

MILSTEIN ADELMAN, LLP
Gillian L. Wade (Cal. Bar No. 229124)
Sara D. Avila (Cal. Bar No. 263213)
2800 Donald Douglas Loop North
Santa Monica, CA 90405
Telephone : (310) 396-9600
Facsimile: (310) 396-9635
Attorneys for Plaintiff Michelle Weeks

KIRTLAND & PACKARD, LLP
Michael Louis Kelly (Cal. Bar No. 82063)
Behram V. Parekh (Cal. Bar No. 180361)
2361 Rosecrans Avenue, 4th Floor
El Segundo, CA 90245
Telephone: (310) 536-1000
Facsimile: (310) 536-1001
Attorneys for Plaintiff Maria Sandoval

JENNER & BLOCK LLP
Brent Caslin (Cal. Bar No. 198682)
Kenneth K. Lee (Cal. Bar No. 264296)
633 West 5th Street, Suite 3500
Los Angeles, CA 90071
Telephone: (213) 239-5100
Facsimile: (213) 239-5199
Attorneys for Defendants Kellogg Co., Kellogg USA, Inc., Kellogg Sales Co.

Additional Counsel Listed on Signature Page

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICHELLE WEEKS and MARIA SANDOVAL, each individually and on behalf of all others similarly situated,

Plaintiff,

v.

KELLOGG COMPANY, a Delaware corporation; KELLOGG USA, INC., a Michigan corporation; KELLOGG SALES COMPANY, a Delaware corporation, and DOES 1 through 100, inclusive,

Defendants.

No. CV 09-08102 (MMM) (RZx)

STIPULATION OF SETTLEMENT

Hearing Date: February 7, 2011
Hearing Time: 10:00 a.m.
Courtroom: 780
Judge: Hon. Margaret M. Morrow

Consolidated: September 20, 2010
Trial Date: March 22, 2011

1 This Stipulation of Settlement is made and entered into by and among
2 Plaintiffs Michelle Weeks, Maria Sandoval and Katie Dintelman, on behalf of
3 themselves and each of the Settlement Class Members, by and through Class
4 Counsel authorized to settle this Litigation on their behalf, and Defendants Kellogg
5 Company, Kellogg USA, Inc. and Kellogg Sales Company (collectively
6 "Defendants" or "Kellogg"), by and through their counsel of record in this
7
8 Litigation.
9

10 **I. RECITALS**

11 A. On November 4, 2009, following receipt of a Civil Investigative
12 Demand letter from the Attorney General of the State of Oregon, Kellogg
13 announced that it was eliminating from the packaging of its Rice Krispies cereal
14 and Cocoa Krispies cereal certain statements that the cereals were fortified with
15 nutrients and antioxidants and that the fortified cereals helped support a person's
16 immune system. Kellogg subsequently agreed to discard more than two million
17 unpacked cereal cartons that contained those statements and to donate nearly
18 500,000 boxes of cereal to food banks in Oregon and around the country. This
19 Agreement was announced in a News Release by the Oregon Attorney General on
20 December 17, 2009.
21
22
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24

25 B. On November 5, 2009, Sabena Lakshmi Kammula filed a Complaint
26 against Kellogg in the United States District Court for the Central District of
27

1 California, Case No. 09-8102, alleging: (1) false and misleading advertising in
2 violation of California Business & Professions Code § 17200 et seq., (2) false and
3 misleading advertising in violation of California Business & Professions Code §
4 17500 et seq., (3) unjust enrichment, (4) fraud and (5) violation of California
5 Consumers Legal Remedies Act (“CLRA”), Civil Code §1750 et seq., in
6 connection with Kellogg’s immunity claims in its advertising and packaging of its
7 Cocoa Krispies cereal.
8
9

10 C. On November 12, 2009, Katie Dintelman filed a Complaint against
11 Kellogg in the United States District Court for the Southern District of Illinois,
12 Case No. 09-945-GPM, alleging: (1) false and misleading advertising in violation
13 of Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1
14 et seq., (2) unjust enrichment, and (3) fraud, in connection with Kellogg’s
15 immunity claims in its advertising and packaging of Cocoa Krispies cereal.
16
17

18 D. On December 9, 2009, Kammula filed a First Amended Complaint
19 alleging that Kellogg’s false and misleading advertising and packaging of both
20 Cocoa Krispies cereal and Rice Krispies cereal violated Business & Professions
21 Code § 17200 et seq. and § 17500 et seq., and the CLRA, Civil Code §1750 et seq.
22
23

24 E. On May 6, 2010, a Second Amended Complaint was filed for the sole
25 purpose of substituting Michelle Weeks to replace Kammula as a new named class
26
27

1 representative, and on May 21, a Stipulation to Dismiss Kammula as a named class
2 representative was filed.

3
4 F. On June 10, 2010, counsel for Maria Sandoval sent a demand letter to
5 Kellogg Company and Kellogg Sales Company alleging that the advertising and
6 packaging of Rice Krispies violated three consumer protection statutes, the
7 California Business & Professions Code § 17200 et seq. and § 17500 et seq., as
8 well as the CLRA, Civil Code §1770.
9

10 G. On June 17, 2010, Sandoval filed a three-count Complaint in the
11 Superior Court of Los Angeles County, Case No. BC439898, against Kellogg
12 Company and Kellogg Sales Company alleging violations of the three consumer
13 protection statutes. The Sandoval Complaint alleged that Kellogg's immunity
14 claims on the packaging of Cocoa Krispies cereal and Rice Krispies cereal were
15 false and misleading. By Notice of Removal filed on July 16, 2010, the Sandoval
16 Complaint was removed to the United State District Court for the Central District
17 of California and was designated as Case No. 10-5258.
18
19
20

21 H. By Order dated August 13, 2010, the Weeks lawsuit, Case No. 09-
22 8102, was consolidated with the Sandoval lawsuit, Case No. 10-5258. On October
23 14, 2010, Plaintiffs Weeks and Sandoval joined in filing a Third Amended
24 Complaint against Kellogg in Case No. 09-8102. Counsel for each of the Plaintiffs
25 conducted separate examinations and evaluations of the relevant law and facts to
26
27
28

1 assess the merits of their respective Plaintiff's claims and to determine how to best
2 serve the interests of the members of the proposed Class.

3
4 I. The Third Amended Complaint alleges that the advertising and
5 packaging of Kellogg's Rice Krispies and Cocoa Krispies included, among others,
6 the following statements:

- 7
- 8 • "NOW HELPS SUPPORT YOUR CHILD'S IMMUNITY"
- 9
- 10 • "25% DAILY VALUE OF ANTIOXIDANTS & NUTRIENTS"
- 11 • VITAMINS A, B, C & E"
- 12 • "WITH ANTIOXIDANTS AND NUTRIENTS"
- 13
- 14 • "Helping to support your family's IMMUNITY"
- 15 • "Kellogg's Cocoa Krispies has been improved to include
- 16 antioxidants and nutrients that your family needs to help them stay
- 17 healthy."
- 18 • "Excellent source of vitamins A, B, C, and E - antioxidants and
- 19 nutrients that help support the body's immune system"
- 20 • "Enjoy this wholesome breakfast and help keep your family
- 21 healthy."
- 22 • "And now each and every box is fortified with vitamins and
- 23 nutrients that work together to help support your child's
- 24 immunity."

25 (collectively, the "Immunity Claims"). The Third Amended Complaint alleges that
26 the packaging was false and misleading because it represented that the cereals were
27 fortified with antioxidants and nutrients that would help support a family's

1 immunity but Kellogg (1) did not have a clinical study that adequately supported
2 those claims; (2) failed to adequately disclose whether the inclusion of sugar and
3 high-fructose corn syrup negates or otherwise decreases any health and immunity
4 benefits; and (3) failed to adequately disclose whether the amounts and form of the
5 antioxidants and nutrients added to the cereals renders the claimed health benefit.
6

7
8 The Third Amended Complaint alleges that Kellogg's conduct constituted unfair
9 business practices in violation of Code § 17200 et seq., false and misleading
10 advertising and packaging in violation of Code § 17500 et seq., and violation of the
11 CLRA, Civil Code §1750 et seq. Plaintiffs seek actual and punitive damages,
12 equitable monetary relief, injunctive relief, attorneys' fees and costs on behalf of a
13 class of similarly-situated persons.
14

15
16 J. Kellogg began shipping Rice Krispies and Cocoa Krispies nationally
17 in packaging that included the immunity statements in late May 2009 and stopped
18 shipping the cereals in that packaging in late November 2009. Packaging that
19 contained the immunity statements was on store shelves at locations around the
20 country between June 1, 2009 and March 1, 2010.
21

22
23 K. On July 28, 2010, Class Counsel, Kellogg and Kellogg's Counsel
24 participated in a mediation conducted by retired California Supreme Court Justice
25 Edward A. Panelli of JAMS in San Francisco, California. Since that time, the
26 Parties have engaged in protracted, extensive, and hard-fought settlement
27

1 negotiations. Based upon Class Counsel's investigation and evaluation of the facts
2 and law relating to the matters alleged in the pleadings, Plaintiffs and Class
3 Counsel agreed to settle the Litigation pursuant to the provisions of this Stipulation
4 after considering, among other things: (1) the substantial benefits available to the
5 Class under the terms of this Stipulation; (2) the attendant risks and uncertainty of
6 litigation, especially in complex actions like this, as well as the difficulties and
7 delays inherent in such litigation; and (3) the desirability of consummating this
8 Stipulation promptly to provide effective relief to Plaintiffs and the Class and to
9 end the conduct at issue.
10
11
12

13 L. Kellogg has denied and continues to deny each and all of the claims
14 and contentions alleged by Plaintiffs. Kellogg has expressly denied and continues
15 to deny all charges of wrongdoing or liability against it arising out of any of the
16 conduct, statements, acts or omissions alleged, or that could have been alleged, in
17 the Litigation.
18

19 M. Nonetheless, Kellogg has concluded that further defense of the
20 Litigation would be protracted and expensive, and that it is desirable that the
21 Litigation be fully and finally settled in the manner and upon the terms and
22 conditions set forth in the Stipulation. Kellogg also has taken into account the
23 uncertainty and risks inherent in any litigation. Kellogg, therefore, has determined
24
25
26
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1 that it is desirable and beneficial to it that the Litigation be settled in the manner
2 and upon the terms and conditions set forth in the Stipulation.

3
4 N. This Stipulation effectuates the resolution of disputed claims and is
5 for settlement purposes only.

6 **II. DEFINITIONS**

7
8 A. As used in this Stipulation the following capitalized terms have the
9 meanings specified below:

10 1. "Claim Form" means the document to be submitted by
11 Claimants seeking payment pursuant to this Stipulation that will accompany
12 the Class Notice and will be available online at the Settlement Website,
13 substantially in the form of Exhibit A and discussed in §IV.A.5 of this
14 Stipulation.
15

16
17 2. "Claimant" means a Settlement Class Member who submits a
18 claim for payment as described in §IV of this Stipulation.

19
20 3. "Claims Administration Protocols" means the protocols set
21 forth in the Claim Administration Protocols, attached as Exhibit B.

22
23 4. "Class" means all persons or entities in the United States who
24 purchased the Product during the Settlement Class Period. Excluded from
25 the Class are Kellogg's employees, officers, directors, agents, and
26

1 representatives and those who purchased the Product for the purpose of re-
2 sale.

3
4 5. "Class Action Settlement Administrator" means the company or
5 companies to be jointly selected by Class Counsel and Defendants' Counsel
6 and approved by the Court to provide Class Notice and to administer the
7 claims process.
8

9 6. "Class Counsel" means the attorneys of record for Plaintiffs and
10 means the following individuals:

11
12 Gillian L. Wade
13 Sara D. Avila
14 Milstein Adelman, LLP
15 2800 Donald Douglas Loop North
16 Santa Monica, CA 90405
17 Telephone : 310/396-9600

18 Michael Louis Kelly
19 Behram V. Parekh
20 Heather M. Peterson
21 Kirtland & Packard, LLP
22 2361 Rosecrans Avenue, 4th Floor
23 El Segundo, CA 90245
24 Telephone: 310/536-1000

25 Joe R. Whatley, Jr.
26 Whatley Drake & Kallas, LLC
27 1540 Broadway, 37th Floor
28 New York, NY 10036
Telephone: 212/447-7070

Howard W. Rubinstein
Law Offices of Howard Weil Rubinstein
Post Office Box 4839

1 Aspen, Colorado 81611
2 Telephone: 832/715-2788

3 Kevin T. Hoerner
4 Brian T. Kreisler
5 Becker, Paulson, Hoerner & Thompson, P.C.
6 5111 West Main Street
7 Belleville, Illinois 62226
8 Telephone: 618/235-0020

9 Eric D. Freed
10 Jamie E. Weiss
11 Richard J. Burke
12 Freed & Weiss LLC
13 111 West Washington Street, Suite 1331
14 Chicago, Illinois 60602
15 Telephone: 312/220-0000

16 7. "Class Notice" means, collectively, the "Notice of Class Action
17 Settlement" and the "Publication Notice," substantially in the forms of
18 Exhibit C and Exhibit D, respectively, and discussed in §V of this
19 Stipulation.

