - March 2017
		180 Pack: \$149.00	
<b>JJVC</b>			
15	1-Day Acuvue Define	30 Pack: \$40.00	

**Questions? Call 1-877-253-3649 or visit [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)**

		90 Pack: \$94.00	March 2015 - April 2016
16	1-Day Acuvue Moist	30 Pack: \$33.00	August 2014 - April 2016
		90 Pack: \$63.50 - \$66.00	August 2014 - April 2016
		720 Pack: \$450.00 - \$460.00	November 2014 - April 2016
17	1-Day Acuvue Moist for Astigmatism	30 Pack: \$34.50 - \$36.00	August 2014 - April 2016
		90 Pack: \$82.50 - \$85.50	October 2014 - April 2016
		720 Pack: \$600.00	June 2015 - April 2016
18	1-Day Acuvue Moist Multifocal	30 Pack: \$45.00	May 2015 - April 2016
		90 Pack: \$99.00	
19	1-Day Acuvue TruEye	90 Pack: \$82.50	August 2014 - April 2016
		720 Pack: \$610.00	November 2014 - April 2016
20	Acuvue Oasys for Astigmatism	6 Pack: \$40.00 - \$41.50	August 2014 - April 2016
		48 Pack: \$270.00 - \$280.00	June 2015 - April 2016
21	Acuvue Oasys for Presbyopia	6 Pack: \$40.00 - \$41.50	August 2014 - April 2016
22	Acuvue Oasys with Hydraclear	6 Pack: \$36.00	October 2014 - April 2016
		12 Pack: \$67.50 - \$70.00	July 2014 - April 2016
		24 Pack: \$110 - \$114.50	August 2014 - April 2016
		54 Pack: \$210.00 - \$218.00	
23	Acuvue Oasys with Hydraluxe (a/k/a 1-Day Acuvue Oasys)	90 Pack: \$88.50	August 2015 - April 2016

12. If you are not sure whether you are included in the Settlement Classes, you may call 877-253-3649 with questions or visit [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com). You may also write with questions to Disposable Contact Lens Settlement Administrator, P.O. Box 2995, Portland, OR 97208-2995 or email [info@ContactLensSettlement.com](mailto:info@ContactLensSettlement.com).

### **OVERVIEW OF THE LITIGATION TO DATE**

13. On March 3, 2015, the first class action complaint was filed in the Northern District of California.

14. On June 10, 2015 the Panel on Multidistrict Litigation centralized and consolidated for pre-trial proceedings all of the class action complaints to the Middle District of Florida, Jacksonville Division before Judge Harvey E. Schlesinger. (ECF No. 1).

15. On October 7, 2015, the Court granted Class Representatives' motion appointing Hausfeld LLP, Scott+Scott Attorneys at Law LLP, and Robins Kaplan LLP as interim lead counsel. (ECF No. 116).

**Questions? Call 1-877-253-3649 or visit [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)**

16. On November 23, 2015, Lead Counsel, on behalf of Class Representatives, filed the Consolidated Class Action Complaint (“Consolidated Complaint”).

17. On December 23, 2015, Defendants filed their Motion to Dismiss the Consolidated Complaint. (ECF No. 146). Following briefing and oral argument, the Court denied Defendants’ motion. (ECF Nos. 185, 190). On July 27, 2016, Defendants filed their Answers and Affirmative Defenses. (ECF Nos. 266-70).

18. The operative complaint, Plaintiffs’ Interlineation to Corrected Consolidated Class Action Complaint (ECF No. 395; Complaint), was filed on March 1, 2017.

19. On December 4, 2018 (ECF No. 940), the Court issued an Order certifying the Litigation Classes, appointing Hausfeld LLP, Scott+Scott, Attorneys at Law, LLP, and Robins Kaplan LLP as Lead Counsel, and formally designated the plaintiffs as the Class Representatives for the Litigation Classes.

20. The \$3 million CVI Settlement was reached on August 30, 2017, and the \$10 million B&L Settlement was reached on August 19, 2019. The Court preliminarily approved the B&L and CVI Settlements on July 10, 2018 (ECF No. 841) and October 8, 2019 (ECF No. 1046), respectively.

21. In 2019, notice was provided regarding the B&L and CVI Settlements and the formation of Litigation Classes. On February 25, 2020, the Court held a Fairness Hearing. On March 4, 2020, the Court issued an Order granting final approval and a final judgment for the B&L and CVI Settlements (ECF No. 1164).

22. The Court certified the Litigation Classes on December 4, 2018 (ECF No. 940) and the last of Defendants’ requests for interlocutory appellate review was denied by the United States Court of Appeals for the Eleventh Circuit on June 20, 2019. The Court subsequently issued a Notice apprising consumers of the CVI and B&L Settlements and its certification of the Litigation Classes.

23. On November 27, 2019, the Court denied the Defendants’ motions for summary judgment (ECF No. 1091).

24. On September 22, 2020, ABB reached a settlement for \$30.2 million, and the Court preliminarily approved that settlement on November 10, 2020 (ECF No. 1224). The Court granted final approval of the ABB Settlement on June 1, 2021. (ECF No. 1257).

25. On February 26, 2021, Lead Counsel submitted a motion to the Court for Attorney Fees and Reimbursement of Expenses. On June 1, 2021, the Court granted Lead Counsel’s request for \$9,315,960.97 in attorney fees and \$752,117.10 in reimbursement of litigation costs. (ECF No. 1258).

