

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

<b>In Re:</b>  <b>DISPOSABLE CONTACT LENS ANTITRUST LITIGATION</b>	<b>Case No. 3:15-md-2626-HES-JRK</b>  <b>Judge Harvey E. Schlesinger Magistrate Judge James R. Klindt</b>
<b>THIS DOCUMENT RELATES TO: All Class Actions</b>	

**ORDER GRANTING LEAD COUNSEL'S APPLICATION FOR AN  
AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF  
EXPENSES FROM THE ABB SETTLEMENT FUND**

**THIS CAUSE** is before the Court upon Lead Counsel's Application for an Award of Attorneys' Fees and Reimbursement of Expenses (Doc. 1242).

Upon consideration, the motion is granted. Thus, it is **ORDERED**:

WHEREAS, the Action<sup>1</sup> is pending before this Court;

WHEREAS, Plaintiffs<sup>2</sup> have entered into and executed a Stipulation and Agreement of Settlement ("Settlement Agreement") with ABB Optical Group,

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<sup>1</sup> As defined in the Settlement Agreement, the "Action" means the above-captioned litigation pending in the United States District Court for the Middle District of Florida, Jacksonville Division, and any other actions that may be transferred or consolidated into this litigation.

<sup>2</sup> As defined in the Settlement Agreement, "Plaintiffs" are Rachel Berg, Miriam Pardoll, Jennifer Sineni, Elyse Ulino, Susan Gordon, Cora Beth Smith,

LLC (“ABB” together with Plaintiffs, the “Settling Parties”), which, if finally approved by the Court, will result in the settlement of all claims against ABB;

WHEREAS, the Court previously certified litigation classes pursuant to Fed. R. Civ. P. 23 (Doc. 940);

WHEREAS, the Court previously granted final approval of settlements releasing all claims against Bausch & Lomb, Inc. and CooperVision, Inc. (Doc. 1164);

WHEREAS, the Court has appointed Scott+Scott Attorneys at Law LLP, Hausfeld LLP, and Robins Kaplan, LLP (“Lead Counsel”) as class counsel (Doc. 940);

WHEREAS, the Court has appointed Rachel Berg, Miriam Pardoll, Jennifer Sineni, Elyse Ulino, Susan Gordon, Cora Beth Smith, Brett Watson, Tamara O’Brien, Sheryl Marean, Catherine Dingle, Amanda Cunha, Alexis Ito, Kathleen Schirf, John Machikawa, and Joseph Felson as class representatives (Doc. 940), and each of these Class Representatives searched for and produced documents, and sat for a full deposition;

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Brett Watson, Tamara O’Brien, Sheryl Marean, Catherine Dingle, Amanda Cunha, Alexis Ito, Kathleen Schirf, John Machikawa, and Joseph Felson. Pamela Mazarella was a plaintiff in the CVI settlement, but not the B&L or ABB settlements because she withdrew as a named class representative; however, she continues to be a member of the Settlement Classes.

WHEREAS, by Order dated November 13, 2020 (the “Preliminary Approval Order”) this Court: (a) preliminarily approved the Settlement Agreement; (b) preliminarily certified the Settlement Class; (c) ordered that notice of the Settlement Agreement be provided to potential members of the Settlement Class; (d) provided members of the Settlement Class with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement Agreement; (e) provided members of the Settlement Class with the opportunity to object to the Application for Attorneys’ Fees and Reimbursement of Costs, and (f) designated Scott+Scott Attorneys at Law LLP, Hausfeld LLP, and Robins Kaplan, LLP as settlement class counsel for the Settlement Classes (“Class Counsel”) and Plaintiffs as class representatives of the Settlement Classes;

WHEREAS, consistent with the Court’s order, notice has been disseminated to potential members of the Settlement Class;

WHEREAS, in full and final settlement of the claims asserted against ABB in this Action, ABB agreed to pay the amount of \$30,200,000 and to provide limited cooperation as set forth in the Settlement Agreement;

WHEREAS, pursuant to the Preliminary Approval Order, an Escrow Account was established;

