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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

Case No. 3:15-md-2626 HES-LLL

DISPOSABLE CONTACT LENS
ANTITRUST LITIGATION.

This document relates to ALL CLASS
ACTIONS.

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REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION; AND, MOTION TO TAKE JUDICIAL
NOTICE

Class Member Carlos Torres (“Torres”), replies in support of his Motion for Reconsideration under Federal Rules of Civil Procedure 60(b) and 59(e), relating to the Order entered on November 29, 2023, and to take judicial notice of the language on the website:

I. TORRES CUT AND PASTED THE WEBSITE LANGUAGE AND THE LANGUAGE IS STILL THERE

In a footnote, Class Counsel questions Torres’ cut and paste of the language from the website and wants this Court to look at old language. This Court is the ultimate administrator of the website for class members. It can visit the website itself and see the language. The website, on the landing page, contains the language that class members may not challenge or object to this Court’s November 29, 2023, Order. The website also says below it not to call or write the Court. Yet Class Counsel – who is supposed to be representing absent class members – is claiming that people had the ability to object. Torres visited the site on January 12, 2024, and the language depriving class members of due process is still there, cut and paste, using their coloring and font:

On November 29, 2023, the Court issued its Order authorizing a supplemental distribution of net settlement funds to specific claimants. The Order is posted here. Claimants meeting specific criteria for inclusion in the supplemental distribution will be



contacted directly by the Settlement Administrator. There will be no notification to individuals who are not eligible to participate in the supplemental distribution. There is no opportunity to dispute the Court's Order or terms of inclusion in the supplemental distribution. Class Members who received and did not negotiate their checks prior to their stale dates and request a re-issuance prior to November 15, 2023, have forfeited their rights to receive settlement funds, as per the Court's Order. **Electronic disbursement of available funds is currently on hold. Please continue to monitor this website for updates.**

The purpose of this website is to provide information concerning Settlements with Johnson & Johnson Vision Care, Inc. ("JJVCI"), Alcon Vision, LLC ("Alcon"), CooperVision, Inc. ("CVI"), ABB Concise Optical Group, LLC ("ABB") and Bausch & Lomb Inc. ("B&L")

If you have any questions after reading this website, you should contact lead counsel or the Settlement Administrator. Please do not call or write the court.

This Court can check it for itself under F.R.E. 201 and take judicial notice.

II. TORRES IS GLAD TO HEAR HE MIGHT RECEIVE A PAYMENT EVEN THOUGH UNDER THE TERMS CLASS COUNSEL LAID OUT, HE IS NOT ENTITLED TO IT.

Apparently to remove Torres' standing to object, Class Counsel states that Torres will receive his payment.

While most appreciated, it does not appear clear why since the deadline was November 15, 2023, and it was stated that the request arrived thereafter. So apparently they pay people who object so there is no standing to complain..

III. THE CASES CITED RELEASING CLASS COUNSEL AND THE CLAIMS ADMINISTRATORS ARE NOT PRECEDENT

The cases cited by Class Counsel where the claims administrator and counsel were released from liability are not precedent setting in any way. Apparently in those cases, nobody noticed that the language was slipped in– the same way this Court did not notice the language was slipped in. This Court has no authority or jurisdiction to release the claims administrator from liability– especially where we have no idea how the electronic payments will play out.

The electronic payment may work out, or it might be a grossly negligent mess. We know from other litigations that frequent problems occur with the electronic payments and liability cannot be determined until later. It is rare that a claims administrator gets sued for his negligence, but that is not a reason to absolve them from liability.

IV. THE WEBSITE DISCOURAGES OBJECTIONS

After telling Class Members on their website not to contact the Court, Class Counsel touts the fact that no objections occurred were filed with the Court earlier. Obviously, the website language discourages objections or contacting the Court. Class Members probably did not believe they could contact the Court.

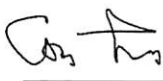
Moreover, prior to the original distribution, most people assumed they would receive their check. Torres had no reason to object; he thought he would be paid. Torres is not objecting for fun. On the contrary, he moved for reconsideration because the second Order was and is objectionable.

V. THE *PRO RATA* LANGUAGE IS NOT WELL UNDERSTOOD

Perhaps this Court can understand Class Counsel's convoluted legalese, but here is what Torres is trying to say: If the people who were paid the first time around are not receiving a second payment from leftover funds, then there is no objection. However, if people who were paid the second time around are receiving a second payment, but people like Torres are only receiving what would have been the first payment, then that is wrong. People like Torres should receive the first payment and whatever second payment – if any – other class members would receive, *pro rata*. Hopefully, this Court understands what Torres' objection is. **BUT WHY WOULD FUNDS BE FORFEITED IF PEOPLE DID NOT REQUEST REISSUE BY NOVEMBER 15, 2023? WHERE DOES THAT MONEY GO? THE UNCASHED CHECK MONEY STILL BELONGS TO THE PERSON WHO RECEIVED THE CHECK.**

Rule 23(c)(2)(B) explains that notices to class members must be “clearly and concisely state in plain, easily understood language.” Certainly, what Class Counsel intends to do with the leftover money– the so-called second *pro rata* distribution – was not provided to us in “easily understood language.” Perhaps Class Counsel can have one of their interns dumb down the language a bit for the class members.



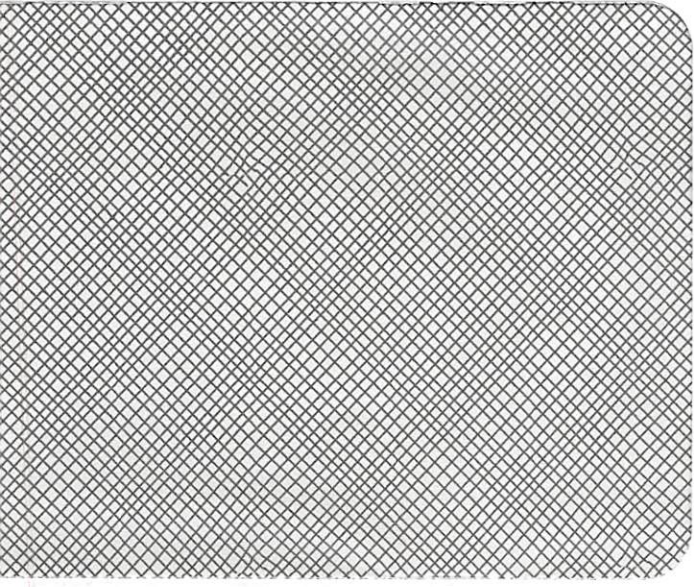
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CLASS MEMBER



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