IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

ROBIN ALLEN, individually and on behalf of all others similarly situated,

Plaintiff,

v.

HUSQVARNA PROFESSIONAL PRODUCTS INC.,

Defendant.

Case No. 3:24-CV-896-FDW-SCR

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

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I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 23(e)(2) ("Rule 23") and this Court's September 3, 2025 Order granting preliminary approval, ECF No. 43, Plaintiff respectfully seeks final approval of the class action settlement.

As discussed in the preliminary approval briefing, the settlement resolves the claims of class members who purchased grass trimmers recalled by the U.S. Consumer Product Safety Commission ("CPSC"). The settlement enhances the existing recall by providing additional benefits for class members and creating additional incentive to participate in the recall. First, in addition to the existing repair remedy provided under the recall (which will remain unchanged), class members who participate in the recall within one year of class notice will, pending final approval, automatically receive a one-year extended warranty on the product and a three-year extended warranty on the ignition module. Critically, this benefit is *automatic* and *will not require claim submissions* from class members. Second, class members who participate in the recall within 90 days of class notice may submit a claim for a $45 voucher for Husqvarna products, which further incentivizes prompt response to obtain the already available recall repair. This voucher will be freely transferable, can be stacked with other promotions, and can be used at more than a thousand retailers nationwide, including Defendant's online website.

In addition, the settlement requires Defendant to pay for the costs of class notice and administration, any court-awarded attorneys' fees and expenses up to $550,000, and a service award up to $2,000 for the Plaintiff.

Pursuant to the Settlement and the Court's preliminary approval order, the Claims Administrator has now provided direct notice, a reminder notice, and robust digital notice. *See gen*. Declaration of Dana Boub ("Boub Decl.") ¶¶ [ ].The reaction from Settlement Class

Members to the Settlement is resoundingly positive. The deadline for class members to opt out of the Settlement or object was December 2, 2025. As of the date of this filing, no Settlement Class Members have served, filed, or otherwise indicated an objection the Settlement, and only two people have requested to opt-out. *Id*. ¶ [ ].

Class Counsel zealously pursued this litigation through motion practice and discovery. The Parties agreed to the Settlement only after two in-person mediations before Judge Gerald E. Rosen (Ret.) of JAMS, and months of follow-on settlement negotiations. Smith Decl. ¶¶ 10-17. As this Court recognized at preliminary approval, this Settlement represents a fair and reasonable resolution for the Class. With notice completed, and no objections from a single class member, the Court should now grant final approval and finally certify the Settlement Class.

II. BACKGROUND FACTS & PROCEDURAL HISTORY

A. The Litigation

On February 8, 2024, Defendant and the CPSC announced the recall of over 400,000 grass trimmers spanning three different models due to incorrect wiring in the ignition module that can cause an electrical spark or arcing, posing a fire hazard if gas is on or near the unit. Consumers were told to immediately stop using the recalled products. *See* Compl., ¶¶ 12-17.

Plaintiff Robin Allen filed this action on October 9, 2024, alleging claims under New York's consumer protection law and common law claims of breach of implied warranty and unjust enrichment. Defendant raised numerous arguments in its motion to dismiss, including, among other things, that the Plaintiff was not injured because the existing recall provided a sufficient remedy. *See* ECF No. 14-15 (MTD and supporting brief). That motion was been fully briefed but was denied as moot in light of the settlement on August 13, 2025. ECF No. 40.

On January 21, 2025, the parties advised the Court in their Proposed Discovery Plan that they intended to conduct an initial round of preliminary discovery to be completed by March 27, 2025, and then, based on the evidence disclosed, decide whether to engage in private mediation. *See* ECF No. 25, § 6. Both sides served document requests and interrogatories, and worked cooperatively to focus on the requests that were most relevant to early case evaluation and class certification. Smith Decl. at ¶¶ 6-7. In addition, Plaintiff personally met with one of Defendant's local agents to produce her product for inspection, which was then subjected to a battery of tests. *Id*. at ¶ 9.

The parties were on the precipice of class certification briefing when serious discussions concerning settlement arose. *See, e.g*., April 2, 2025 Minute Order (denying motion to extend class certification deadline without prejudice until after second mediation scheduled for April 16, 2025). Plaintiff's motion for class certification was originally due on May 22, 2025 (though was extended shortly before the deadline), *see* ECF 26, and the initial settlement in this case was not signed until July 23, 2025.