20 8. "Court" means the United States District Court for the Central
21 District of California.

22 9. "Defendants" means the Kellogg Company, Kellogg USA, Inc.
23 and Kellogg Sales Company.

24 10. "Defendants' Counsel" means the following individuals:

25 Dean N. Panos
26 Richard P. Steinken
27 Jenner & Block LLP

1 353 N. Clark Street
2 Chicago, IL 60654-3456
3 Telephone: 312/222-9350

4 Brent L. Caslin
5 Kenneth K. Lee
6 Jenner & Block LLP
7 633 West 5th Street, Suite 3500
8 Los Angeles, CA 90071-2054
9 Telephone: 213/239-5100

10 11. "Effective Date" means the date on which all of the conditions
11 of settlement have been satisfied, as discussed in §IX of this Stipulation.

12 12. "Final Approval Hearing" means the hearing to be held by the
13 Court after the date of entry of the Preliminary Approval Order at which the
14 Court shall: consider and determine whether the proposed settlement of this
15 Litigation as contained in this Stipulation should be approved as fair,
16 reasonable, and adequate, and whether the Judgment approving the
17 settlement contained in this Stipulation should be entered.

18 13. "Immunity Claims" means the following statements made by
19 Kellogg in the advertising and packaging of the Product during the
20 Settlement Class Period:
21

- 22 • "NOW HELPS SUPPORT YOUR CHILD'S IMMUNITY"
- 23 • "25% DAILY VALUE OF ANTIOXIDANTS & NUTRIENTS"
- 24 • VITAMINS A, B, C & E"
- 25
- 26
- 27

- 1 • “WITH ANTIOXIDANTS AND NUTRIENTS”
- 2 • “Helping to support your family’s IMMUNITY”
- 3
- 4 • “Kellogg’s Cocoa Krispies has been improved to include
- 5 antioxidants and nutrients that your family needs to help them stay
- 6 healthy.”
- 7 • “Excellent source of vitamins A, B, C, and E - antioxidants and
- 8 nutrients that help support the body’s immune system”
- 9 • “Enjoy this wholesome breakfast and help keep your family
- 10 healthy.”
- 11 • “And now each and every box is fortified with vitamins and
- 12 nutrients that work together to help support your child’s
- 13 immunity.”

14 The term “Immunity Claims” also includes any other statements concerning the
15 immunity benefits of the Product to consumers.

16 14. "Judgment" means the "Judgment, Final Order and Decree" to
17 be entered by the Court, substantially in the form attached as Exhibit E.

18 15. "Litigation" means Weeks v. Kellogg Company, Case No.
19 CV09-8102(MMM)(RZx)(C.D. Cal.).

20 16. "Party" or "Parties" means the Plaintiffs and Defendants in this
21 Litigation.

22 17. "Person" means a natural person, individual, corporation,
23 partnership, association, or any other type of legal entity.

24 18. "Plaintiffs" mean and include the class representatives Michelle
25 Weeks, Maria Sandoval, and Katie Dintelman.
26
27

1 19. "Preliminary Approval Order" means the "Order Granting
2 Preliminary Approval of Class Action Settlement," substantially in the form
3 of Exhibit F attached hereto, preliminarily approving this Stipulation,
4 certifying the Class for settlement purposes, appointing Plaintiffs Weeks,
5 Sandoval and Dintelman as Class representatives, granting leave to file a
6 Fourth Amended Complaint for the purposes of adding Katie Dintelman as a
7 Class representative and bringing suit on behalf of a nationwide Class,
8 providing for notification to the Settlement Class and seeking the scheduling
9 of the Final Approval Hearing.
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13 20. "Product" means the Rice Krispies® and Cocoa Krispies®
14 branded cereals that are the subject of the Litigation.
15

16 21. "Released Claims" means, with the exception of claims for
17 personal injury, any and all actions, claims, demands, rights, suits, and
18 causes of action of whatever kind or nature against the Released Persons,
19 including damages, costs, expenses, penalties, and attorneys' fees, known or
20 unknown, suspected or unsuspected, in law or equity arising out of or
21 relating to statements concerning the Immunity Claims and/ or whether
22 scientific evidence supports the health and Immunity Claims, made in or in
23 connection with Defendants' advertising, marketing, packaging, promotion,
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1 sale and distribution of the Product, which have been asserted or which
2 could reasonably have been asserted by the Class in the Litigation.

3
4 22. "Released Persons" means and includes Defendants and their
5 direct and indirect corporate parent, subsidiaries and affiliates, as well as
6 their distributors, wholesalers, retailers, customers and licensors, including
7 the officers, directors, employees, shareholders, agents, insurers,
8 spokespersons, public relations firms, advertising and production agencies
9 and assigns of all such persons or entities.
10

11
12 23. "Settlement Class Member(s)" or "Member(s) of the Settlement
13 Class" means a member of the Class who has not been properly excluded
14 from the Class.
15

16 24. "Settlement Class Period" means the period from June 1, 2009
17 to March 1, 2010, the dates between which packaging for Rice Krispies and
18 Cocoa Krispies which contained the immunity statements appeared on store
19 shelves.
20

21 25. "Settlement Fund" means the \$2.5 million fund (discussed in
22 §IV.A.2 of this Stipulation) and the donation of Kellogg branded cereal and
23 food having a total retail value of \$2.5 million to charities (discussed in §
24 IV.B.2 of this Stipulation).
25
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1 26. "Settlement Website" means the website to be created for this
2 settlement that will include information about the Litigation and the
3 settlement, relevant documents and electronic and printable forms relating to
4 the settlement, including the Claim Form which can be submitted online or
5 printed and mailed. The Settlement Website shall be activated no later than
6 60 days before the Final Approval Hearing and shall remain active until 101
7 days after the Court enters the Judgment. A link to the Settlement Website
8 shall also be available on the websites Defendants maintain for United States
9 consumers of the Product during the same time period and, at Class
10 Counsel's option, on Class Counsel's websites.

11 27. "Stipulation" means this Stipulation of Settlement, including its
12 attached exhibits (which are incorporated herein by reference), duly
13 executed by Class Counsel and Defendants' Counsel.

14 B. Other capitalized terms used in this Stipulation but not defined above
15 shall have the meaning ascribed to them in this Stipulation and the exhibits
16 attached hereto.

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22 **III. CERTIFICATION OF THE NATIONAL SETTLEMENT CLASS**

23 Defendants hereby consent, solely for purposes of the settlement set forth
24 herein, to the certification of the National Settlement Class, to the appointment of
25 Class Counsel as counsel for the Settlement Class, and to the conditional approval
26

1 of Plaintiffs as suitable representatives of the Class; provided, however, that if this
2 Stipulation fails to receive Court approval or otherwise fails to be consummated,
3 including, but not limited to, the Judgment not becoming final as provided in
4 §IX.C of this Stipulation, then Defendants retain all rights they had immediately
5 preceding the execution of this Stipulation to object to the maintenance of this
6 Litigation as a class action by Class Counsel, and in that event, nothing in this
7 Stipulation or other papers or proceedings related to the settlement shall be used as
8 evidence or argument by any Party concerning whether the Litigation may properly
9 be maintained as a class action, whether the purported Class is ascertainable, or
10 whether Class Counsel or Plaintiffs can adequately represent the Settlement Class
11 Members under applicable law.
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16 **IV. SETTLEMENT RELIEF**

17 The settlement relief includes cash payments and non-monetary relief.

18 **A. Cash Payments**

19 **1. Class Members' Cash Recovery**

- 20
21 a. Class members may seek reimbursement of \$5.00 per
22 box of the Product purchased during the Settlement
23 Class Period, with a maximum recovery of \$15.00 per
24 consumer. Claimants may seek reimbursement by
25 submitting a simplified Claim Form either by mail or
26
27

1 electronically. Only one Claim Form per household may
2 be submitted. The actual amount paid to individual
3 Claimants will depend upon the number of valid claims
4 made. Adequate and customary procedures and
5 standards will be used by the Class Action Settlement
6 Administrator to prevent the payment of fraudulent
7 claims and to pay only legitimate claims.
8
9

10 2. Settlement Fund

11 a. In accordance with the payment schedule set forth in
12 §IV.A.7, below, Defendants shall pay \$2.5 million in
13 trust to a third party institution (the "Fund Institution")
14 to be selected by Class Counsel and approved by
15 Defendants to establish an interest-bearing fund for
16 payments made pursuant to this section.
17

18 b. The Settlement Fund shall be applied to pay in full in
19 order: (i) any necessary taxes and tax expenses; (ii) any
20 Fee and Expense Award made by the Court to Class
21 Counsel under §VIII.A; (iii) any class representative
22 incentive award made by the Court to Plaintiffs under
23 §VIII.C; and (iv) payments to authorized Claimants and
24
25
26
27

1 any others as allowed by this Stipulation and to be
2 approved by the Court.

3
4 3. Settlement Fund: Insufficient or Excess Funds

5 a. If the total amount of eligible claims exceeds the
6 Settlement Fund, then each claim's award shall be
7 proportionately reduced.
8

9 b. If after all valid claims are paid, money remains in the
10 Settlement Fund, upon approval by the Court pursuant to
11 the *cy pres* doctrine, the remaining amount shall be paid
12 one third to the Food Safety, Health, and Nutrition
13 Project of Public Justice; one third to the Westside Food
14 Bank; one third to the food safety program at the
15 University of Georgia.
16
17

18 4. Delivery of Payments to Settlement Class Members

19 a. Payment will be made directly to the Settlement Class
20 Member by first class mail after entitlement to payment
21 to all Claimants is determined, and in no event more
22 than 30 days after the close of the Claim-In Period,
23 unless Class Counsel permits an extension of time to
24 complete the claims determination process.
25
26
27

1 his or her name and mailing address. Only one Claim
2 Form per household may be submitted. The Settlement
3 Administrator may pay claims that are otherwise valid
4 but untimely filed if there is sufficient money to pay all
5 valid and timely claims in full plus untimely but
6 otherwise valid claims from the Settlement Fund, and
7 payment of any such untimely but valid claims is
8 administratively feasible and otherwise reasonable,
9 taking into account the need to timely pay claims. The
10 determination of the Class Action Settlement
11 Administrator concerning the eligibility and amount of
12 payment shall be final. In the event a Settlement Class
13 Member disagrees with such a determination, the Class
14 Action Settlement Administrator agrees to reconsider
15 such determination, which includes consultation with
16 Class Counsel.

- 17
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22 b. To be eligible, Claim Forms must be postmarked or
23 submitted online no later than 80 days after the date the
24 Court first sets for the Final Approval Hearing ("Claim-
25 In Period").
26
27

- 1 • “NOW HELPS SUPPORT YOUR CHILD’S IMMUNITY”
- 2 • “25% DAILY VALUE OF ANTIOXIDANTS & NUTRIENTS”
- 3
- 4 • VITAMINS A, B, C & E”
- 5 • “WITH ANTIOXIDANTS AND NUTRIENTS”
- 6 • “Helping to support your family’s IMMUNITY”
- 7
- 8 • “Kellogg’s Cocoa Krispies has been improved to include
9 antioxidants and nutrients that your family needs to help them
10 stay healthy.”
- 11 • “Excellent source of vitamins A, B, C, and E - antioxidants and
12 nutrients that help support the body’s immune system”
- 13 • “Enjoy this wholesome breakfast and help keep your family
14 healthy.”
- 15 • “And now each and every box is fortified with vitamins and
16 nutrients that work together to help support your child’s
17 immunity.”

18 The term “Immunity Claims” also includes any other statements concerning
19 the immunity benefits of the Product to consumers. The parties acknowledge
20 and agree that “Competent and Reliable Scientific Evidence,” means “tests,
21 analyses, research, or studies that have been conducted and evaluated in an
22 objective manner by qualified persons and are generally accepted in the
23 profession to yield accurate and reliable results.”