26. On January 26, 2022, the Court issued an order setting the case for trial on March 28, 2022. (ECF No. 1298).

27. On March 23, 2022, a settlement was reached with Alcon for \$20 million. On [REDACTED], the Court preliminarily approved that settlement. (ECF No. [REDACTED]).

28. On March 27, 2022, a settlement was reached with JJVCI for \$55 million. On [REDACTED], the Court preliminarily approved that settlement. (ECF No. [REDACTED]).

### **SETTLEMENT BENEFITS**

29. The Alcon and JJVCI Settlements will establish Settlement Funds of \$20 million and \$55 million, respectively, that will be used to pay eligible Settlement Class Members who submit valid claims or already submitted a valid claim to the ABB, B&L and/or CVI Settlement(s). The cost to administer the Alcon and JJVCI Settlements, attorneys’ fees and expenses, service payments for the Class Representatives



(if any are requested and approved by the Court), taxes and other expenses approved by the Court will come out of the Settlement Funds. The Settlement requires Alcon and JJVCI to deposit their respective settlement amounts into escrow accounts within fifteen (15) days of Preliminary Approval.

30. In order to minimize administrative expenses, Lead Counsel intend to distribute the Net Settlement Funds for all five Settlements at once.<sup>2</sup>

31. The Settlement Class definitions of the CVI, ABB, Alcon, and JJVCI settlements are all identical. The B&L Settlement Class definition does not include claims related to CVI. The B&L Settlement Fund therefore has and will be kept separate and never comingled with the funds from the other settlements.

32. Customers that filed valid claims for purchases of lenses made by B&L, JJVCI and Alcon that were subject to a UPP will draw funds on a *pro rata* basis from all five Settlement Funds. Purchasers of lenses subject to CVI's UPP who filed valid claims will draw funds on a *pro rata* basis from the CVI, ABB, Alcon, and JJVCI Settlement Funds.

33. Lead Counsel estimates that there are up to 40 million purchasers of disposable contact lenses that were subject to Defendants' UPPs. In the event that Lead Counsel determines that it will be economically infeasible to directly distribute the Net Settlement Funds to the Settlement Classes, they may propose alternative plans of distribution to the Court, including a *cy pres* distribution, of the Net Settlement Funds. In the event that Lead Counsel propose an alternative plan of distribution to the Court, the motion will be posted at [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com), and an email will be sent to any email address registered with the Administrator prior to the hearing on the motion.

34. Settlement Class Members will have the option to comment on or object to any aspect of the Alcon or JJVCI Settlement at the Fairness Hearing (see "The Fairness Hearing," below).

35. If you already submitted a timely and valid Proof of Claim as part of the earlier ABB, B&L and/or CVI Settlement(s), you do not need to submit another Proof of Claim. You will automatically be included in the Alcon and JJVCI Settlements to receive a payment from the Net Settlement Funds. However, if you did not submit a timely and valid Proof of Claim as part the ABB, B&L and/or CVI Settlement(s), you must submit a Proof of Claim to share in the Alcon and/or JJVCI Net Settlement Fund(s) by [REDACTED]. You will not be able to share in the Alcon and/or JJVCI Settlements(s) if you did not submit a timely and valid Proof of Claim. Claims may be submitted online at [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com). The deadline to file your Proof of Claim is [REDACTED].

36. After the Court grants Final Approval, if your Claim Form submitted for any of the Settlements is determined to be complete and valid, you will receive an email (at the email address you provided on the Claim Form) prompting you to select how you would like to be paid. You can receive your payment via a variety of digital options such as digital debit card or PayPal, or you can elect to receive a check. If you do not respond to select how you would like to be paid, a physical check will be mailed to you at your mailing address on file.

37. Unless you exclude yourself from the Alcon and/or JJVCI Settlement Class(es), you will give up your right to sue Alcon and/or JJVCI for the claims being resolved by the Settlement(s). The specific claims ("Released Claims") you are giving up against Alcon and/or JJVCI and its related parties

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<sup>2</sup> Net Settlement Fund(s) means the money paid by the Settling Defendant(s) plus any interest and income earned and less any attorneys' fees, expenses, and reimbursement of Class Representatives' expenses, costs, and lost wages as permitted by the Court (if requested), (ii) class notice and administration expenses, (iii) taxes and tax expenses, and (iv) any other fees or expenses approved by the Court. Alcon Settlement at ¶ 1.16; JJVCI Settlement at ¶ 1.16; ABB Settlement at ¶ 1.16; B&L Settlement at ¶ 1.16; CVI Settlement at ¶ 1.17. The Settlements are available for review at [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com).

are described in paragraphs 1.28, 1.30, and 7.1 of the Settlement Agreement(s). The Alcon and JJVCI Settlement Agreements are available at [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com).

38. If you have any questions, you can talk to Lead Counsel listed herein for free or you can, of course, talk to your own lawyer about what this means.

### **EXCLUDING YOURSELF FROM THE ALCON AND/OR JJVCI SETTLEMENT(S)**

39. If you are a member of the Alcon and/or JJVCI Settlement Class(es), you have the right to decide whether to remain a member of the Alcon and/or JJVCI Settlement Class(es). You must decide at this time if you want to exclude yourself from the Alcon and/or JJVCI Settlement Class(es).