B. The Mediations

After obtaining evidence in the case concerning liability, damages, and defenses to class certification, the parties conducted an in-person mediation with Judge Gerald E. Rosen (Ret.) of JAMS in Chicago on March 27, 2025. Smith Decl. at ¶ 10. A second in-person mediation session occurred in New York City on April 16, 2025. *Id*. at ¶ 11. Although the parties made substantial progress during the second mediation, much more work remained to be done. The parties continued to engage in an extensive back-and-forth on the details of a term sheet through emails and telephone calls, again with the assistance of Judge Rosen. *Id*. at ¶ 12. The parties did not negotiate attorney's fees and service awards until after the material terms of the class

settlement were resolved. *Id*. at ¶ 13. Those latter negotiations were likewise challenging and required further assistance from Judge Rosen. *Id*. On June 6, 2025, the parties signed a term sheet outlining the principal essential and material terms of a future agreement, and then began working on a long-form settlement, notice materials, and consulting with potential class settlement administrators. *Id*. at ¶ 14; *see also* ECF No. 34. A full settlement was executed on July 23, 2025. *Id*. ¶ 15.

C. The Revised Settlement

Plaintiff filed a Motion for Preliminary Approval on July 28, 2025. ECF No. 36. The Court granted the motion on August 13, 2025. ECF No. 39. In the week following the filing of the motion, the Parties discovered that they inadvertently included in the final settlement agreement language from outdated drafts of the settlement. Smith Decl. at ¶ 15. Further, Defendant learned from some of its retailers that they would not be able to implement the $40 voucher portion of the settlement in its stores. *Id*. Accordingly, the Parties immediately started conferring and negotiating about fixing the language in the settlement and improving the settlement. An updated version of the Settlement was signed on August 13, 2025 ("Revised Settlement"), superseding the version of the Settlement submitted to the Court in the July 28, 2025 motion ("Original Settlement"). *Id*. The Parties intended to immediately alert the Court that a revised Settlement had been reached and request that it hold off ruling on or vacate the then pending motion for preliminary approval for a few days until the Parties were able to file a new motion seeking approval of the Revised Settlement. *Id*. However, just hours after the Revised Settlement had been executed, the Court issued its Order granting preliminary approval of the Original Settlement. ECF No. 39; Smith Decl. ¶ 15.

On August 15, 2025, Plaintiff filed a motion for the Court to update the settlement and grant preliminary approval to the Revised Settlement. ECF No. 41. The Court granted the motion on September 3, 2025, granting preliminary approval to the Revised Settlement. ECF No. 43. As discussed in the motion, the primary changes were 1) to change the date of when the Warranty Extension would run (such that it would run from the date of the preliminary approval of the settlement, instead of a year thereafter), and 2) to increase the value of the vouchers from $40 to $45. *See gen*. ECF No. 41 (outlining changes).

III. SUMMARY OF THE KEY SETTLEMENT TERMS

A. The Settlement Class

"[A]ll purchasers and owners in the United States of Husqvarna gas-powered grass string trimmers model numbers 130C (SKU # 970514301, 970514302, 970514303, 970694601, 970694701), 130L (SKU # 970514401, 970514402, 970514403, 970694801, 970694901), and 330LK (SKU # 970514501, 970514502, 970514503, 970514504, 970545001) (collectively, "Class Products") sold on or before November 13, 2023. Excluded from the Class will be all purchasers/owners as described above who have already had Consumer Product Safety Commission Release Number: 24-113 performed on their grass strong trimmers on or before the date class notice issues." Exhibit 1, at § III(A) and (B); *see also id.* at II(J) (listing "Class Products").

B. Settlement Consideration

The Settlement provides for two categories of relief, both of which are designed to incentivize participation in the existing recall, which in turn, will help get potentially dangerous products out of circulation. The first is a one-year warranty extension for the entire product, and a three-year extension for the ignition module. *Id*., at § IV(A)(1). *Class members are not required*

to submit a claim to receive this benefit. Instead, all they need to do is participate in the existing recall procedures within one year of the date of class notice, and the extended warranty will automatically apply, subject to this Court's final approval of this class settlement. *See id*. The extended warranties are the primary benefit provided under the Settlement. A one-year extended warranty for the class products retails for about anywhere between $13-$59.99, meaning that the valuation of the extended warranty alone is between $4.9 to $22.5 million when assessed to 376,000 class members. Smith Decl. ¶ 18.