24 2. Beginning 30 days after the Effective Date and for a period of
25 one year following the Effective Date, and as a *cy pres* remedy given the
26 difficulty and expense in locating Settlement Class Members and otherwise
27

1 meeting the requirements of a distribution under the *cy pres* doctrine,
2 Defendants shall distribute to the Westside Food Bank and to Feeding
3 America, subject to Court approval, Kellogg branded cereals and other food
4 products having a total retail value of \$2.5 million. The charities that are
5 agreed upon by the Parties and approved by the Court shall not incur any
6 charge for the receipt of this food.
7
8

9 **V. NOTICE TO THE CLASS, COMMUNICATIONS WITH**
10 **SETTLEMENT CLASS MEMBERS AND REDEMPTION OF**
11 **SETTLEMENT RELIEF**

12 A. Class Notice

13 The Class Notice shall conform to all applicable requirements of the Federal
14 Rules of Civil Procedure, the United States Constitution (including the Due
15 Process Clauses), and any other applicable law, and shall otherwise be in the
16 manner and form agreed upon by the Parties and approved by the Court.
17 Collectively, the Class Notice shall set forth the following information:
18

19 1. General Terms. The Class Notice shall:

- 20 a. inform Settlement Class Members that, if they do not
21 exclude themselves from the Class, they may be eligible
22 to receive the relief under the proposed settlement;
23
24
25
26
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- 1 b. contain a short, plain statement of the background of the
2 Litigation, the Class certification and the proposed
3 settlement;
4
5 c. describe the proposed settlement relief outlined in this
6 Stipulation;
7
8 d. explain the impact of the proposed settlement on any
9 existing litigation, arbitration or other proceeding; and
10 e. state that any relief to Settlement Class Members is
11 contingent on the Court's final approval of the proposed
12 settlement.
13

14 2. Notice of Exclusion and Objection Rights. The Class Notice
15 shall inform Settlement Class Members:
16

- 17 a. that they may exclude themselves from the Class by
18 submitting a written exclusion request postmarked no
19 later than 30 days before the date of the Final Approval
20 Hearing;
21
22 b. that any Settlement Class Member who has not
23 submitted a written request for exclusion may, if he or
24 she desires, object to the proposed settlement by filing
25 and serving a written statement of objections no later
26
27

1 than 30 days before the Final Approval Hearing. The
2 objection must contain:

- 3
- 4 i. the full name, address and telephone number of the
5 Settlement Class Member;
- 6 ii. a written statement of all grounds for the objection
7 accompanied by any legal support for the objection
8 (if any);
- 9 iii. a statement of whether the Settlement Class
10 Member intends to appear at the Final Approval
11 Hearing;
- 12 iv. proof of membership in the Class;
- 13 v. the signature of the Settlement Class Member or
14 her/ his counsel.

15 c. that any Settlement Class Member who has filed and
16 served written objections to the proposed settlement
17 shall enter an appearance at the Final Approval Hearing
18 either personally or through counsel, or seek and obtain
19 leave of Court excusing such appearance prior to the
20 Final Approval Hearing. Any settlement Class Member
21 that fails to both timely file and serve the written
22 objection and appear at the Final Approval Hearing
23 without leave of court excusing such appearance, shall
24 be foreclosed from making such objection and/or
25
26
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28

1 deemed to have waived any objection filed, and shall
2 have no right and/or standing to file an appeal relating to
3 the approval of this Settlement;
4

5 d. that any Judgment entered in the Litigation, whether
6 favorable or unfavorable to the Class, shall include, and
7 be binding on, all Settlement Class Members who have
8 not been excluded from the Class, even if they have
9 objected to the proposed settlement and even if they
10 have any other claim, lawsuit or proceeding pending
11 against Defendants; and
12

13 e. of the terms of the release.
14

15
16 3. No later than 60 days before the Final Approval Hearing, the
17 Class Notice shall be posted on the Settlement Website and, at their option,
18 on the websites of Class Counsel. The Class Notice shall also be sent via
19 electronic mail or regular mail to those Class Members who so request. The
20 Class Notice shall remain available by these means until 101 days after the
21 Court enters the Judgment.
22

23
24 B. Publication Notice

25 No later than 60 days before the Final Approval Hearing, the Class Action
26 Settlement Administrator will cause to be published in accordance with the media
27

1 plan to be developed the Publication Notice, a copy of which is attached as Exhibit

2 D. The Publication Notice shall also be posted on the Settlement Website until 101
3 days after the Effective Date.
4

5 C. Retention of Class Action Settlement Administrator

6 Defendants shall, subject to the approval of Class Counsel, retain one or
7 more Class Action Settlement Administrators (including subcontractors) to help
8 implement the terms of the proposed Stipulation. Defendants shall pay all costs
9 associated with the Class Action Settlement Administrator, including costs of
10 providing notice to the Class Members and processing claims.
11
12

13 1. The Class Action Settlement Administrator(s) shall assist with
14 various administrative tasks, including, without limitation, (a) mailing or
15 arranging for the mailing or other distribution of the Class Notice and Claim
16 Forms to Settlement Class Members, (b) arranging for publication of the
17 Publication Notice, (c) handling returned mail not delivered to Settlement
18 Class Members, (d) attempting to obtain updated address information for
19 Settlement Class Members and for any Class Notice Packages returned
20 without a forwarding address or an expired forwarding address, (e) making
21 any additional mailings required under the terms of this Stipulation, (f)
22 answering written inquiries from Settlement Class Members and/or
23 forwarding such inquiries to Class Counsel or their designee, (g) receiving
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1 and maintaining on behalf of the Court and the Parties any Settlement Class
2 Member correspondence regarding requests for exclusion to the settlement,
3
4 (h) establishing the Settlement Website that posts notices, Claim Forms and
5 other related documents, (i) receiving and processing claims and distributing
6 payments to Settlement Class Members, and (j) otherwise assisting with
7
8 administration of the Stipulation.

9 2. The contract with the Class Action Settlement Administrator
10 shall obligate the Class Action Settlement Administrator to abide by the
11 following performance standards:
12

13 a. The Class Action Settlement Administrator shall
14 accurately and neutrally describe, and shall train and
15 instruct its employees and agents to accurately and
16 objectively describe, the provisions of this Stipulation in
17 communications with Settlement Class Members;
18

19 b. The Class Action Settlement Administrator shall provide
20 prompt, accurate and objective responses to inquiries
21 from Class Counsel or their designee, Defendants and/or
22 Defendants' Counsel.
23
24

25 **VI. APPROVAL PROCEDURES AND RELATED PROVISIONS**

26 A. Preliminary Approval and Final Approval Hearing
27

1 Promptly after execution of this Stipulation, the Parties shall submit this
2 Stipulation to the Court and shall jointly apply for entry of a Preliminary Approval
3 Order preliminarily approving this Stipulation, providing for (i) the dissemination
4 of the Class Notice, (ii) granting leave of Court to file a Fourth Amended
5 Complaint for the sole purpose of adding Dintelman as a class representative and
6 certifying a nationwide Class for settlement, and (iii) scheduling a Final Approval
7 Hearing.
8
9

10 B. Requests for Exclusion

11
12 1. Any potential Settlement Class Member who wishes to be
13 excluded from the Class must mail or deliver a written request for exclusion
14 to the Clerk of the Court, care of the address provided in the Class Notice,
15 postmarked or delivered no later than 30 days before the Final Approval
16 Hearing, or as the Court otherwise may direct. The written request for
17 exclusion must request exclusion from the Class, must be signed by the
18 potential Settlement Class Member and include a statement indicating that
19 the requester is a member of the Settlement Class. A list reflecting all
20 requests for exclusion shall be filed with the Court by Defendants at or
21 before the Final Approval Hearing.
22
23
24

25 2. Any potential Settlement Class Member who does not file a
26 timely written request for exclusion as provided in the preceding §VI.B.1
27

1 shall be bound by all subsequent proceedings, orders and the Judgment in
2 this Litigation relating to this Stipulation, even if he or she has pending, or
3 subsequently initiates, litigation, arbitration or any other proceeding against
4 Defendants relating to the Released Claims.
5

6 **VII. RELEASES**

7 As of the Effective Date, Plaintiffs and each Settlement Class Member who
8 has not validly excluded himself or herself from the Settlement Class pursuant to
9 §VI.B of this Stipulation shall be deemed to have, and by operation of the
10 Judgment shall have, fully, finally, and forever released, relinquished, and
11 discharged all Released Claims against the Released Persons. In connection with
12 the Released Claims, each Settlement Class Member shall be deemed as of the
13 Effective Date to have waived any and all provisions, rights, and benefits conferred
14 by §1542 of the California Civil Code and any statute, rule, and legal doctrine
15 similar, comparable, or equivalent to California Civil Code §1542, which reads as
16 follows:
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21 A general release does not extend to claims which the
22 creditor does not know or suspect to exist in his or her
23 favor at the time of executing the release, which if known
24 by him or her must have materially affected his or her
25 settlement with the debtor.
26
27
28

1 **VIII. CLASS COUNSEL'S ATTORNEYS' FEES, COSTS AND EXPENSES**
2 **AND CLASS REPRESENTATIVE INCENTIVE AWARDS**

3 A. The parties agree that Class Counsel may apply for an award of
4 attorneys' fees and reasonable, actual out-of-pocket expenses from the Settlement
5 Fund based upon the value of the Settlement ("Fee and Expense Award"). Subject
6 to the terms and conditions of this Stipulation and any order of the Court, such Fee
7 and Expense Award ordered by the Court shall be paid to Class Counsel from the
8 Settlement Fund within ten (10) business days after entry of Final Judgment and
9 Order Approving Settlement, subject to the conditions in this Paragraph. If the
10 Final Judgment and Order Approving Settlement is reversed, vacated, modified,
11 and/or remanded for further proceedings or otherwise disposed of in any manner
12 other than one resulting in affirmance of the Final Judgment and Order Approving
13 Settlement as to any matter other than a reduction of the Fee and Expense Award,
14 then Class Counsel shall within ten (10) business days return to the Settlement
15 Fund the amount of Attorneys' Fees and Expenses paid to Class Counsel. If the
16 Fee and Expense Award is reduced after entry of the Final Judgment and Order
17 Approving Settlement, then Class Counsel shall within ten (10) business days
18 return to the Settlement Fund the amount by which the Fee and Expense Award
19 was reduced. Any return of Attorneys' Fees and Expenses under this Paragraph
20 shall be increased by interest accrued at the Federal Funds Rate from the date of
21 payment of the Attorneys' Fees and Expenses to Class Counsel. Class Counsel's
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1 obligation to return any of the Attorneys' Fees and Expenses, as described above,
2 shall be evidenced by a promissory note, which note shall be executed by the Class
3 Counsel.
4

5 B. Class Counsel, in their sole discretion, shall allocate and distribute the
6 Court's Fee and Expense Award among Class Counsel.
7

8 C. Kellogg further agrees that it will not oppose, in any way, a class
9 representative incentive award of \$5,000 each to Michelle Weeks, Maria Sandoval
10 and Katie Dintelman to be paid from the Settlement Fund.
11

12 **IX. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**
13 **CANCELLATION OR TERMINATION**
14

15 A. The Effective Date of this Stipulation shall be the first date after
16 which all of the following events and conditions have been met or have occurred:

- 17 1. The Court has preliminarily approved this Stipulation;
- 18 2. The Court has entered the Judgment; and
- 19 3. Unless the Parties otherwise agree in writing to waive all or any
20 portion of the following provision, there has occurred: (i) in the event there
21 is a properly and timely filed objection to entry of the Final Judgment and
22 Order, the expiration (without the filing or noticing of an appeal) of the time
23 to appeal from the Final Judgment and Order; (ii) the final dismissal of an
24 appeal from the Final Judgment and Order; (iii) affirmance on appeal of the
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1 Final Judgment and Order in substantial form; (iv) if a ruling or decision is
2 entered by an appellate court with respect to affirmance of the Final
3 Judgment and Order, the time to petition for a writ of certiorari with respect
4 to such ruling or decision has expired; or (v) if a petition for a writ of
5 certiorari with respect to the Final Judgment and Order is filed, the petition
6 has been denied or dismissed or, if granted, has resulted in affirmance of the
7 Final Judgment and Order in substantial form.
8
9

10 B. If all of the conditions specified in §IX.A of this Stipulation are not
11 met, then this Stipulation shall be canceled and terminated unless Class Counsel
12 and Defendants mutually agree in writing to proceed with this Stipulation.
13

14 C. In the event that this Stipulation is not approved by the Court or the
15 settlement set forth in this Stipulation is terminated or fails to become effective in
16 accordance with its terms, the Parties shall be restored to their respective pre-
17 settlement positions in the Litigation, including with regard to any agreements
18 concerning tolling and similar agreements, and this entire Stipulation shall become
19 null and void. Defendants shall be responsible for all administrative and notice
20 costs and expenses, including the costs of notifying the Class and any claims
21 administration costs.
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1 **X. MISCELLANEOUS PROVISIONS**

2 A. The Parties hereto and their undersigned counsel agree to undertake
3 their best efforts and mutually cooperate to promptly effectuate this Stipulation and
4 the terms of the settlement set forth herein, including taking all steps and efforts
5 contemplated by this Stipulation and any other steps and efforts which may
6 become necessary by order of the Court or otherwise.
7