40. **Excluding Yourself from the Alcon and/or JJVCI Settlement Class(es):** If you want to keep the right to file or maintain your own lawsuit against Alcon and/or JJVCI about the Released Claims, then you must take steps to get out of the Settlement(s) with Alcon and/or JJVCI. This is called excluding yourself – or sometimes referred to as opting out of the class. If you ask to be excluded from the Alcon and/or JJVCI Settlement(s), you will not receive any benefits from the Alcon and/or JJVCI Settlement(s), and you cannot object to the Alcon and/or JJVCI Settlement Agreement(s).

41. If you have a pending or contemplated lawsuit against any of the Defendants involving the same legal issues in this Litigation or the Released Claims in the Alcon and/or JJVCI Settlement Agreement(s), speak to your lawyer immediately. You must exclude yourself from the Alcon and/or JJVCI Settlement(s) in order to continue or initiate your own lawsuit against Alcon and/or JJVCI.

42. You must request exclusion in accordance with the procedures set forth in Paragraphs 44-51.

43. ***If you are a member of the Alcon and/or JJVCI Settlement Class(es) and you did not submit a Proof of Claim to the ABB, B&L and/or CVI Settlement(s), you must submit a Proof of Claim no later than [REDACTED], in order to participate in any distribution of funds from the Alcon and/or JJVCI Settlement(s). If you already submitted a timely and valid Proof of Claim to the ABB, B&L and/or CVI Settlement(s), you do not need to submit another Proof of Claim.***

44. Your decision is important for the following reasons:

- a. **If you choose to remain a member of the Alcon and/or JJVCI Settlement Class(es)**, you will be bound by all past, present and future orders and judgments related to the Alcon and/or JJVCI Settlement(s), whether favorable or unfavorable. If money is awarded, you may be eligible to receive a share of that award. However, if you remain a member of the Alcon and/or JJVCI Settlement Class(es), you may not pursue a lawsuit on your own behalf with regard to any of the legal claims in this Action against the Defendant(s) to which you remain a Settlement Class Member of their Settlement(s). Pursuant to Rule 23(e)(4) of the Federal Rules of Civil Procedure, it is within the Court's discretion whether to allow a second opportunity to request exclusion from the Litigation Classes if there is a settlement in the Action involving the claims of the members of the Litigation Classes. Please note that if you remain a member of the Alcon and/or JJVCI Settlement Class(es), you will not be personally responsible for Lead Counsel's attorneys' fees or costs. Lead Counsel has agreed to represent the Classes on a contingent fee basis, which means that they will be awarded fees and costs to be approved by the Court only if they succeed in obtaining a recovery from the Defendants. Any attorneys' fees for Lead Counsel will be awarded by the Court. As a member of Alcon and/or JJVCI Settlement Class(es), you will be represented by Lead Counsel. Alternatively, you may remain a member of the Alcon and/or

JJVC Settlement Class(es) and elect to be represented by counsel of your own choosing. If you do retain separate counsel, you will be responsible for that attorney's fees and expenses.

- b. **If you choose to be excluded from the Alcon and/or JJVC Settlement Class(es)**, you will not be bound by any orders or judgment in this Action applicable to the Alcon and/or JJVC Settlement Class(es), to which you exclude yourself, nor will you be eligible to share in any recovery that might be obtained on behalf of the Alcon and/or JJVC Settlement Class(es) to which you exclude yourself. You will retain any right you have to individually pursue any unreleased legal rights that you may have against Defendants. Please refer to Paragraphs 44-51 if you would like to request exclusion from Alcon and/or JJVC Settlement Class(es).

### **HOW TO EXCLUDE YOURSELF**

45. To exclude yourself from the Alcon and/or JJVC Settlement Class(es), you must file a timely written request for exclusion ("Request for Exclusion") by mailing a letter or sending an email to the Administrator.

46. Your Request for Exclusion must:

- a. Be in writing;
- b. Be signed by you or your authorized representative;
- c. State your name, address, and phone number;
- d. Include (i) proof of membership in the Alcon and/or JJVC Settlement Class(es) and (ii) a signed statement that says "I/we hereby request that I/we be excluded from (one or more of the following) classes in *In Re: Disposable Contact Lens Antitrust Litigation*, 3:15-md-02626-HES-JRK (M.D. Fl.):  
The Alcon Settlement Class; and/or the JJVC Settlement Class; and
- e. Be mailed or emailed to the Claims Administrator at the address provided below and postmarked no later than [REDACTED].

Disposable Contact Lens Settlement Administrator  
EXCLUSIONS  
P.O. Box 2995  
Portland, OR 97208-2995

Or

[info@ContactLensSettlement.com](mailto:info@ContactLensSettlement.com)

47. ***In the event that you wish to be excluded from the Alcon and/or JJVC Settlement Class(es), you must specify which class or classes are the subject of your exclusion request. If your exclusion request does not specify the class or classes from which you wish to be excluded, you may be excluded from both.***

48. You must also provide any other information reasonably requested by the Administrator.

49. You cannot exclude yourself by telephone or facsimile. Requests for exclusion that do not comply with the above requirements will be invalid, unless otherwise accepted by the Court, subject to any objections of the parties to be resolved by the Court.

**Questions? Call 1-877-253-3649 or visit [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)**



50. Do not request exclusion from the Alcon and/or JJVCI Settlement Class(es) if you wish to participate in the Alcon and/or JJVCI Settlement(s).

51. Please note, if you decide to exclude yourself, you may be time-barred from asserting the claims by a statute of limitations.