In addition, class members who participate in the recall within 90 days of class notice may submit a claim for a $45 voucher for other Husqvarna products, again, pending final approval. *Id*., at § IV(A)(2). The vouchers will be transferable, can be combined with any other existing Husqvarna promotions, will have a 3-year expiration date, and will be redeemable for any Husqvarna product sold at any Authorized Husqvarna Dealer/Center (of which there are over a thousand nationwide) or with Husqvarna online. *See id*.

The benefits under the settlement are in addition to the repair benefit provided through the existing recall, and do not reduce or limit any existing obligations under the recall. In other words, the settlement is an enhancement to the existing recall, not a substitute.

C. Release of Claims

The Settlement will release any and all claims that have or could have been asserted in this action, whether known or unknown, against Defendant and its affiliates and assigns, as well as all component-part manufacturers of said Class Products, arising out of or related to the Class Products. *See id*., at § II(BB). The release excludes claims for alleged personal injury. *See id.*

IV. NOTICE

A. CAFA Notice

The Claims Administrator began its work by providing notice of the proposed Settlement pursuant to the Class Action Fairness Act 28 U.S.C. §1715(b) ("the CAFA Notice"). Boub Decl. ¶¶ 3-4. On September 15, 2025, RG2 sent the CAFA Notice, via First-Class Certified Mail, to the Attorney General of all states and territories, as well as the Attorney General of the United States. *Id.* ¶ 4.

B. Direct Notice

The Claims Administrator also provided direct notice by mail or email to all class members whose contact information was available, including all customers whose data was in Husqvarna's possession. *Id*. ¶¶ 5-13. Class Counsel was also able to obtain contact information for nearly 100 thousand class members through a subpoena to Lowe's, Husqvarna's largest retailer. *Id*. ¶ 9-10. Each of these class members also received direct notice. The Claims Administrator then sent a reminder notice to all class members for who it had valid email addresses and did not yet submit a claim. *Id*. ¶ 11. Provision of direct notice to every class member whose records were available or that could be located is the gold standard for notice plans.

C. Digital Notice

The Claims Administrator also implemented a robust and extremely effective digital media notice campaign, using a combination of Google and Bing search engine targeted keyword and search topics as well as social media and website advertisements (such as on Meta, Reddit, and YouTube). *Id*. ¶ 17. The digital media campaign generated over 10 million impressions, ensuring that as many class members that did not receive direct notice still received notice of the settlement as possible. *Id*. Overall, the Claims Administrator was able to achieve an 80% notice

reach for the class as a whole, which comports with due process and Rule 23. *Id*. ¶ 18. *See, e.g., T.K. Through Leshore v. Bytedance Tech. Co., Ltd*., 2022 WL 888943, at *7 (N.D. Ill. Mar. 25, 2022) ("A 'reasonable' notice effort, one that satisfies both Rule 23 and constitutional due process requirements, should reach at least seventy percent of the class.") (quoting Fed. Jud. Ctr., Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide at 1, 3 (2010)); *In re Serzone Prods Liab. Lit*., 231 F.R.D. 221, 235-36 (S.D. Wv. Sep. 2, 2005) (finding 80 percent notice reach was adequate); *In re Building Materials Corp. of Am. Asphalt Roofing Shingle Prods. Liability Lit*., 2014 WL 12621614, at *7 (D.S.C. Oct. 15, 2014) ("The notice plan will 'reach' more than eighty percent (80%) of potential class members and this is more than adequate reach for due process requirements."); R. Klonoff, *Class Actions in the Year 2026: A Prognosis*, 65 Emory L.J. 1569, 1650 & n. 479 (2016) ("Courts have increasingly utilized social media ... to notify class members of certification, settlement, or other developments.").

D. Settlement Website, Toll-Free Number, Post Office Box, And Email Address

In addition to the individual direct notice and digital notice provided, RG2 created a dedicated settlement website. Boub Decl. ¶ 14. The Settlement Website "went live" on October 3, 2025, and contains details of the Settlement, including the Settlement benefits, contact information for Class Counsel, how to calculate and make a claim, and the procedure for how to opt out of or object to the Settlement, Frequently Asked Questions, all related Court- documents, a copy of the Long Form Notice, and the Memorandum of Points and Authorities in Support of Plaintiff's Unopposed Motion for Approval of Attorneys' Fees, Expenses, and Service Award. *Id*. The Settlement Website provides Settlement Class Members with the opportunity to file Claim Forms online as well as downloadable versions of the claim form. *Id*.