WHEREAS, pursuant to the Settlement Agreement and the Preliminary Approval Order, ABB timely deposited \$500,000 of the Settlement Amount into

the settlement Escrow Account on December 16, 2020 and timely deposited 50% of the remainder of the Settlement Amount (\$14,850,000) on April 15, 2021;

WHEREAS, pursuant to the Settlement Agreement, ABB will deposit the remainder of the Settlement Amount (\$14,850,000) into the Escrow Account by January 14, 2022;

WHEREAS, in the Preliminary Approval Order, the Court ordered that all settlement funds held in the escrow account shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement and further order(s) of the Court;

WHEREAS, in the Preliminary Approval Order, the Court ordered that all reasonable expenses incurred in identifying and notifying potential Class Members as well as in administering the ABB Settlement (“Settlement Administration Expenses”) should be paid as set forth in the Settlement Agreement up to \$500,000;

WHEREAS, the Court appointed Epiq Class Action & Claims Solutions, Inc. (“Epiq”) as the notice provider and approved the proposed plan of notice, which provided for notice to members of the ABB Settlement Class using funds from the ABB Settlement;

WHEREAS, on February 26, 2021, Class Counsel filed an Application for an Award of Attorneys’ Fees and Reimbursement of Expenses (Doc. 1242);

WHEREAS, the March 10, 2021 deadline to object to the Application for Attorneys' Fees and Reimbursement of Expenses has now passed;

WHEREAS, by Notice dated April 15, 2021 this Court scheduled a hearing regarding final approval of the ABB Settlement and Application for Attorneys' Fees and Costs on May 19, 2021;

WHEREAS, due and adequate notice has been given to potential members of the Settlement Class;

WHEREAS, the 90-day period provided by the Class Action Fairness Act, 28 U.S.C. §1715(d), has expired;

WHEREAS, the Court conducted a hearing on May 19, 2021 (the "Fairness Hearing") to consider, among other things, (a) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate to the Settlement Class, and should therefore be approved; (b) whether a judgment should be entered dismissing the Action with prejudice as against ABB; and (c) whether Plaintiffs' Attorneys' Fees and Costs should be granted;

WHEREAS, Class Counsel have requested as attorneys' fees one-third (33.3%) of the \$30,200,000 ABB Settlement Fund (\$9,315,960.97), after payment of the Court-approved notice costs (\$500,000), anticipated claims administration costs (\$1,000,000), and expenses (\$752,117.10);

WHEREAS, Class Counsel notified the Settlement Class that they would seek up to one-third (33.3%) of the ABB Settlement Fund as reimbursement

for attorneys' fees, and notified members of the Settlement Class of the specific requested fee amount in advance of the deadline for objections and exclusion requests;

WHEREAS, as described in the Plaintiffs' Application for Attorneys' Fees and Costs filed February 26, 2021, the Court has read and considered the reasonableness and necessity of the fees and costs;

WHEREAS, the Court has considered the applicable case law and finds that awarding common costs as well as funds for anticipated common costs necessary for Class Counsel to continue litigating Plaintiffs' claims against the non-settling defendants benefits Class Members; and

WHEREAS, the Court has considered the applicable case law and finds that awarding the requested attorneys' fees is fair and reasonable and just compensation for the work done and risks taken in this litigation and is well within the range of reasonableness under the factors established by the Eleventh Circuit in *Camden I Condo Ass'n v. Dunkle*, 946 F.2d 768 (11th Cir. 1991);

Thus, it is **ORDERED**:

1. The Court authorizes Class Counsel to withdraw the following from the ABB Settlement Fund Escrow Account:

- a. \$9,315,960.97 in attorneys' fees;
- b. up to \$1,000,000 in anticipated claims administration costs

without further order of the Court; and

- c. \$752,117.10 in general incurred and anticipated litigation costs.

**DONE AND ENTERED** at Jacksonville, Florida, this 31<sup>st</sup> day of May, 2021.



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**HARVEY E. SCHLESINGER**  
United States District Judge

Copies to:  
Counsel of Record