52. If you do nothing, you will remain in the Alcon and/or JJVCI Settlement Classes. You will not be able to separately sue, or continue to sue — as part of any other lawsuit — for the Released Claims or the conduct alleged in the Complaint. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes concerning this class action. If you are a Settlement Class Member, and you file a valid Proof of Claim, you will be able to share in the Alcon and JJVCI Settlements. If you already submitted a timely and valid Proof of Claim as part of the ABB, B&L and/or CVI Settlement(s), you do not need to submit another Proof of Claim.

### **OBJECTING TO THE SETTLEMENT**

53. If you are a member of the Alcon and/or JJVCI Settlement Class(es), you can object to the Alcon and/or JJVCI Settlement(s) if you disagree with any part of the Settlement(s). To object to the Settlement(s) you must submit a letter or other written document that includes the following:

- a. Your name, address, and telephone number;
- b. A statement saying that you object to the Alcon and/or JJVCI Settlement(s), in *In Re: Disposable Contact Lens Antitrust Litigation*, 3:15-md-02626-HES-JRK (M.D. Fl.);
- c. Whether you plan to appear at the Fairness Hearing;
- d. Proof of membership in the Alcon and/or JJVCI Settlement Class(es), including documentation evidencing the purchase of a disposable contact lens subject to a UPP;
- e. The specific reasons you object to the Settlement(s), along with any supporting materials or documents that you want the Court to consider; and
- f. Your signature.

54. You cannot object to the Alcon and/or JJVCI Settlement(s) if you exclude yourself from the Settlement Class(es) you are objecting to. If you exclude yourself from the Settlement Class(es), you are telling the Court that you don't want to be part of the Settlement(s). If you exclude yourself from the Settlement Class(es), you will not receive any benefits from the Alcon and/or JJVCI Settlement(s). Objecting is simply telling the Court that you don't like something about the Alcon and/or JJVCI Settlement(s). You can only object to the Alcon and/or JJVCI Settlement(s) if you remain in the Settlement Class(es). If you exclude yourself from the Settlement Class(es), you have no basis to object to the Alcon and/or JJVCI Settlement(s) because the terms no longer affect you.

55. An objection to the Alcon and/or JJVCI Settlement(s) must be mailed to the addresses listed below, postmarked no later than [REDACTED]. Note that you may mail your objection to the Court, but it must be received by the Court and filed by [REDACTED].

<u>Court</u>	<u>JJVICI's Counsel</u>	<u>Alcon's Counsel</u>	<u>Class Counsel</u>
Hon. Harvey Schlesinger Bryan Simpson United States Courthouse 300 North Hogan Street Jacksonville, FL 32202	William F. Cavanaugh, Jr. <b>PATTERSON BELKNAP WEBB &amp; TYLER LLP</b> 1133 Avenue of the Americas New York, NY 10036 Telephone: (212) 336-2000 wfcavanaugh@pbwt.com	David R Marriott <b>CRAVATH, SWAINE &amp; MOORE, LLP</b> Worldwide Plaza 825 8th Avenue New York, NY 10019-7475 Telephone: 212-474-1000 dmarriott@cravath.com	Joseph P. Guglielmo <b>SCOTT+SCOTT ATTORNEYS AT LAW LLP</b> The Helmsley Building 203 Park Avenue, 17th Floor New York, NY 10169 Telephone: (212) 223-6444 jguglielmo@scott-scott.com

56. If your objection is not postmarked and received by the deadline and does not include the information listed above, it will not be valid.

### **THE LAWYERS REPRESENTING YOU**

57. The Court appointed the law firms of Hausfeld LLP, Scott+Scott, Attorneys at Law, LLP, and Robins Kaplan LLP as Lead Counsel. If you have any questions concerning the matters raised in this Notice, you may contact Lead Counsel, as follows:

Nathaniel C. Giddings <b>HAUSFELD LLP</b> 888 16th Street, N.W.; Suite 300 Washington, DC 20006 Telephone: 202-540-7200 ngiddings@hausfeld.com	Joseph P. Guglielmo <b>SCOTT+SCOTT ATTORNEYS AT LAW LLP</b> The Helmsley Building 203 Park Avenue, 17th Floor New York, NY 10169 Telephone: (212) 223-6444 jguglielmo@scott-scott.com	Benjamin Steinberg <b>ROBINS KAPLAN LLP</b> 399 Park Avenue, Suite 3600 New York, NY 10022 Telephone: (212) 980-7400 bsteinberg@robinskaplan.com
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58. You will not be charged for contacting these lawyers. As noted above, unless you elect to retain your own personal lawyer, if you remain in the Settlement Classes, you will not have any direct obligations to pay the costs of this Action. If there is a recovery by one or more of the Classes in this Action, all costs and expenses, including Lead Counsel's attorneys' fees, will be paid from that recovery in an amount approved by the Court.

59. At least fifteen (15) days before the deadline to opt-out or object to the Settlements, Lead Counsel will ask the Court for attorneys' fees of up to one-third (33.3%) of the Alcon and JJVICI Settlement Funds, as well as reimbursement of costs and expenses incurred by Lead Counsel during the litigation. In addition, Lead Counsel may also seek reimbursement of costs for the Class Representatives for their time and work spent prosecuting this Action. Any fees and expenses awarded by the Court will be paid out of the Settlement Funds.

## **THE FAIRNESS HEARING**

60. The Court will hold a hearing to decide whether to approve the Alcon and JJVCI Settlements and any request for fees and expenses. You may attend and you may ask to speak, but you do not have to.