8
9 B. The undersigned counsel represent that they are fully authorized to
10 execute and enter into the terms and conditions of this Stipulation on behalf of their
11 respective clients.
12

13 C. This Stipulation contains the entire agreement among the Parties
14 hereto and supersedes any prior agreements or understandings between them. All
15 terms of this Stipulation are contractual and not mere recitals and shall be
16 construed as if drafted by all Parties. The terms of this Stipulation are and shall be
17 binding upon each of the Parties, their agents, attorneys, employees, successors and
18 assigns, and upon all other Persons claiming any interest in the subject matter
19 through any of the Parties, including any Settlement Class Member.
20

21
22 D. Whenever this Stipulation requires or contemplates that one Party
23 shall or may give notice to the other, notice shall be provided by facsimile, email
24 and/or next day (excluding Sunday) express delivery service as follows:
25

- 26 1. If to Plaintiffs, then to:
27

1 Gillian L. Wade
2 Sara D. Avila
3 Milstein Adelman, LLP
4 2800 Donald Douglas Loop North
5 Santa Monica, CA 90405
6 Telephone : 310/396-9600

7 Joe R. Whatley, Jr.
8 Whatley Drake & Kallas, LLC
9 1540 Broadway, 37th Floor
10 New York, NY 10036
11 Telephone: 212/447-7070

12 Law Offices of Howard Weil Rubinstein
13 Howard W. Rubinstein
14 Post Office Box 4839
15 Aspen, Colorado 81611
16 Telephone: (832) 715-2788

17 Michael Louis Kelly
18 Behram V. Parekh
19 Heather M. Peterson
20 Kirtland & Packard, LLP
21 2361 Rosecrans Avenue, 4th Floor
22 El Segundo, CA 90245
23 Telephone: 310/536-1000

24 Eric D. Freed
25 Jamie E. Weiss
26 Richard J. Burke
27 Freed & Weiss LLC
28 111 West Washington Street, Suite 1331
Chicago, Illinois 60602
Telephone: 312/220-0000

Kevin T. Hoerner
Brian T. Kreisler
Becker, Paulson, Hoerner & Thompson, P.C.
5111 West Main Street
Belleville, Illinois 62226

1 Telephone: 618/235-0020

2
3 2. If to Defendants, then to:

4 Dean N. Panos
5 dpanos@jenner.com
6 Jenner & Block LLP
7 353 N. Clark Street
8 Chicago, IL 60654-3456
9 Telephone: 312/923-2765
10 Facsimile: 312/840-7765

11 Richard P. Steinken
12 rsteinken@jenner.com
13 Jenner & Block LLP
14 353 N. Clark Street
15 Chicago, IL 60654-3456
16 Telephone: 312/923-2938
17 Facsimile: 312/840-7338

18 E. All time periods set forth herein shall be computed in business days if
19 seven days or less and calendar days if eight days or more unless otherwise
20 expressly provided. In computing any period of time prescribed or allowed by this
21 Stipulation or by order of the Court, the day of the act, event or default from which
22 the designated period of time begins to run shall not be included. The last day of
23 the period so computed shall be included, unless it is a Saturday, a Sunday or a
24 legal holiday, or, when the act to be done is the filing of a paper in Court, a day in
25 which weather or other conditions have made the Office of the Clerk or the Court
26 inaccessible, in which event the period shall run until the end of the next day as not
27 one of the aforementioned days. As used in this subsection, "legal holiday"

1 includes New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's
2 Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans'
3 Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday
4 by the President or the Congress of the United States.
5

6 F. The Parties, their successors and assigns, and their attorneys
7 undertake to implement the terms of this Stipulation in good faith and to use good
8 faith in resolving any disputes that may arise in the implementation of the terms of
9 this Stipulation.
10

11 G. This Stipulation may be amended or modified only by a written
12 instrument signed by any of the Class Counsel and any of Defendants' Counsel.
13 Amendments and modifications may be made without additional notice to the
14 Settlement Class Members unless such notice is required by the Court.
15
16

17 H. The exhibits to this Stipulation are an integral part of the Settlement
18 and are hereby incorporated and made a part of this Stipulation.
19

20 I. Neither this Stipulation nor the settlement, nor any act performed or
21 document executed pursuant to or in furtherance of this Stipulation or the
22 settlement: (i) is or may be deemed to be or may be used as an admission of, or
23 evidence of, the validity of any Released Claim, or of any wrongdoing or liability
24 of Defendants, or of the propriety of Class Counsel maintaining the Litigation as a
25 class action; or (ii) is or may be deemed to be or may be used as an admission of,
26
27

1 or evidence of, any fault or omission of Defendants in any civil, criminal, or
2 administrative proceeding in any court, administrative agency, or other tribunal,
3
4 except that Defendants may file this Stipulation or the Judgment in any action that
5 may be brought against any Released Person in order to support a defense or
6 counterclaim based on principles of res judicata, collateral estoppel, release, good
7 faith settlement, judgment bar, or reduction or any other theory of claim preclusion
8 or issue preclusion or similar defense or counterclaim.
9


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

15 K. This Stipulation shall be deemed to have been executed upon the last
16 date of execution by all of the undersigned.
17

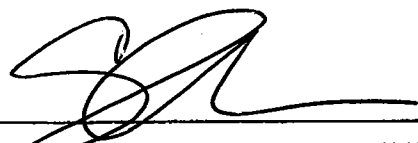
18 L. This Stipulation may be executed in counterparts, each of which shall
19 constitute an original.
20

21 IN WITNESS THEREOF, the Parties hereto have caused this Stipulation to
22 be executed by their duly authorized representatives.
23

24
25 Dated: January 10, 2011



Michelle Weeks



MILSTEIN ADELMAN, LLP
Gillian L. Wade (Cal. Bar No. 224129)
Sara D. Avila (Cal. Bar No. 263213)
2800 Donald Douglas Loop North
Santa Monica, CA 90405
Telephone : (310) 396-9600



**LAW OFFICES OF HOWARD WEIL
RUBINSTEIN**
Howard W. Rubinstein (*pro hac vice*)
Post Office Box 4839
Aspen, Colorado 81611
Telephone: (832) 715-2788



WHATLEY, DRAKE & KALLAS, LLC
Joe R. Whatley, Jr. (*pro hac vice*)
1540 BROADWAY, 37TH FLOOR
NEW YORK, NY 10036
Telephone: (212) 447-7070
Attorneys for Plaintiff Michelle Weeks

Dated: January __, 2011

Maria Sandoval

KIRTLAND & PACKARD, LLP

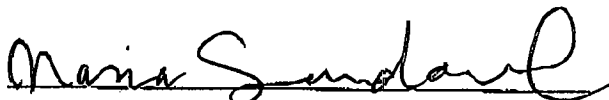
Michael Louis Kelly (Cal. Bar No. 82063)
Behram V. Parekh (Cal. Bar No. 180361)
2361 Rosecrans Avenue, 4th Floor
El Segundo, CA 90245
Telephone: (310) 536-1000
Attorneys for Plaintiff Maria Sandoval

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MILSTEIN ADELMAN, LLP
Gillian L. Wade (Cal. Bar No. 224129)
Sara D. Avila (Cal. Bar No. 263213)
2800 Donald Douglas Loop North
Santa Monica, CA 90405
Telephone : (310) 396-9600

**LAW OFFICES OF HOWARD WEIL
RUBINSTEIN**
Howard W. Rubinstein (*pro hac vice*)
Post Office Box 4839
Aspen, Colorado 81611
Telephone: (832) 715-2788

WHATLEY, DRAKE & KALLAS, LLC
Joe R. Whatley, Jr. (*pro hac vice*)
1540 BROADWAY, 37TH FLOOR
NEW YORK , NY 10036
Telephone: (212) 447-7070
Attorneys for Plaintiff Michelle Weeks


Maria Sandoval

Dated: January 10, 2011



KIRTLAND & PACKARD, LLP
Michael Louis Kelly (Cal. Bar No. 82063)
Behram V. Parekh (Cal. Bar No. 180361)
2361 Rosecrans Avenue, 4th Floor
El Segundo, CA 90245
Telephone: (310) 536-1000
Attorneys for Plaintiff Maria Sandoval

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Dated: January 10, 2011

Katie Dintelman

Katie Dintelman

Kettman

**BECKER, PAULSON, HOERNER &
THOMPSON, P.C.**

Kevin T. Hoerner (No. 06196686)
Brian T. Kreisler (No. 06283303)
5111 West Main Street
Belleville, Illinois 62226
Telephone: (618) 235-0020

FREED & WEISS LLC

Eric D. Freed
Jamie E. Weiss
Richard J. Burke
111 West Washington Street, Suite 1331
Chicago, Illinois 60602
Phone: (312) 220-0000

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Dated: January __, 2011

Katie Dintelman

**BECKER, PAULSON, HOERNER &
THOMPSON, P.C.**

Kevin T. Hoerner (No. 06196686)
Brian T. Kreisler (No. 06283303)
5111 West Main Street
Belleville, Illinois 62226
Telephone: (618) 235-0020

Eric D. Freed 1/10/11

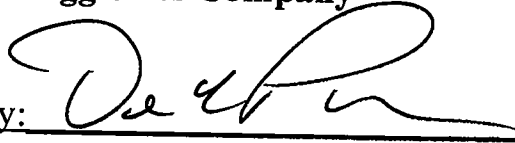
FREED & WEISS LLC

Eric D. Freed
Jamie E. Weiss
Richard J. Burke
111 West Washington Street, Suite 1331
Chicago, Illinois 60602
Phone: (312) 220-0000

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DATED: January __, 2011

**Kellogg Company, Kellogg USA, Inc. and
Kellogg Sales Company**

By: 
One of Their Attorneys

JENNER & BLOCK LLP
Brent Caslin (Cal. Bar No. 198682)
bcaslin@jenner.com
Kenneth K. Lee (Cal. Bar No. 264296)
klee@jenner.com
633 West 5th Street, Suite 3500
Los Angeles, California 90071
Telephone: (213) 239-5100
Facsimile: (213) 239-5199

JENNER & BLOCK LLP
Dean N. Panos (*pro hac vice*)
dpanos@jenner.com
Richard P. Steinken (*pro hac vice*)
rsteinken@jenner.com
353 N. Clark Street
Chicago, IL 60635
Telephone: (312) 222-9350
Facsimile: (312) 527-0484

EXHIBIT A

EXHIBIT A

**Kellogg's Rice Krispies and Cocoa Krispies
CLAIM FORM**

You can also file on line at: www. _____ .com.

You must complete the required information below. All Claim Forms must be postmarked or submitted online by _____. Only one Claim Form may be submitted per household.

PLEASE NOTE: Any money left over from this settlement will be donated to one or more charities. By not submitting this Claim Form you will make more money available for charitable donation.

If mailing, please return this form to:

Krispies Class Action Settlement Administrator
[Address]
[City, State]

CLASS MEMBER INFORMATION

NAME:	TELEPHONE:
ADDRESS:	
CITY:	STATE: ZIP CODE:

PURCHASE INFORMATION

If you send in this Claim Form, you will receive \$5 per box of Kellogg's Rice Krispies or Cocoa Krispies purchased between June 1, 2009 and March 1, 2010, with recovery permitted for up to four boxes of cereal.

I swear under penalty of perjury that the following information is true and correct and that this is the only Claim Form being submitted on behalf of my household.

I purchased _____ box(es) of _____ cereal.

The approximate date(s) of my purchase(s) of this cereal were:

**CLAIM FORMS MUST BE POSTMARKED OR SUBMITTED ONLINE
BY [MONTH DAY, 2011]
QUESTIONS? CALL 1-800-xxx-xxxx (OR VISIT www. _____ .com)**

EXHIBIT B

EXHIBIT B

CLAIMS ADMINISTRATION PROTOCOLS

These Claims Administration Protocols ("Protocols") are part of the Stipulation of Settlement ("Stipulation") between the Parties. All provisions of the Stipulation are incorporated into these Protocols by reference, including, without limitation, all definitions. All capitalized terms used here shall have the same meaning given them in the Stipulation. These Protocols shall define the duties of the Class Action Settlement Administrator retained to implement the claims process as described in §V.C of the Stipulation. All references to "§ ____" shall be to the Stipulation, unless otherwise noted.

B.1 Appointment of Class Action Settlement Administrator

The Class Action Settlement Administrator shall be selected pursuant to §V.C of the Stipulation.

B.2 Agreement by Class Action Settlement Administrator

The Class Action Settlement Administrator must consent in writing to serve, and shall abide by the obligations of the Stipulation and these Protocols by executing a counterpart of these Protocols prior to the Preliminary Approval Hearing.