RG2 also established a toll-free help line ("Toll-Free Number") to provide Settlement Class Members with additional information about the settlement. *Id.* ¶ 15. Class members could also correspond with RG2 via email. *Id*. ¶ 16.

E. Requests For Exclusion And Objections

Settlement Class Members were provided up to and including December 2, 2025 – 60 days after notice went was initially provided – to object to or to request exclusion from the Settlement. The timing with regard to objections and requests for exclusion was structured to give Settlement Class Members sufficient time to access and review the Settlement documents – including Plaintiff's motion for attorneys' fees, which was filed 15 days before the objection/exclusion deadline and posted to the Settlement Website within 24 hours. RG2 received only two requests for exclusions and no objections to the Settlement. *Id*. ¶¶ 19-20.

V. LEGAL STANDARD

Plaintiff brings this motion pursuant to Federal Rule of Civil Procedure 23(e), under which a class action may not be settled without approval of the Court. Fed. R. Civ. P. 23(e). The primary concern is the "protection of class members whose rights may not have been given adequate consideration during the settlement negotiations." *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 158 (4th Cir. 1991). The Court may "limit its proceedings to whatever is necessary to aid it in reaching an informed, just and reasoned decision." *Flinn v. FMC Corp.*, 528 F.2d 1169, 1173 (4th Cir. 1975). If the Court concludes that the proposed settlement is "fair, reasonable, and adequate," it will give final approval to the settlement. *In re Red Hat, Inc. Sec. Litig.*, 5:04-CV-473-BR(3), 2010 WL 2710517, at *1 (E.D.N.C. June 11, 2010) (citations omitted). The Court begins with a "strong initial presumption that the compromise is fair and reasonable." *S.C. Nat. Bank v. Stone*, 139 F.R.D. 335, 339 (D.S.C. 1991).

The Court must make a determination as to the fairness, reasonableness, and adequacy of the settlement terms. Fed. R. Civ. P. 23(e)(2); *Manual for Complex Litigation (Fourth)* ("MCL"), § 21.632 (4th ed. 2004). The approval process involves two steps. At the first, or preliminary approval stage, the Court need only find that the settlement is within "the range of possible approval" and warrants notice being issued to the class. *Horton v. Merrill Lynch, Pierce, Fenner & Smith*, 855 F. Supp. 825, 827 (E.D.N.C. 1994) (citing *In Re Mid-Atlantic Toyota Antitrust Litig.*, 564 F. Supp. 1379, 1384 (D. Md. 1983)). This first step involves both preliminary certification of the class and an initial assessment of the proposed settlement. *Id.*; *see also See Manual for Complex Litigation*, Sec. 30.41 (3d ed. 1995). It is only after a court has preliminarily approved a settlement, and notice has been provided to the Class, that the court makes a final determination of the fairness, adequacy, and reasonableness of a Settlement.

The primary concern for a court in reviewing a proposed class settlement is to ensure that the rights of class members have received sufficient consideration in settlement negotiations. *In re Jiffy Lube Sec. Litig*., 927 F.2d at 158-59. Approval of a class action settlement is committed to the "sound discretion of the district courts to appraise the reasonableness of particular class-action settlements on a case-by-case basis, in light of the relevant circumstances." *In re MicroStrategy, Inc. Sec. Litig*., 148 F. Supp. 2d 654, 663 (E.D. Va. 2001).

Moreover, as the Fourth Circuit has recognized, courts strongly favor and encourage settlements. *See, e.g., United States v. Manning Coal Corp.*, 977 F.2d 117, 120 (4th Cir. 1992) ("It has long been clear that the law favors settlement."). "This is particularly true in class actions" and other complex matters, where the inherent costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain. *See, e.g., Six v. LoanCare, LLC*, No. 5:21-cv-00451, 2022 WL 16747291, at *3 (S.D. W. Va. Nov. 7, 2022) (slip

copy) (quoting *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 311 (3d Cir. 2011) and citing *In re PaineWebber Ltd. P'ships Litig.*, 147 F.3d 132, 138 (2d Cir. 1998 (noting the "strong judicial policy in factor of settlements, particularly in the class action context")).