61. The Court will hold a Fairness Hearing at [REDACTED], at the [REDACTED]. The hearing may be moved to a different location or time without additional notice, so it is a good idea to check [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com) for further information. Before attending the Hearing in person, check [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com). The website will provide updated information if the Court changes the Hearing date or decides to hold the Hearing online (telephonically or via a web-based service such as Zoom or Skype). At this hearing, the Court will consider whether the Alcon and JJVCI Settlements are fair, reasonable, and adequate and separately consider whether to approve the Settlements' plan of distribution and any proposed attorneys' fees, expenses, and/or incentive awards. If there are objections, the Court will consider them and will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Alcon and JJVCI Settlements and Lead Counsel's requests for fees and costs. We do not know how long these decisions will take.

62. You do not have to attend the Fairness Hearing. Lead Counsel will answer questions the Court may have. But, you or your own lawyer are welcome to attend at your expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also have your own lawyer attend, but it is not necessary.

63. You may ask the Court for permission to speak at the Fairness Hearing. To speak at the Fairness Hearing, you must send a letter or other written document saying that the letter or document is your "Notice of Intention to Appear" in *In Re: Disposable Contact Lens Antitrust Litigation*, 3:15-md-02626-HES-JRK (M.D. Fl.). Be sure to include your name, address, telephone number, and your signature. You must send your "Notice of Intention to Appear" to the addresses listed in Paragraph 55, so it is postmarked and received no later than [REDACTED].

## **PLEASE KEEP YOUR ADDRESS CURRENT**

64. To assist the Court and the parties in maintaining accurate lists of Members of the Settlement Classes, you are requested to keep your email and physical address up to date with the Administrator. You may update your addresses on the website, [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com).

65. If this Notice was forwarded to you by the postal service, or if it was otherwise sent to you at an address that is not current, you should immediately contact the Administrator at Disposable Contact Lens Settlement Administrator, P.O. Box 2995, Portland, OR 97208-2995 or by calling the Administrator toll free at 877-253-3649 and providing them with your correct address. If the Administrator does not have your correct address, you may not receive notice of important developments in this Action.

## **WHERE YOU CAN FIND ADDITIONAL INFORMATION**

66. This Notice provides only a summary of the lawsuit and the claims asserted by Class Representatives. For more detailed information regarding the Action, you may contact Lead Counsel or visit [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com). You may also contact the Administrator at the address listed at [info@ContactLensSettlement.com](mailto:info@ContactLensSettlement.com).

67. Copies of the important pleadings, orders, and other documents filed in this Action are available at [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com) or at <http://www.pacer.gov> or at the office of the Clerk of

the Court, United States District Court for the Middle District of Florida, Jacksonville Division, 300 North Hogan Street, Jacksonville, Florida 32202, under Case No. 3:15-md-02626-HES.

**PLEASE DO NOT CALL OR WRITE  
THE COURT OR CLERK OF THE COURT REGARDING THIS NOTICE.**

DATED: \_\_\_\_\_, 2022

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT MIDDLE  
DISTRICT OF FLORIDA

# Exhibit 2

**Email Notice**

**If You Purchased Certain Disposable Contact Lenses for Your Own Use From June 1, 2013 to December 4, 2018, this Litigation and Two Class Action Settlements Could Affect Your Rights.**

Two class action settlements have been reached with Alcon Vision LLC f/k/a Alcon Laboratories, Inc. (“Alcon”) and Johnson & Johnson Vision Care, Inc. (“JJVCI”), or “Vistakon.” The lawsuit alleges illegal minimum retail pricing policies by manufacturers called “Unilateral Pricing Policies,” or “UPPs,” for the distribution and sale of certain disposable contact lenses. The safety and effectiveness of contact lenses are not at issue in this lawsuit. For comprehensive information about the claims, rulings, and events in the Action, visit the [Settlement Website](#). Defendants deny they did anything wrong. The Court has not decided who is right.

In 2019, notice was provided regarding settlements with Bausch & Lomb, Inc. (“B&L”); and Cooper Vision, Inc. (“CVI”) and the certification of the Litigation Classes. In 2020, notice was provided regarding the settlement with ABB Optical Group LLC (“ABB”). Alcon and JJVCI have since each agreed to separate settlements. If you are a member of the Settlement Class(es), you can participate in the Alcon and JJVCI Settlements regardless of whether you participated in the ABB, B&L, and/or CVI Settlement(s).

**You received this email because records indicate you may be a Settlement Class Member.** The Alcon and JJVCI Settlement Class(es) include certain persons and entities residing in the United States who made retail purchases of disposable contact lenses subject to a UPP. For a list of the disposable contact lenses subject to a UPP and the dates of purchase included in the settlements, please visit the [Settlement Website](#).

**How can I get a payment?** The Alcon and JJVCI Settlements will establish Settlement Funds of \$20 million and \$55 million, respectively. If you already submitted a timely and valid claim for the ABB, B&L, and/or CVI Settlements, you do not need to submit another claim. You will automatically be included in the Alcon and JJVCI Settlements. If you did not submit a claim in the earlier settlements, you must submit a claim for the Alcon and JJVCI Settlements in order to receive compensation. You can file a claim at the website [here](#). The deadline to file a claim is **MONTH DAY, 20XX**. You will not be able to share in the previous settlements if you did not submit a timely and valid Proof of Claim in those settlements. The Net Settlement Funds will be distributed once the Court grants final approval and the settlements become final. After the Court grants Final Approval, if your Claim Form submitted for any of the Settlements is determined to be complete and valid, you will receive an email (at the email address you provided on the Claim Form) prompting you to select how you would like to be paid. You can receive your payment via a variety of digital options such as digital debit card or PayPal, or you can elect to receive a check. If you do not respond to select how you would like to be paid, a physical check will be mailed to you at your mailing address on file. Please be patient.