B.3 Control of Settlement Fund

The Settlement Fund describe in §IV.A.2 shall be maintained by an independent financial institution, selected by Class Counsel and approved by Defendants' Counsel, that is unaffiliated with the Class Action Settlement Administrator, Defendants or Plaintiff (the "Fund Institution"). The Class Action Settlement Administrator shall have no authority under any circumstances to withdraw or disburse any funds from the Settlement Fund directly. Disbursement from the Settlement Fund pursuant to the distribution plan of the Class Action Settlement Administrator as provided by §IV.A.2 and these Protocols shall occur only upon written instructions of Class Counsel and Defendants' Counsel to the Fund Institution. However, the Class Action Settlement Administrator shall have access to information from the Fund Institution about the balance in the Settlement Fund as necessary for the Class Action Settlement Administrator to perform its calculations in preparing the Distribution Plan.

B.4 Conflicts of Interest

The Class Action Settlement Administrator warrants that it knows of no reason why it cannot fairly and impartially administer claims. The Class Action Settlement Administrator shall not process the claim of any Class Member if the Class Action Settlement Administrator, Defendants, and/or Class Counsel or Defendants' Counsel determines there is a conflict of interest. If the Class Action Settlement Administrator, Defendants, or Class Counsel learns of a conflict of interest as to a claim, that party shall give written notice to the other parties, who shall resolve any such circumstances by further written agreement. Any unresolved dispute over such conflict of interest shall be submitted to the Court for resolution. The Class Action Settlement

Administrator shall indemnify and defend the Parties and their counsel against any liability arising from the Class Action Settlement Administrator's breach of this provision.

B.5 Timing

The Class Action Settlement Administrator shall begin the claims process so it is completed within the time provided in §IV.A.7. The deadline for Settlement Class Members to submit claims (the "Claims Deadline") shall be no later than the end of the Claim-In Period pursuant to §IV.A.6 (allowing time for delays in mailing. In no event shall payments be made to Class Members prior to the date provided in §IV.A.7, and preparation of the Distribution Plan ("Claims Payment Date")).

B.6 Maintenance and Preservation of Records

The Class Action Settlement Administrator shall keep a clear and careful record of all communications with Claimants, all claims decisions, all expenses, and all tasks performed in administering the claims process.

B.7 Method of Submitting Claims

Claims may be submitted on the Claim Form in hard copy by mail, or online through an internet-based Claim Form. The Class Action Settlement Administrator shall establish and maintain a special internet site, easily accessible through commonly used Internet Service Providers, for the submission of claims. The internet site may be the same site as the Settlement Website. The site shall be maintained continuously until the end of the Claim-In Period. The site address shall be identified in the Class Notice. The Class Notice shall specify that claims must be submitted before the Claims Deadline. The Class Action Settlement Administrator shall be solely responsible for receiving and processing requests for Claim Forms and for promptly delivering Claim Forms to the Class Members who request them. The Claim Forms on the internet site and the hard copy Claim Forms shall be identical in content and shall conform with ¶B.8, below. The Class Action Settlement Administrator also shall establish a toll free number which will have recorded information answering questions about the claims submission process and representatives available to answer questions.

B.8 Claim Forms

All claims shall be submitted on Claim Forms substantially in the form attached to the Stipulation as Exhibit A. Claimants may fill out the Claim Form electronically via the website, and such Claimants shall be required to electronically verify that they are submitting information under penalty of perjury when required for a claim made pursuant to these protocols.

B.9 Approval or Denial of Claims

After the Claims Deadline, the Class Action Settlement Administrator shall gather all Claim Forms, whether submitted by internet website or by mail. Before the Claims Payment Date, the Class Action Settlement Administrator shall select the claims which will be paid and the amount of each such payment ("Approved Claims") and claims that will not be paid

("Rejected Claims"). The Class Action Settlement Administrator shall determine whether claims are Approved Claims or Rejected Claims, subject to pro rata reduction, by the following criteria:

B.9.1 Duplicative Claims

No more than one Claim Form may be submitted per household, and two or more Claimants may not submit Claim Forms for all or part of the same purchase. After the Claims Deadline but before considering any claims, the Class Action Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Claimant ("Duplicative Claim Forms"). The Class Action Settlement Administrator shall determine whether there is any duplication of claims, if necessary by contacting the Claimant(s) or their counsel. The Class Action Settlement Administrator shall designate any such Duplicative Claims as Rejected Claims to the extent they allege the same damages or allege damages on behalf of the same Claimant.

B.9.2 Claim Amounts

For all Claims, the Class Action Settlement Administrator shall examine the Claim Form before designating the claim as an Approved Claim, to determine that the information on the Claim Form is sufficiently completed to permit a check to be prepared and mailed to the Claimant. The Class Action Settlement Administrator in its discretion may examine and verify a random sample of Claims to prevent fraud and abuse and take other steps to prevent fraud and abuse. Absent fraud or abuse, payment shall be made based on the number of boxes of Rice Krispies cereal or Cocoa Krispies cereal the Claimant indicates on the Claim Form were purchased, up to three boxes. If the number of boxes of Rice Krispies cereal or Cocoa Krispies cereal is not indicated, then the Claimant will be paid as if the Claimant indicated the purchase of one box.

B.9.4 Untimely or Incomplete Claims

The Class Action Settlement Administrator shall, in its discretion, decide whether to accept Claim Forms submitted after the Claims Deadline. In deciding whether to accept a late-submitted Claim Form, the Class Action Settlement Administrator shall take into account whether enough money exists in the Settlement Fund to pay all valid and timely submitted claims in full, and the length of time the Claim Form was submitted after the Claims Deadline, including whether the late-submitted claim would delay the distribution of the Settlement Fund to Claimants and the reasons for the late submission of the Claim Form. Whenever reasonably possible, if a Claim Form is valid but untimely, it shall be paid provided the Settlement Fund is sufficient to pay in full all valid and timely submitted claims. In the event the Class Action Settlement Administrator determines that the Claim Form is materially incomplete, but may be cured by the Claimant, the Class Action Settlement Administrator shall contact the Claimant to cure any deficiency with the Claim Form, if reasonably practical.

B.10 Distribution Plan

Within 20 days after the conclusion of the Claim-In Period, the Class Action Settlement Administrator shall deliver the Distribution Plan. Upon specific request by Defendants or Class Counsel or Defendants' Counsel, the Class Action Settlement Administrator also shall provide all information gathered in investigating the claim including copies of all correspondence and email

and all notes of the Class Action Settlement Administrator, the decision reached, and all reasons supporting the decision.

B.11 Class Action Settlement Administrator's Fees and Expenses

As provided in §V.C, the cost of the Class Action Settlement Administrator shall be paid by Defendants. The Class Action Settlement Administrator shall take all reasonable efforts to administer the claims efficiently and avoid unnecessary fees and expenses. The Class Action Settlement Administrator shall respond promptly to inquiries by Class Counsel and Defendants' Counsel.

B.12 Access to Information from the Class Action Settlement Administrator

The Parties are entitled to observe and monitor the performance of the Class Action Settlement Administrator to assure compliance with the Stipulation and the Claims Protocols. The Class Action Settlement Administrator shall promptly respond to all inquiries and requests for information made by Defendants, Class Counsel or Defendants' Counsel.

EXHIBIT C

EXHIBIT C

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

If you purchased Kellogg's Rice Krispies Cereal or Cocoa Krispies Cereal between June 1, 2009 and March 1, 2010, you may be entitled to a cash refund from a class action settlement.

THIS NOTICE AFFECTS YOUR RIGHTS.

A Federal Court authorized this notice.

This is not a solicitation from a lawyer.

This Notice advises you of a proposed class action settlement. The settlement resolves a lawsuit over whether Kellogg Company falsely advertised that Rice Krispies cereal and Cocoa Krispies cereal supported a persons' immunity system despite not having competent clinical evidence to support the claim. You should read this entire Notice carefully because your legal rights are affected whether you act or not.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT THE YELLOW CLAIM FORM	The only way to get a cash refund.
EXCLUDE YOURSELF	Get out of the lawsuits and the settlement. Get no cash refund.
OBJECT OR COMMENT	Write to the Court about why you do, or do not like the settlement.
DO NOTHING	You will get no cash refund. However, any leftover money will be donated to one or more charities.

Your rights and options - **and the deadlines to exercise them** - are explained in this notice.

Para una notificacion en Espanol, llamar o visitar www._____.com.

**Questions? Visit www._____.com
DO NOT CALL KELLOGG OR THE COURT.
Do not forget to return the Yellow Claim Form.**

WHAT IS THIS NOTICE ABOUT?

This Notice explains a proposed settlement of a class action lawsuit and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the settlement allows.

This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

WHAT IS A CLASS ACTION LAWSUIT?

A class action is a lawsuit in which one or more individuals sue an individual(s), company or other entity on behalf of all other people who are in a similar position. Collectively, these people are referred to as a "Class" or "Class Members." In a class action, the court resolves certain legal issues, legal claims and defenses for all class members in one lawsuit, except for those who ask to be excluded from the class. (See below for more information about excluding yourself from the Class.)

WHAT IS THE LAWSUIT ABOUT?

The Lawsuit claimed that Kellogg falsely advertised that its Rice Krispies cereal and Cocoa Krispies cereal supported a person's immunity system despite not having competent clinical evidence to support the claim. Kellogg stands by its advertising and denies it did anything wrong.

The Court did not decide who was right. Instead, both sides agreed to a settlement. By agreeing to a settlement, the Parties avoid the costs and risk of a trial and the Class will get compensation. The Class Representatives and their attorneys believe that the settlement is in the best interests of the Class Members.

Questions? Visit www.kellogg.com
DO NOT CALL KELLOGG OR THE COURT.
Do not forget to return the Yellow Claim Form.

WHAT DOES THE SETTLEMENT PROVIDE?

Kellogg has agreed to create a fund of \$2.5 million to be used to pay first Class Counsel's attorneys' fees and expenses awarded by the Court, then a class representative incentive award of \$5,000 to each of three class representatives, and finally the claims submitted by Class members. Any money left over will be donated to one or more charities. Kellogg also has agreed to distribute to charities that provide food to the indigent certain Kellogg branded food items having a total retail value of \$2.5 million. Under the settlement, Kellogg agreed to take certain actions in connection with the marketing and labeling of Rice Krispies and Cocoa Krispies. Details are described in the Stipulation of Settlement, which is available at www._____.com.

Cash payments will be made if the Court gives its final approval to the proposed settlement and after the final approval is no longer subject to appeal.

A Final Approval Hearing is scheduled for _____, 2011. If the Court approves the settlement and there are no appeals, the cash will be distributed approximately 130 days after the Final Approval Hearing. If the Court does not approve the settlement, or if the settlement is overturned on appeal, no cash payments will be made.

HOW CAN I GET A PAYMENT? SUBMIT A CLAIM FORM.

To receive money from this settlement, you first have to determine if you are a Class Member. Class Members are those persons who purchased Kellogg's Rice Krispies cereal or Cocoa Krispies cereal in the United States between June 1, 2009 and March 1, 2010. Excluded from the Class are Kellogg's officers, directors and employees, and those who purchased Rice Krispies or Cocoa Krispies for the purpose of resale.

If you do not make a claim, then any money that is left over will be donated to one or more charities. Class Members may seek reimbursement of \$5 per box of Rice Krispies or Cocoa Krispies purchased, with a maximum recovery of \$15 for the purchase of up to three boxes. To receive payment, Claim Forms MUST be completed and either be submitted online (www._____.com) or postmarked by _____, 2011. Only one Claim Form may be submitted per household.

The actual amount a Class Member receives will depend on the amount of money available from the Settlement Fund described below and the number of claims made. If the total of valid claims is less than the amount of money available to pay theirs, then Class Members submitting valid claims will receive the full amount of the purchase price they paid of \$5 per box, with a limit of three boxes. All money that is left over will be donated to one or more charities. If the total of valid claims exceeds the amount of money available to pay them, then each award will be reduced pro rata.

**Questions? Visit www._____.com
DO NOT CALL KELLOGG OR THE COURT.
Do not forget to return the Yellow Claim Form.**

You may request a Claim Form online or by calling XXX-XXX-XXXX.

WHO REPRESENTS ME?

On _____, Class Counsel will submit their motion for final approval and request for attorney fees, which will be available at www._____.com or by calling 1-800-xxx-xxxx. The Court has appointed the Plaintiffs as class representatives. Class Counsel are the lawyers for the Class. The class representative and Class Counsel will act as your representatives for this settlement if you do not exclude yourself from the Class.