Plaintiffs now ask this Court to grant final approval of the proposed Settlement as fair, adequate, and reasonable so that Plaintiffs and Settlement Class Members may begin to appreciate the monetary and non-monetary benefits of the Settlement.

VI. ARGUMENT

A. The Claims Administrator Provided Notice Pursuant To This Court's Preliminary Approval Order And Satisfied Federal Rule of Civil Procedure 23 And Due Process

To satisfy due process, notice to class members must be the best practicable, and reasonably calculated under all the circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Fed. R. Civ. P. 23(e); *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 812 (1985). Notice provided to the class must be sufficient to allow class members "a full and fair opportunity to consider the proposed decree and develop a response." *Mullane v. Central Hanover Bank & Trust Co*., 339 U.S. 306, 315 (1950). While individual notice should be provided where class members can be located and identified through reasonable effort, notice may also be provided by U.S. Mail, electronic, or other appropriate means. Fed. R. Civ. P. 23(c)(2)(B). Under Rule 23(c)(2)(B), the notice must:

> (i) clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

Id.

Here, providing direct notice through mail and email is the gold standard for notice and is consistent with notice programs approved by other courts. *See, e.g., Domonoske v. Bank of Am., N.A.*, 790 F. Supp. 2d 466, 472 (W.D. Va. 2011) (approving notice where individual direct notice mailed by fourth-class mail and settlement website and toll-free number established); *Smith v. Res-Care, Inc.*, Civil Action No. 3:13-5211, 2015 WL 6479658, at *4 (S.D. W. Va. Oct. 27, 2015) (approving notice where individual direct notice mailed and settlement website and toll-free number established); *Decohen v. Abbasi, LLC*, 299 F.R.D. 469, 479 (D. Md. 2014) (finding direct mail Notice to each class members' last known address—and a second notice if the first was undeliverable—was the best practicable and satisfied notice requirements). The content of the Notice provided adequately informed Settlement Class Members of the nature of the action, the definition of the class, the claims at issue, the ability of a class member to object or exclude themselves, and/or enter an appearance through an attorney, that the court will exclude any class member who requests exclusion, and the binding effect of final approval and class judgment. The Notice utilized clear and concise language that is easy to understand, and the Notice was organized in a way that allowed Settlement Class Members to easily find any section that they may be looking for. Thus, it was substantively adequate.

Moreover, the Claims Administrator and the Parties have taken all necessary measures to ensure notice reached as many of the Settlement Class Members as possible. In addition to direct notice for all class members whose home address or email addresses could be obtained, including those obtained through subpoena by Class Counsel, RG2 also instituted a robust digital advertising campaign that generated over 10 million impressions. Boub Decl. ¶ 17. Such notice complies with the program approved by this Court in its Preliminary Approval Order, and is consistent with (and well above) notice programs approved in the Fourth Circuit and across the

United States. *See, e.g., In re Serzone Prods. Liab. Litig.*, 231 F.R.D. at 236 (approving publication notice rate of approximately 80%).

B. The Settlement Class Should Be Finally Certified For Settlement Purposes

As Plaintiff set forth at length in her Motion for Preliminary Approval, the proposed Settlement Class satisfies all of the requirements of Rule 23. *See* Fed. R. Civ. P. 23(a), (b)(3). The Court preliminarily certified the Settlement Class in its Preliminary Approval Order. Prelim. Approval Order, ECF 43. Nothing has occurred that would change the Court's previous determination that Plaintiff satisfies the requirements under Rule 23. Fed. R. Civ. P. 23(a), (b)(3). No objections have challenged the Court's conclusion. The Settlement Class still meets the requirements of numerosity, commonality, typicality, adequacy of representation, predominance, and superiority under Rule 23(a) and (b)(3). *Id.* Thus, the Court should finally certify the Settlement Class for settlement purposes, relying on the same rationale as explained in the preliminary approval order. *See, e.g.*, *In re Facebook, Inc. Consumer Privacy User Profile Litig.*, No. 3:18-MD-02843-VC, 2023 WL 8443230 at *1 (N.D. Cal. 2023) ("The Court confirms its finding in its Preliminary Approval Order that, for purposes of Settlement Only, all requirements for maintenance of a class action set forth in Federal Rules of Civil Procedure 23(a)(and (b)(3) are satisfied."); *Alvarez v. Sirius XM Radio Inc*., No. CV 18-8605 JVS(SSx), 2021 WL 1234878 at *5 (C.D. Cal. 2021) ("…for the reasons specified in its preliminary approval order, the Court certifies the Settlement Class for final approval of the Settlement").