**Your other options.** If you do not want to be legally bound by the settlements you must exclude yourself by **MONTH DAY, 20XX**. You may object to the settlements by **MONTH DAY, 20XX**. The Detailed Notice available on the website explains how to exclude yourself or object. The Court will hold a Fairness Hearing on **MONTH DAY, 20XX** to consider whether the settlements are fair, reasonable, and adequate and separately consider whether to approve the settlements’ plan of distribution and any proposed attorneys’ fees, expenses, and/or incentive awards. The hearing

may be moved to a different day or time without additional notice, so it is a good idea to check the website for further information. You may appear at the hearing, yourself or through an attorney you hire, but you don't have to. For more information, call toll-free 1-877-253-3649 or visit [www.ContactLensSettlement.com](http://www.ContactLensSettlement.com).

# Exhibit 3



**If You Purchased Certain Disposable Contact Lenses for Your Own Use From June 1, 2013 to December 4, 2018, this Litigation and Two Class Action Settlements Could Affect Your Rights.**

Two class action settlements have been reached with Alcon Vision LLC f/k/a Alcon Laboratories, Inc. (“Alcon”) and Johnson & Johnson Vision Care, Inc. (“JJVCI”), or “Vistakon.” The lawsuit alleges illegal minimum retail pricing policies by manufacturers called “Unilateral Pricing Policies,” or “UPPs,” for the distribution and sale of certain disposable contact lenses. The safety and effectiveness of contact lenses are not at issue in this lawsuit. Defendants deny they did anything wrong. The Court has not decided who is right.

In 2019, notice was provided regarding settlements with Bausch & Lomb, Inc. (“B&L”); and Cooper Vision, Inc. (“CVI”) and the certification of the Litigation Classes. In 2020, notice was provided regarding the settlement with ABB Optical Group LLC (“ABB”). Alcon and JJVCI have since each agreed to separate settlements. If you are a member of the Settlement Class(es), you can participate in the Alcon and JJVCI Settlements regardless of whether you participated in the ABB, B&L, and/or CVI Settlement(s).

**WHO IS INCLUDED?**

The Alcon and JJVCI Settlement Class(es) include certain persons and entities residing in the United States who made retail purchases of disposable contact lenses subject to a UPP. For a list of the disposable contact lenses subject to a UPP and the dates of purchase included in the settlements, please visit the website below.

**HOW CAN I GET A PAYMENT?**

The Alcon and JJVCI Settlements will establish Settlement Funds of \$20 million and \$55 million, respectively. If you already submitted a timely and valid claim for the ABB, B&L, and/or CVI Settlements, you do not need to submit another claim. You will automatically be included in the Alcon and JJVCI Settlements. If you did not submit a claim in the earlier settlements, you must submit a claim for the Alcon and JJVCI Settlements in order to receive compensation. You can file a claim at the website. The deadline to file a claim is **MONTH DAY, 20XX**. You will not be able to share in the previous settlements if you did not submit a timely and valid Proof of Claim in those settlements. The Net Settlement Funds will be distributed once the Court grants final approval and the settlements become final. At that time, if you filed a valid claim, you will receive an email prompting you to select how you would like to be paid. You can receive your payment via a variety of digital options, or you can elect to receive a check. Please be patient.

**YOUR OTHER OPTIONS.**

If you do not want to be legally bound by the settlements you must exclude yourself by **MONTH DAY, 20XX**. You may object to the settlements by **MONTH DAY, 20XX**. The Detailed Notice available on the website explains how to exclude yourself or object. The Court will hold a Fairness Hearing on **MONTH DAY, 20XX** to consider whether the settlements are fair, reasonable, and adequate and separately consider whether to approve the settlements’ plan of distribution and any proposed attorneys’ fees, expenses, and/or incentive awards. The hearing may be moved to a different day or time without additional notice, so it is a good idea to check the website below for further information. You may appear at the hearing, yourself or through an attorney you hire, but you don’t have to. For more information, call the toll-free number or visit the website below.

[www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)

1-877-253-3649

# Exhibit 4

Two class action settlements have been reached with Alcon Vision LLC (f/k/a Alcon Laboratories, Inc. (“Alcon”) and Johnson & Johnson Vision Care, Inc. (“JJVCI”), or “Vistakon.” The lawsuit alleges illegal minimum retail pricing policies by manufacturers called “Unilateral Pricing Policies,” or “UPPs,” for the distribution and sale of certain disposable contact lenses. The safety and effectiveness of contact lenses are not at issue in this lawsuit. Defendants deny they did anything wrong. The Court has not decided who is right.

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**How can I get a payment?** The Alcon and JJVCI Settlements will establish Settlement Funds of \$20 million and \$55 million, respectively. If you already submitted a timely and valid claim for the ABB, B&L, and/or CVI Settlements, you do not need to submit another claim. You will automatically be included in the Alcon and JJVCI Settlements. If you did not submit a claim in the earlier settlements, you must submit a claim for the Alcon and JJVCI Settlements in order to receive compensation. You can file a claim at the website. The deadline to file a claim is **MONTH DAY, 20XX**. You will not be able to share in the previous settlements if you did not submit a timely and valid Proof of Claim in those settlements. The Net Settlement Funds will be distributed once the Court grants final approval and the settlements become final. At that time, if you filed a valid claim, you will receive an email prompting you to select how you would like to be paid. You can receive your payment via a variety of digital options, or you can elect to receive a check. Please be patient.