The Court has appointed several law firms to represent you, including:

Gillian L. Wade
Sara D. Avila
Milstein Adelman, LLP
2800 Donald Douglas Loop North
Santa Monica, CA 90405
Telephone: (310) 396-9600
www.milsteinadelman.com

The Court also appointed the following law firms as Class Counsel in this case: Whatley Drake & Kallas, LLC; Law Offices of Howard W. Rubinstein; Kirtland & Packard, LLP; Freed & Weiss, LLC and Becker, Paulson, Hoerner & Thompson, P.C.

WILL I HAVE TO PAY TO PARTICIPATE IN THE SETTLEMENT?

No. You will not be responsible for any cost or attorneys' fees incurred in this Lawsuit. If the Court preliminarily approves the proposed settlement, Class Counsel will request that the Court award attorneys' fees plus reasonable expenses. On _____, Class Counsel will submit their motion for attorneys fee, which will be available at www.----.com or by calling 1-800-xxxx. The Court will consider Class Counsels' request at the Final Approval Hearing. Kellogg has agreed not to oppose, in any way, Class Counsel's request for attorneys fees and costs.

Plaintiffs will also ask the Court to award from the Settlement Fund a class representative incentive award of \$5,000 for each of them for their costs, time and effort acting as a Plaintiff and for their willingness to bring this litigation and act on behalf of other consumers. Kellogg has agreed not to oppose, in any way, these class representative incentive awards to the three named Plaintiffs.

OPTING OUT OR OBJECTING TO THE SETTLEMENT.

You have the right not to be part of the Lawsuit by excluding yourself or "opting out" of

Questions? Visit www._____.com
DO NOT CALL KELLOGG OR THE COURT.
Do not forget to return the Yellow Claim Form.

the Class. If you wish to exclude yourself, you must send a letter or postcard, postmarked no later than _____, 2011, to Kellogg Class Action Settlement Administrator, [**administrator address**]. Your letter must request exclusion from the Class and must be signed by you. You must include your full name, address, and telephone number. If you do not include the required information or submit your request for exclusion on time, you will remain a Class Member and be bound by the settlement and Final Judgment and Order. If you exclude yourself from the Class, you give up your right to receive any money from the settlement, and you will not be bound by the settlement or Final Judgment and Order, and you will not be barred from pursuing any individual claim you may otherwise have relating to the subject matter of the Lawsuit.

If there is something about the settlement that you do not like, you may file an objection with the Court. You will still be in the settlement, you will remain a Class Member, and will be eligible to receive benefits if the settlement is approved and you timely submit your Claim Form. Even if you object, you should return the yellow Claim Form to receive a cash payment.

If you want to object, you must submit your objection in writing to the Court. Your objection must include:

1. Your name, address, and telephone number;
2. Your signature;
3. The reasons why you object;
4. The case name and number of this lawsuit, which is Weeks v. Kellogg, Case No. CV 09-08102(MMM)(RZx) (C.D. Cal.); and
5. If you are represented by a lawyer, the name, address and telephone number of that lawyer.

You must file your written objection with the Court no later than _____, 2011, at Clerk of the Court, United States District Court Central District of California, Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012. You must also send a copy of your objection to Class Counsel and Kellogg's Counsel at:

Gillian L. Wade
Sara D. Avila
Milstein Adelman, LLP
2800 Donald Douglas Loop North
Santa Monica, CA 90405
Telephone: (310) 396-9600

Dean N. Panos
Richard P. Steinken
Jenner & Block LLP
353 N. Clark Street
Chicago, IL 60654-3456
Telephone: (312) 222-9350

All objections must be received by the attorneys for the parties and by the Court by [Month, Day 2011] , or your objection will not be considered.

**Questions? Visit www._____.com
DO NOT CALL KELLOGG OR THE COURT.
Do not forget to return the Yellow Claim Form.**

THE HEARING TO DECIDE WHETHER TO APPROVE THE SETTLEMENT.

The Court has scheduled a Final Approval Hearing at _____ on _____, 2011, in the United States District Court Central District of California, Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012 in the Courtroom of the Honorable Margaret M. Morrow. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to grant final approval of the settlement. We do not know how long these decisions will take.

Complete copies of the pleadings and other documents filed in this Litigation may be examined and copied during regular office hours at the Clerk of the Court, United States District Court Central District of California, Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012

The Settlement Agreement, Claim Form and other information are also available at www._____.com.

If you have any questions concerning any matter raised in this Notice, please visit www._____.com.

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

Dated: _____	_____ THE HONORABLE MARGARET M. MORROW UNITED STATES DISTRICT JUDGE
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Questions? Visit www._____.com
DO NOT CALL KELLOGG OR THE COURT.
Do not forget to return the Yellow Claim Form.

EXHIBIT D

EXHIBIT D

LEGAL NOTICE

If you purchased Kellogg's Rice Krispies or Cocoa Krispies between June 1, 2009 and March 1, 2010, you may be entitled to a cash refund from a class action settlement.

Para una notificacion en Espanol, visite nuestro sitio Web, www.____.com

A proposed settlement has been reached in a class action lawsuit about Kellogg's advertising for its Rice Krispies cereal and Cocoa Krispies cereal. The lawsuit claims the advertising was not true. Kellogg stands by its advertising and denies it did anything wrong. If you are a Class Member, you may send in the claim form below or go on line to receive up to \$15. Please see the claim form for more details. PLEASE NOTE: Any money left over from this settlement will be donated to one or more charities. By not submitting this claim form, you will make more money available for charitable donation.

A federal court authorized this notice. Before any money is paid, the court will have a hearing to decide whether to approve the settlement. On _____, Class Counsel will submit their motion for final approval, which will be available at www.____.com or by calling 1-800-xxx-xxxx.

Am I a Class Member? You're a Class Member if you purchased, not for resale purposes, Kellogg's Rice Krispies or Cocoa Krispies in the United States between June 1, 2009 and March 1, 2010.

What does the settlement provide? A cash fund of \$2.5 million will be created to pay Class Counsel's fees and expense, to pay a

\$5,000 class representative incentive award to each of three named Plaintiffs, and to reimburse Class Members for boxes of Rice Krispies or Cocoa Krispies they purchased, up to four boxes. Details about how much you may receive are available on the Claim Form below and at www.____.com. Kellogg also has agreed to distribute to charities that provide food to the indigent certain Kellogg branded food items that have a retail value of \$2.5 million.

What are my options? To ask for cash and remain in the Class, *you must mail or submit a completed claim form online by [Month, Day, 2011]*. If you do not wish to participate in the settlement, you may exclude yourself from the Class by [Month, Day, 2011], or you may stay in the Class and object to the settlement by [Month, Day, 2011]. Visit the website for important information about these options.

The Court will hold a hearing on [Month, Day, 2011] to consider the settlement and Class Counsel's request for attorneys' fees and expenses. You do not have to attend the hearing. On [Month, Day, 2011], Class Counsel will submit their motion for attorneys' fees and expenses, which will be available at www.____.com or by calling 1-800-xxx-xxxx. For more information, visit www.____.com.

**Kellogg's Rice Krispies or Cocoa Krispies
CLAIM FORM**

You can also file on line at: www.____.com.

You must complete the required information below. All Claim Forms must be postmarked or submitted online by _____. Only one Claim Form may be submitted per household.

PLEASE NOTE: Any money left over from this settlement will be donated to one or more charities. By not submitting this Claim Form you will make more money available for charitable donation.

If mailing, please return this form to:

Krispies Class Action Settlement Administrator
[Address]
[City, State]

Class Member Information

NAME:	TELEPHONE:
ADDRESS:	
CITY:	STATE: ZIP CODE:

Purchase Information

If you send in this Claim Form, you will receive \$5 per box of Kellogg's Rice Krispies or Cocoa Krispies purchased between June 1, 2009 and March 1, 2010, with recovery permitted for up to three boxes of cereal.

I swear under penalty of perjury that the following information is true and correct and that this is the only Claim Form being submitted on behalf of my household.

I purchased _____ box(es) of _____ cereal.

The approximate date(s) of my purchase(s) of this cereal were:

**CLAIM FORMS MUST BE POSTMARKED OR SUBMITTED ONLINE BY [MONTH DAY, 2010]
QUESTIONS? CALL 1-800-xxx-xxxx (OR VISIT www. _____ .com)**

EXHIBIT E

EXHIBIT E

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

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4	MICHELLE WEEKS and MARIA) No. CV 09-08102 (MMM) (RZx)
5	SANDOVAL, each individually and on)
6	behalf of all others similarly situated,)
7) <u>CLASS ACTION</u>
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IT IS HEREBY ADJUDGED AND DECREED THAT:

1. This Judgment incorporates by reference the definitions in the Stipulation of Settlement dated January 10, 2011 ("Stipulation"), attached as Exhibit A, and all terms used herein shall have the same meanings as set forth in the Stipulation unless set forth differently herein. The terms of the Stipulation are fully incorporated in this Judgment as if set forth fully here.

2. The Court has jurisdiction over the subject matter of this action and all Parties to the action, including all Settlement Class Members.

3. Pursuant to Federal Rules of Civil Procedure, Rule 23(b)(3), the Court hereby certifies the following Class:

1 All persons who purchased in the United States Kellogg's Rice
2 Krispies cereal or Cocoa Krispies cereal between June 1, 2009 and
3 March 1, 2010. Excluded from the Class are Defendants' officers,
4 directors and employees, and those who purchased the products for
the purpose of resale.

5 4. Pursuant to Federal Rules of Civil Procedure, Rule 23(c)(3), all such
6 Persons who satisfy the Class definition above, except those Class Members who
7 timely and validly excluded themselves from the Class, are Settlement Class
8 Members bound by this Judgment.
9

10 5. Pursuant to Federal Rules of Civil Procedure, Rule 23(a), the Court
11 finds that the Plaintiffs in the Litigation, Michelle Weeks, Maria Sandoval and
12 Katie Dintelman are members of the Class, their claims are typical of the Class,
13 and they fairly and adequately protected the interests of the Class throughout the
14 proceedings in the Litigation. Accordingly, the Court hereby appoints Michelle
15 Weeks, Maria Sandoval and Katie Dintelman as Class representatives.
16
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18 6. The Court finds that the Class meets all requirements of Federal Rules
19 of Civil Procedure, Rule 23(a) and (b)(3) for certification of the class claims
20 alleged in the Complaint, including: (a) numerosity; (b) commonality; (c)
21 typicality; (d) adequacy of the class representative and Class Counsel; (e)
22 predominance of common questions of fact and law among the Settlement Class;
23 and (f) superiority.
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1 the dissemination of the Class Notice, demonstrates compliance with this Court's
2 Preliminary Approval Order. The Class Notice advised Class members of the terms
3 of the settlement; of the Settlement Hearing, and their right to appear at such
4 Settlement Hearing; of their rights to remain in, or opt out of, the Class and to
5 object to the settlement; procedures for exercising such rights; and the binding
6 effect of this Judgment, whether favorable or unfavorable, to the Class.
7
8

9 10. The distribution of the Class Notice constituted the best notice
10 practicable under the circumstances, and fully satisfied the requirements of Federal
11 Rules of Civil Procedure, Rule 23, the requirements of due process, 28 U.S.C.
12 §1715, and any other applicable law.
13

14 11. Pursuant to Federal Rules of Civil Procedure Rule 23(e)(2), the Court
15 finds after a hearing and based upon all submissions of the Parties and Interested
16 Persons, the settlement proposed by the Parties is fair, reasonable, and adequate.
17 The terms and provisions of the Stipulation are the product of lengthy, arms-length
18 negotiations conducted in good faith and with the assistance of an experienced
19 mediator, Edward Panelli of the San Francisco office of JAMS. Approval of the
20 Stipulation will result in substantial savings of time, money and effort to the Court
21 and the Parties, and will further the interests of justice.
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1 12. All Class members who have not timely and validly filed opt-outs are
2 thus Settlement Class Members who are bound by this Judgment and by the terms
3 of the Stipulation.
4

5 13. None of the settlement, this Judgment, nor the fact of the settlement
6 constitutes any admission by any of the Parties of any liability, wrongdoing or
7 violation of law, damages or lack thereof, or of the validity or invalidity of any
8 claim or defense asserted in the Litigation.
9

10 14. The Court has considered the submissions by the Parties and all other
11 relevant factors, including the result achieved and the efforts of Class Counsel in
12 prosecuting the claims on behalf of the Class. Plaintiffs initiated the Litigation,
13 acted to protect the Class, and assisted their counsel. The efforts of Class Counsel
14 have produced the Stipulation entered into in good faith, and which provides a fair,
15 reasonable, adequate and certain result for the Class. Class Counsel is entitled to a
16 reasonable Fee and Expense Award for their work, which the Court finds to be
17 \$____, and to recover \$____ in expenses incurred in the Litigation. Further,
18 Plaintiffs are each entitled to receive an incentive award of \$5,000.
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22 15. The Court hereby dismisses with prejudice the action, and all
23 Released Claims against each and all Released Persons and without costs to any of
24 the Parties as against the others.
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1 16. Without affecting the finality of this Judgment, the Court reserves
2 jurisdiction over the implementation, administration and enforcement of this
3 Judgment and the Stipulation, and all matters ancillary thereto.
4

5 17. The Court finding that no reason exists for delay in ordering final
6 judgment pursuant to Federal Rules of Civil Procedure Rule 54(b), the clerk is
7 hereby directed to enter this Judgment forthwith.
8

9 18. The Parties are hereby authorized without needing further approval
10 from the Court, to agree to and adopt such modifications and expansions of the
11 Stipulation, including without limitation, the forms to be used in the claims
12 process, which are consistent with this Judgment and do not limit the rights of
13 Class members under the Stipulation.
14

15
16 IT IS SO ORDERED.