**Your other options.** If you do not want to be legally bound by the settlements you must exclude yourself by **MONTH DAY, 20XX**. You may object to the settlements by **MONTH DAY, 20XX**. The Detailed Notice available on the website explains how to exclude yourself or object. The Court will hold a Fairness Hearing on **MONTH DAY, 20XX** to consider whether the settlements are fair, reasonable, and adequate and separately consider whether to approve the settlements’ plan of distribution and any proposed attorneys’ fees, expenses, and/or incentive awards. The hearing may be moved to a different day or time without additional notice, so it is a good idea to check the website below for further information. You may appear at the hearing, yourself or through an attorney you hire, but you don’t have to. For more information, call the toll-free number or visit the website below.

Disposable Contact Lens  
Settlement Administrator  
PO Box 2995  
Portland, OR 97208-2995

## Important Notice About Two Class Action Settlements

**If You Purchased Certain  
Disposable Contact  
Lenses for Your Own  
Use From June 1, 2013  
to December 4, 2018, this  
Litigation and Two Class  
Action Settlements Could  
Affect Your Rights.**

<<BARCODE>>

<<NAME LINE 1>>

<<NAME LINE 2>>

<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>

<<CITY, STATE ZIP>>

<<COUNTRY>>

# Exhibit 5

## Alcon and J&J Contact Lenses Banner Advertisement

### Option 1 –

#### 300x250 Display Banner

Frame 1: Visible for 7 seconds.




If you purchased certain disposable contact lenses for your own use from June 1, 2013 to December 4, 2018,

Frame 2: Visible for 7 seconds.



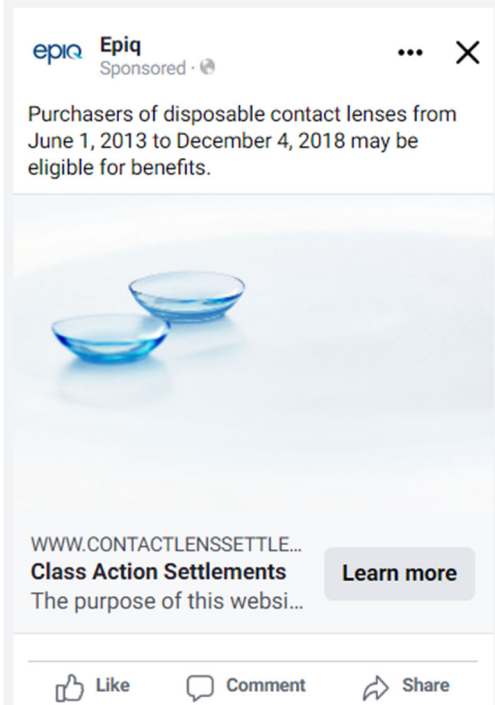
two Class Action Settlements could affect your rights.  
Click here for more information.  
[www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)




#### Facebook Right Hand Column Banner (Static)




Contact lens purchasers may be eligible for benefits.  
[www.contactlenssettlement.com](http://www.contactlenssettlement.com)

#### Facebook Newsfeed Banner (Static)






epiq Epiq  
Sponsored ·   

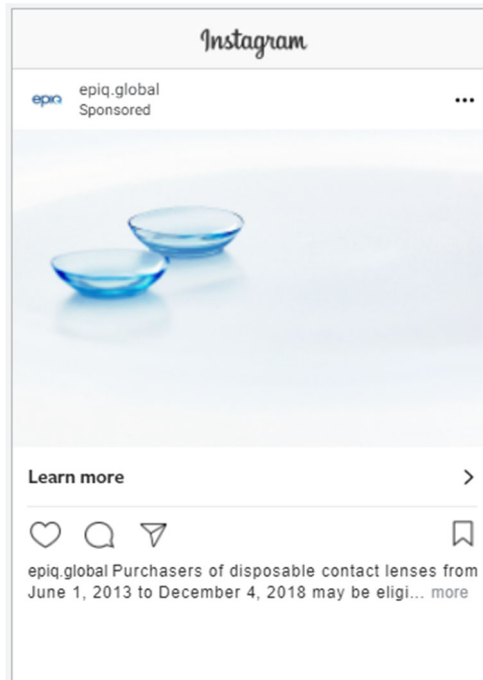
Purchasers of disposable contact lenses from June 1, 2013 to December 4, 2018 may be eligible for benefits.



WWW.CONTACTLENSSETTLE...  
**Class Action Settlements**  
The purpose of this websi... [Learn more](#)

 Like  Comment  Share

**Instagram Newsfeed Banner  
(Static)**



**Option 2 –**

**300x250 Display Banner**

Frame 1: Visible for 7 seconds.