17 DATED: _____

18 THE HONORABLE MARGARET M.
19 MORROW, UNITED STATES
20 DISTRICT COURT JUDGE

21 Submitted by:
22 Dated: _____, 2010

23 Plaintiffs Michelle Weeks, Maria
24 Sandoval and Katie Dintelman

25 By: _____
26 Gillian L. Wade
27 Sara D. Avila
28 Milstein Adelman, LLP
2800 Donald Douglas Loop North
Santa Monica, CA 90405

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Telephone : 310/396-9600

Michael Louis Kelly
Behram V. Parekh
Heather M. Peterson
Kirtland & Packard, LLP
2361 Rosecrans Avenue, 4th Floor
El Segundo, CA 90245
Telephone: 310/536-1000

Joe R. Whatley, Jr.
Whatley Drake & Kallas LLC
1540 Broadway, 37th Floor
New York, NY 10036
Telephone: 212/447-7070

Howard W. Rubinstein
Law offices of Howard Weil Rubinstein
Post Office Box 4839
Aspen, Colorado 81611
Telephone: 832/715-2788

Kevin T. Hoerner
Brian T. Kreisler
Becker, Paulson, Hoerner & Thompson,
P.C.
5111 West Main Street
Belleville, Illinois 62226
Telephone: 618/235-0020

Eric D. Freed
Jamie E. Weiss
Richard J. Burke
Freed & Weiss LLC
111 West Washington Street, Suite 1331
Chicago, Illinois 60602
Phone: 312/220-0000

Dated: _____, 2010

1 Kellogg Company, Kellogg USA, Inc. and
2 Kellogg Sales Company

3 By: _____
4

5 Dean N. Panos
6 Richard P. Steinken
7 Jenner & Block LLP
8 353 N. Clark Street
9 Chicago, IL 60654-3456
10 Telephone: 312/923-2765
11 312/840-7765 (fax)
12 dpanos@jenner.com
13 rsteinken@jenner.com

14 Brent L. Caslin (198682)
15 Kenneth K. Lee (264296)
16 Jenner & Block LLP
17 633 West 5th Street, Suite 3500
18 Los Angeles, CA 90071-2054
19 Telephone: 213/239-5100
20 213/239-5199 (fax)
21 bcaslin@jenner.com
22 klee@jenner.com

23 Attorneys for Defendants
24 Kellogg Company, Kellogg USA, Inc. and
25 Kellogg Sales Co.
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EXHIBIT F

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHELLE WEEKS and MARIA SANDOVAL, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

KELLOGG COMPANY, a Delaware corporation; KELLOGG USA, INC., a Michigan corporation; KELLOGG SALES COMPANY, a Delaware corporation, and DOES 1 through 100, inclusive,

Defendants.

No. CV09-08102 (MMM) (RZx)

Hon. Margaret M. Morrow

[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

The parties to this litigation have entered into a Stipulation of Settlement (“Stipulation”) dated January 19, 2011, which if approved, would resolve this putative class action. Plaintiffs have filed a motion for preliminary approval of the Stipulation, which Defendant Kellogg supports.

The Court has read and considered the Stipulation and all exhibit thereto, including the proposed class notice and claim form, and finds there is sufficient basis for: (1) granting preliminary approval of the Stipulation; (2) certifying the Class for settlement purposes; (3) appointing Plaintiffs Michelle Weeks, Maria Sandoval and Katie Dintelman as Class Representatives and their counsel as Class Counsel; (4) granting leave to file a Consolidated Fourth Amended Complaint for the purpose of adding Katie Dintelman as a class representative and bringing suit on behalf of a nationwide Class; (5) directing that Notice be disseminated to the Class; and, (6) setting a hearing at which the Court will consider whether to grant final approval of the Settlement.

1 The Court now GRANTS the motion for preliminary approval and makes the
2 following findings and orders:

3 1. The Court preliminary certifies, for settlement purposes only, the
4 following settlement class (the "Class") pursuant to Rule 23(b)(3) of the Federal Rules
5 of Civil Procedure:

6 All persons or entities in the United States who purchased the Product
7 between June 1, 2009 to March 1, 2009. Excluded from the Class are
8 Kellogg's employees, officers, directors, agents and representatives
and those who purchased the Product for the purpose of resale.

9 For purposes of the Stipulation, "Product" shall mean the Rice Krispies® and Cocoa
10 Krispies® branded cereals that are the subject of the Litigation.¹

11 2. The Court approves Plaintiffs Michelle Weeks, Maria Sandoval and
12 Katie Dintelman as Class Representatives.

13 3. The Court appoints the following law firms to serve as Class Counsel:
14 Milstein Adelman, LLP; Whatley Drake & Kallas, LLC; Law Offices of Howard Weil
15 Rubinstein; Kirtland & Packard, LLP; Becker, Paulson, Hoerner & Thompson, P.C.;
16 and, Freed & Weiss, LLC.

17 4. The Court hereby GRANTS leave for Plaintiffs to file a Consolidated
18 Fourth Amended Complaint for the purpose of adding Katie Dintelman as a class
19 representative and alleging a national Class. Plaintiffs must file the amended
20 complaint within ten (10) days of entry of this Order.

21 5. The Court finds that, for purposes of settlement only, the requirements of
22 Rule 23 of the Federal Rules of Civil Procedure are met by the settlement Class.
23 Joinder of all Class Members in a single proceeding would be impracticable, if not
24 impossible, because of their numbers and dispersion. Common issues exist among
25 Class Members and predominate over questions affecting only individual Class
26 Members; in particular, each Class Members' claims depend on whether the Immunity

27 _____
28 ¹ Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Stipulation.

1 Claims made by Kellogg on the packaging, labeling and advertising of Cocoa Krispies
2 and Rice Krispies were true or false. Plaintiffs' claims are typical of those of the
3 Class, as Plaintiffs were exposed to the Immunity Claims and purchased the Product
4 in reliance on those Immunity Claims. Moreover, Plaintiffs' claims are identical to
5 those of the Class. Plaintiffs and their counsel will fairly and adequately protect the
6 interests of the Class; Plaintiffs have no interests antagonistic to those of the Class,
7 and have retained counsel experienced and competent to prosecute this matter on
8 behalf of the Class. Finally, a class settlement is superior to other available methods
9 for a fair resolution of the controversy.

10 6. The Court preliminary approves the proposed Stipulation, finding that its
11 terms appear sufficient and fair, reasonable and adequate to warrant dissemination of
12 notice of the proposed settlement to the Class. The Court finds that the Stipulation
13 contains no obvious deficiencies and that the parties entered into the Stipulation in
14 good faith, following arms-length negotiation between their respective counsel.

15 7. The Court hereby approves the form and procedure for disseminating
16 notice of the proposed settlement to the Class as set forth in the Stipulation. The Court
17 finds that the notice to be given constitutes the best notice practicable under the
18 circumstances, and constitutes valid, due and sufficient notice to the Class in full
19 compliance with the requirements of applicable law, including the Due Process Clause
20 of the United States Constitution.

21 8. Within 30 days after the entry of this Order, Kellogg shall cause Notice
22 to be disseminated, substantially in the form attached Hereto as Exhibit 1, and Claim
23 Form, substantially in the form attached hereto as Exhibit 2, to appear in those media
24 and Internet outlets identified in the media plan agreed to by the Parties.

25 9. As set forth in the Stipulation, Kellogg shall bear all costs and expenses
26 in connection with providing notice to the Class, complying with 28 U.S.C. § 1715(b)
27 and administering the proposed settlement.

28

1 10. A hearing on entry of final approval of the Stipulation, an award of
2 attorneys fees and expenses to Class Counsel and incentive payments to named
3 Plaintiffs (the "Final Approval Hearing") shall be held at _____ on Monday,
4 _____, 2011, before the undersigned Courtroom 780 of the United
5 States District Court for Central District of California, 255 East Temple Street, Los
6 Angeles, CA 90012. At the Final Approval Hearing, the Court will consider: (a)
7 whether the Settlement should be approved as fair, reasonable, and adequate for the
8 Class; (b) Whether a judgment granting approval of the Settlement and dismissing the
9 lawsuit with prejudice should be entered; and, (c) whether Class Counsel's application
10 for attorneys' fees and expenses and incentive awards for the named Plaintiffs should
11 be granted.

12 11. Class Counsel shall file an application for an award of attorneys' fees and
13 costs and for an incentive award to the named Plaintiffs ("Fee Application") no later
14 than thirty-five (35) days before the Final Approval Hearing.

15 12. Any member of the Class who intends to object or comment upon final
16 approval of the Stipulation or the Fee Application must, on or before thirty (30) days
17 before the Final Approval Hearing file any such objection with the Court, and provide
18 copies of the objection or comment to: (1) the Court; and (2) Class Counsel. To state a
19 valid objection to the Settlement, an objecting Class Member must provide the
20 following information in his/her/its' written objection: (a) the full name, address and
21 telephone number of the Settlement Class Member; (b) a written statement of all
22 grounds for the objection accompanied by any legal support for the objection; (c) a
23 statement of whether the Settlement Class Member intends to appear at the Final
24 Approval Hearing; (d) proof of membership in the Class; and, (e) the signature of the
25 Settlement Class Member or her/ his counsel. Any objection to attorneys' fees shall
26 include the information outlined in subsections (a) through (e) above. In addition, any
27 Class Member objecting to the Settlement shall provide a detailed list of any other
28 objections submitted by the objector, or the objector's counsel, to any class actions

1 submitted in any court, whether state or otherwise, in the United States in the previous
2 five (5) years. If the Class Member or his/her/its counsel has not objected to any other
3 class action settlement in any court in the United States in the previous five (5) years,
4 he/she/it shall affirmatively state so in the written materials provided in connection
5 with the objection to this Settlement.

6 13. Any objecting Class Member shall appear, in person or by Counsel, at the
7 Final Approval Hearing or seek and obtain leave of Court excusing such appearance
8 prior to the Final Approval Hearing to show cause why the proposed Settlement
9 should not be approved as fair, adequate and reasonable, or to object to any petitions
10 for attorneys' fees, incentive awards, and reimbursement of litigation costs and
11 expenses, but only if the Class Member has first filed written objections to the
12 proposed Settlement by the deadline set forth in this Order. In doing so, the objecting
13 Class Member must file with the Clerk of the Court and serve upon all Class Counsel
14 a notice of intention to appear at the Final Approval Hearing. The Notice of Intention
15 to Appear must include copies of any papers, exhibits, or other evidence that the
16 objecting Class Member (or his/her/its) Counsel) will present to the Court in
17 connection with the Fairness Hearing. Any Class Member who does not provide a
18 Notice of Intention to Appear in complete accordance with the deadlines and other
19 specifications set forth in the Class Notice, and who has not filed an objection in
20 complete accordance with the deadlines and other specifications set forth in this
21 Order, will be deemed to have waived any objections to the Settlement and can be
22 barred from speaking or otherwise providing any views at the Final Approval Hearing.

23 14. Any Class Member shall have the right to opt out of the Class and the
24 Settlement by sending a written request for exclusion from the Class to the addresses
25 listed in the Notices, postmarked or delivered no later than thirty (30) days before the
26 Final Approval Hearing. To be effective, a Request for Exclusion shall: (i) state the
27 Class Members' full name and current address; (ii) specifically and clearly state
28 his/her/its desire to be excluded from the Settlement Class; and, (iii) the signature of

1 the Class Member or his/her/its counsel. Any Class Member who does not submit a
2 timely and valid request for exclusion shall be subject to and bound by the Stipulation
3 and every order or judgment entered concerning the Stipulation.

4 15. Counsel for respective Parties shall file memoranda, declarations or other
5 statements and/or materials in support of the request for final approval of the Parties'
6 Settlement, no later than fourteen (14) days before the Final Approval Hearing.