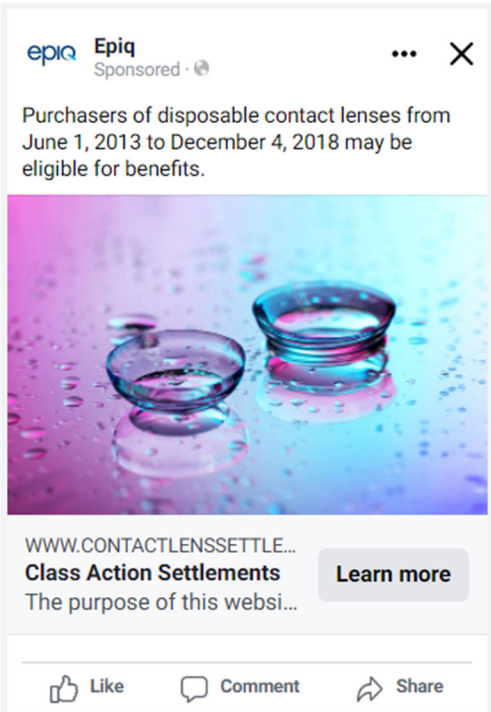
**If you purchased certain disposable contact lenses for your own use from June 1, 2013 to December 4, 2018,**

Frame 2: Visible for 7 seconds.




**two Class Action Settlements could affect your rights.  
Click here for more information.  
[www.ContactLensSettlement.com](http://www.ContactLensSettlement.com)**

### Facebook Newsfeed Banner (Static)



epiq Epiq  
Sponsored · 🌐


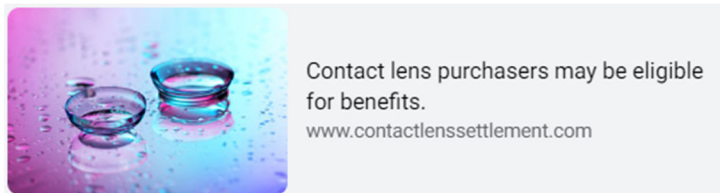
Purchasers of disposable contact lenses from June 1, 2013 to December 4, 2018 may be eligible for benefits.



WWW.CONTACTLENSETTLE...  
**Class Action Settlements** [Learn more](#)  
The purpose of this websi...

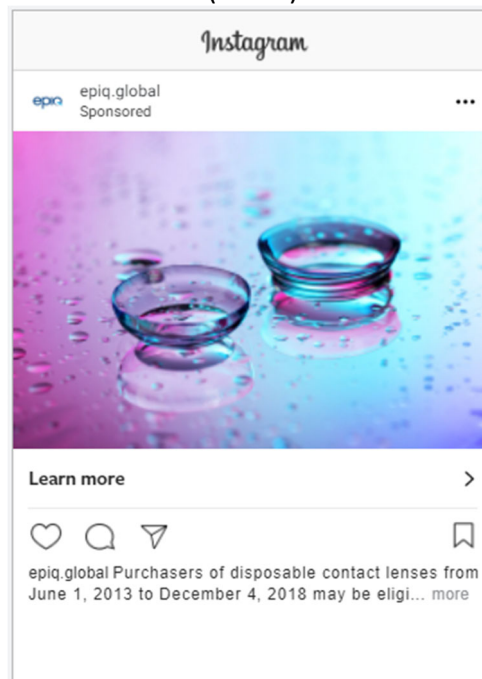
👍 Like    💬 Comment    ➦ Share

### Facebook Right Hand Column Banner (Static)




Contact lens purchasers may be eligible for benefits.  
[www.contactlenssettlement.com](http://www.contactlenssettlement.com)

### Instagram Newsfeed Banner (Static)



Instagram

epiq.epiq.global  
Sponsored



[Learn more](#) >

👍 💬 🗑️ 📌

epiq.global Purchasers of disposable contact lenses from June 1, 2013 to December 4, 2018 may be eligi... more



**Option 3 –**

**300x250 Display Banner**

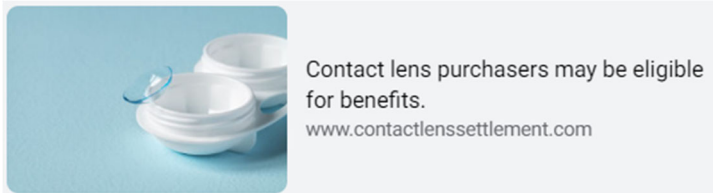
Frame 1: Visible for 7 seconds.



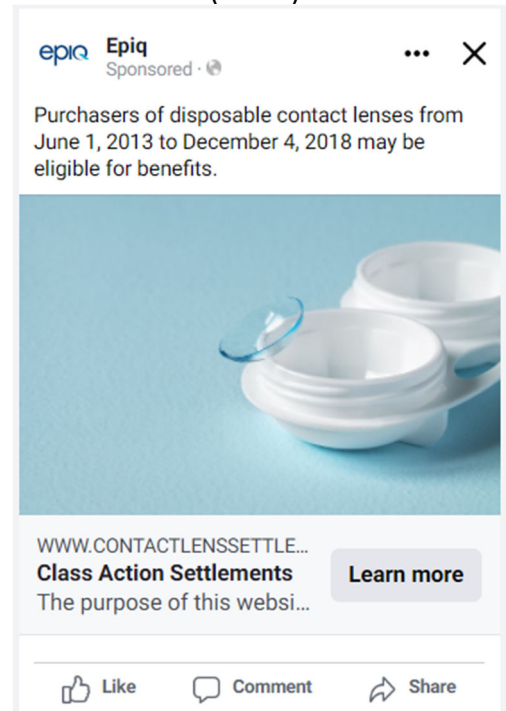
Frame 2: Visible for 7 seconds.



**Facebook Right Hand Column Banner (Static)**



**Facebook Newsfeed Banner (Static)**



### Instagram Newsfeed Banner (Static)