7 16. No later than fourteen (14) days prior to the Final Approval Hearing
8 Kellogg, through its claims administrator, shall provide an affidavit to the Court, with
9 a copy to Class Counsel, attesting that Notice was disseminated in a manner consistent
10 with the terms of the Stipulation or as ordered by this Court.

11 17. The filing of the objection allows Class Counsel or Kellogg's counsel to
12 notice such objecting person for and take his or her deposition consistent with the
13 Federal Rules of Civil Procedure at an agreed-upon location, and to seek any
14 documentary evidence or other tangible things that are relevant to the objection.
15 Failure by an objector to make himself or herself available for a deposition or to
16 comply with expedited discovery requests may result in the Court striking said
17 objectors' objection and otherwise denying that person the opportunity to make an
18 objection or be further heard. The Court reserves the right to tax the costs of any such
19 discovery to the objector or the objector's counsel should the Court determine that the
20 objection is frivolous or is made for an improper purpose.

21 18. The procedures and requirements for filing objections is in connection
22 with the Final Approval Hearing are intended to ensure the efficient administration of
23 justice and the orderly presentation of any Class Members' objection to the
24 Stipulation, in accordance with the due process rights of all Class Members.

25 19. No later than fourteen (14) days before the Final Approval Hearing,
26 Parties shall file any reply in support of final approval of the Stipulation and Class
27 Counsel shall file any reply in support of the Fee Application.

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20. The Court reserves the right to adjust the date of the Fairness Hearing and related deadlines. In that event, the revised hearing date and/or deadlines shall be posted on the settlement website referred to in the Class Notice, and the parties shall not be required to re-send or re-publish Class Notice.

DATED: _____

HON. MARGARET M. MORROW
UNITED STATES DISTRICT JUDGE

EXHIBIT F

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHELLE WEEKS and MARIA SANDOVAL, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

KELLOGG COMPANY, a Delaware corporation; KELLOGG USA, INC., a Michigan corporation; KELLOGG SALES COMPANY, a Delaware corporation, and DOES 1 through 100, inclusive,

Defendants.

No. CV09-08102 (MMM) (RZx)

Hon. Margaret M. Morrow

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

The parties to this litigation have entered into a Stipulation of Settlement (“Stipulation”) dated January 19, 2011, which if approved, would resolve this putative class action. Plaintiffs have filed a motion for preliminary approval of the Stipulation, which Defendant Kellogg supports.

The Court has read and considered the Stipulation and all exhibit thereto, including the proposed class notice and claim form, and finds there is sufficient basis for: (1) granting preliminary approval of the Stipulation; (2) certifying the Class for settlement purposes; (3) appointing Plaintiffs Michelle Weeks, Maria Sandoval and Katie Dintelman as Class Representatives and their counsel as Class Counsel; (4) granting leave to file a Consolidated Fourth Amended Complaint for the purpose of adding Katie Dintelman as a class representative and bringing suit on behalf of a nationwide Class; (5) directing that Notice be disseminated to the Class; and, (6) setting a hearing at which the Court will consider whether to grant final approval of the Settlement.

1 The Court now GRANTS the motion for preliminary approval and makes the
2 following findings and orders:

3 1. The Court preliminary certifies, for settlement purposes only, the
4 following settlement class (the "Class") pursuant to Rule 23(b)(3) of the Federal Rules
5 of Civil Procedure:

6 All persons or entities in the United States who purchased the Product
7 between June 1, 2009 to March 1, 2009. Excluded from the Class are
8 Kellogg's employees, officers, directors, agents and representatives
and those who purchased the Product for the purpose of resale.

9 For purposes of the Stipulation, "Product" shall mean the Rice Krispies® and Cocoa
10 Krispies® branded cereals that are the subject of the Litigation.¹

11 2. The Court approves Plaintiffs Michelle Weeks, Maria Sandoval and
12 Katie Dintelman as Class Representatives.

13 3. The Court appoints the following law firms to serve as Class Counsel:
14 Milstein Adelman, LLP; Whatley Drake & Kallas, LLC; Law Offices of Howard Weil
15 Rubinstein; Kirtland & Packard, LLP; Becker, Paulson, Hoerner & Thompson, P.C.;
16 and, Freed & Weiss, LLC.

17 4. The Court hereby GRANTS leave for Plaintiffs to file a Consolidated
18 Fourth Amended Complaint for the purpose of adding Katie Dintelman as a class
19 representative and alleging a national Class. Plaintiffs must file the amended
20 complaint within ten (10) days of entry of this Order.

21 5. The Court finds that, for purposes of settlement only, the requirements of
22 Rule 23 of the Federal Rules of Civil Procedure are met by the settlement Class.
23 Joinder of all Class Members in a single proceeding would be impracticable, if not
24 impossible, because of their numbers and dispersion. Common issues exist among
25 Class Members and predominate over questions affecting only individual Class
26 Members; in particular, each Class Members' claims depend on whether the Immunity

27 _____
28 ¹ Capitalized terms not otherwise defined herein shall have the same meaning as set
forth in the Stipulation.

1 Claims made by Kellogg on the packaging, labeling and advertising of Cocoa Krispies
2 and Rice Krispies were true or false. Plaintiffs' claims are typical of those of the
3 Class, as Plaintiffs were exposed to the Immunity Claims and purchased the Product
4 in reliance on those Immunity Claims. Moreover, Plaintiffs' claims are identical to
5 those of the Class. Plaintiffs and their counsel will fairly and adequately protect the
6 interests of the Class; Plaintiffs have no interests antagonistic to those of the Class,
7 and have retained counsel experienced and competent to prosecute this matter on
8 behalf of the Class. Finally, a class settlement is superior to other available methods
9 for a fair resolution of the controversy.

10 6. The Court preliminary approves the proposed Stipulation, finding that its
11 terms appear sufficient and fair, reasonable and adequate to warrant dissemination of
12 notice of the proposed settlement to the Class. The Court finds that the Stipulation
13 contains no obvious deficiencies and that the parties entered into the Stipulation in
14 good faith, following arms-length negotiation between their respective counsel.

15 7. The Court hereby approves the form and procedure for disseminating
16 notice of the proposed settlement to the Class as set forth in the Stipulation. The Court
17 finds that the notice to be given constitutes the best notice practicable under the
18 circumstances, and constitutes valid, due and sufficient notice to the Class in full
19 compliance with the requirements of applicable law, including the Due Process Clause
20 of the United States Constitution.

21 8. Within 30 days after the entry of this Order, Kellogg shall cause Notice
22 to be disseminated, substantially in the form attached Hereto as Exhibit 1, and Claim
23 Form, substantially in the form attached hereto as Exhibit 2, to appear in those media
24 and Internet outlets identified in the media plan agreed to by the Parties.

25 9. As set forth in the Stipulation, Kellogg shall bear all costs and expenses
26 in connection with providing notice to the Class, complying with 28 U.S.C. § 1715(b)
27 and administering the proposed settlement.

28

1 10. A hearing on entry of final approval of the Stipulation, an award of
2 attorneys fees and expenses to Class Counsel and incentive payments to named
3 Plaintiffs (the "Final Approval Hearing") shall be held at _____ on Monday,
4 _____, 2011, before the undersigned Courtroom 780 of the United
5 States District Court for Central District of California, 255 East Temple Street, Los
6 Angeles, CA 90012. At the Final Approval Hearing, the Court will consider: (a)
7 whether the Settlement should be approved as fair, reasonable, and adequate for the
8 Class; (b) Whether a judgment granting approval of the Settlement and dismissing the
9 lawsuit with prejudice should be entered; and, (c) whether Class Counsel's application
10 for attorneys' fees and expenses and incentive awards for the named Plaintiffs should
11 be granted.

12 11. Class Counsel shall file an application for an award of attorneys' fees and
13 costs and for an incentive award to the named Plaintiffs ("Fee Application") no later
14 than thirty-five (35) days before the Final Approval Hearing.

15 12. Any member of the Class who intends to object or comment upon final
16 approval of the Stipulation or the Fee Application must, on or before thirty (30) days
17 before the Final Approval Hearing file any such objection with the Court, and provide
18 copies of the objection or comment to: (1) the Court; and (2) Class Counsel. To state a
19 valid objection to the Settlement, an objecting Class Member must provide the
20 following information in his/her/its' written objection: (a) the full name, address and
21 telephone number of the Settlement Class Member; (b) a written statement of all
22 grounds for the objection accompanied by any legal support for the objection; (c) a
23 statement of whether the Settlement Class Member intends to appear at the Final
24 Approval Hearing; (d) proof of membership in the Class; and, (e) the signature of the
25 Settlement Class Member or her/ his counsel. Any objection to attorneys' fees shall
26 include the information outlined in subsections (a) through (e) above. In addition, any
27 Class Member objecting to the Settlement shall provide a detailed list of any other
28 objections submitted by the objector, or the objector's counsel, to any class actions

1 submitted in any court, whether state or otherwise, in the United States in the previous
2 five (5) years. If the Class Member or his/her/its counsel has not objected to any other
3 class action settlement in any court in the United States in the previous five (5) years,
4 he/she/it shall affirmatively state so in the written materials provided in connection
5 with the objection to this Settlement.

6 13. Any objecting Class Member shall appear, in person or by Counsel, at the
7 Final Approval Hearing or seek and obtain leave of Court excusing such appearance
8 prior to the Final Approval Hearing to show cause why the proposed Settlement
9 should not be approved as fair, adequate and reasonable, or to object to any petitions
10 for attorneys' fees, incentive awards, and reimbursement of litigation costs and
11 expenses, but only if the Class Member has first filed written objections to the
12 proposed Settlement by the deadline set forth in this Order. In doing so, the objecting
13 Class Member must file with the Clerk of the Court and serve upon all Class Counsel
14 a notice of intention to appear at the Final Approval Hearing. The Notice of Intention
15 to Appear must include copies of any papers, exhibits, or other evidence that the
16 objecting Class Member (or his/her/its) Counsel) will present to the Court in
17 connection with the Fairness Hearing. Any Class Member who does not provide a
18 Notice of Intention to Appear in complete accordance with the deadlines and other
19 specifications set forth in the Class Notice, and who has not filed an objection in
20 complete accordance with the deadlines and other specifications set forth in this
21 Order, will be deemed to have waived any objections to the Settlement and can be
22 barred from speaking or otherwise providing any views at the Final Approval Hearing.

23 14. Any Class Member shall have the right to opt out of the Class and the
24 Settlement by sending a written request for exclusion from the Class to the addresses
25 listed in the Notices, postmarked or delivered no later than thirty (30) days before the
26 Final Approval Hearing. To be effective, a Request for Exclusion shall: (i) state the
27 Class Members' full name and current address; (ii) specifically and clearly state
28 his/her/its desire to be excluded from the Settlement Class; and, (iii) the signature of

1 the Class Member or his/her/its counsel. Any Class Member who does not submit a
2 timely and valid request for exclusion shall be subject to and bound by the Stipulation
3 and every order or judgment entered concerning the Stipulation.

4 15. Counsel for respective Parties shall file memoranda, declarations or other
5 statements and/or materials in support of the request for final approval of the Parties'
6 Settlement, no later than fourteen (14) days before the Final Approval Hearing.

7 16. No later than fourteen (14) days prior to the Final Approval Hearing
8 Kellogg, through its claims administrator, shall provide an affidavit to the Court, with
9 a copy to Class Counsel, attesting that Notice was disseminated in a manner consistent
10 with the terms of the Stipulation or as ordered by this Court.

11 17. The filing of the objection allows Class Counsel or Kellogg's counsel to
12 notice such objecting person for and take his or her deposition consistent with the
13 Federal Rules of Civil Procedure at an agreed-upon location, and to seek any
14 documentary evidence or other tangible things that are relevant to the objection.
15 Failure by an objector to make himself or herself available for a deposition or to
16 comply with expedited discovery requests may result in the Court striking said
17 objectors' objection and otherwise denying that person the opportunity to make an
18 objection or be further heard. The Court reserves the right to tax the costs of any such
19 discovery to the objector or the objector's counsel should the Court determine that the
20 objection is frivolous or is made for an improper purpose.

21 18. The procedures and requirements for filing objections is in connection
22 with the Final Approval Hearing are intended to ensure the efficient administration of
23 justice and the orderly presentation of any Class Members' objection to the
24 Stipulation, in accordance with the due process rights of all Class Members.

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26 Parties shall file any reply in support of final approval of the Stipulation and Class
27 Counsel shall file any reply in support of the Fee Application.

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20. The Court reserves the right to adjust the date of the Fairness Hearing and related deadlines. In that event, the revised hearing date and/or deadlines shall be posted on the settlement website referred to in the Class Notice, and the parties shall not be required to re-send or re-publish Class Notice.

DATED: _____

HON. MARGARET M. MORROW
UNITED STATES DISTRICT JUDGE