C. The Settlement Is Fair, Reasonable, And Adequate And Should Be Approved

1. The Terms of the Settlement Warrant Final Approval under the *Jiffy Lube* Test

To determine final approval, the Fourth Circuit "adopted a bifurcated analysis, separating factors relating to the 'fairness' of the settlement from those relating to its 'adequacy'." *Horton*

v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 855 F. Supp. 825, 828 (E.D.N.C. 1994).[1] Fairness focuses on whether the proposed settlement was the product of good-faith bargaining at arm's length, free from collusion. *Jiffy Lube*, 927 F.2d at 159. Adequacy "focuses on whether the consideration provided to the class members is sufficient." *Beaulieu v. EQ Indus. Servs., Inc.*, No. 5:06-CV-00400BR, 2009 WL 2208131, at *23 (E.D.N.C. July 22, 2009). The proposed settlement is "not to be judged against a hypothetical or speculative measure of what might have been achieved by negotiators" in the best of all possible deals. *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1242 (9th Cir. 1998) (affirming district court's final approval of class settlement).

2. The Settlement Terms Meet the *Jiffy Lube* Adequacy Requirement

In analyzing the adequacy of a proposed settlement, the Court should consider the *Jiffy Lube* factors: (1) the relative strength of the case on the merits; (2) any difficulties of proof or strong defenses the plaintiff and class would likely encounter if the case were to go to trial; (3) the expected duration and expense of additional litigation; (4) the solvency of the defendants and the probability of recovery on a litigated judgment; and (5) and the degree of opposition to the proposed settlement. *Beaulieu*, 2009 WL at *26 (citing *Jiffy Lube*, 927 F.2d at 158; *Horton*, 855 F. Supp. at 829–30).

[1] "In the Fourth Circuit, the Rule 23(e)(2) analysis has been condensed into the two-step *Jiffy Lube* test which examines the fairness and adequacy of the settlement." *Skochin v. Genworth Fin., Inc.*, No. 3:19-cv-49, 2020 WL 6697418, at *2 (E.D. Va. 2020) (slip copy); *In re Lumber Liquidators Chinese-Manufactured Flooring Prods., Sales Pracs. & Prods. Liab. Litig.*, 952 F.3d 471, 484 (4th Cir. 2020) ("[B]ecause our factors for assessing class action settlement almost completely overlap with the new Rule 23(e)(2) factors, the outcome … would be the same under both our factors and the Rule's factors."); *see also Yost v. Elon Prop. Mgmt. Co.-Lexford Pools 1/3, LLC*, No. ELH-21-1520, 2023 WL 185178, at *4 (D. Md. Jan. 13, 2023) (same) (granting final approval after evaluating adequacy and fairness of settlement under *Jiffy Lube* factors).

(a) *The Relative Strength of the Case on the Merits, the Risks of the Case if the Case Were to Go to Trial, and the Duration and Expense of Additional Litigation Weigh in Favor of Final Approval*

By their very nature, because of the many uncertainties of outcome, difficulties of proof, and lengthy duration, class actions readily lend themselves to compromise. *See S.C. Nat'l Bank v. Stone*, 749 F. Supp. at 1423 (D. S.C. 1990) (noting that settlement spares litigants the uncertainty, delay, and expense of a trial and appeals while simultaneously reducing the burden on judicial resources). Here, the first three *Jiffy Lube* factors are closely related, and weigh in favor of final approval of the proposed settlement.

The value achieved through the Settlement Agreement is guaranteed, where chances of prevailing on the merits are uncertain. Class actions seeking recovery for consumers that purchased products subject to a CPSC recall are complex and risky. Plaintiff's counsel is one of the only counsel in the country that has ever obtained class certification in such a case in *Kaupelis v. Harbor Freight Tools USA, Inc.*, 2020 WL 5901116 at *1 (C.D. Cal. Sept. 23, 2020). Even there, the court denied nationwide class certification and denied certification of a multi-state consumer protection class. *Id.* at *13-14. The vast majority of courts have denied class certification in CPSC recall cases. *See, e.g., In re Aqua Dots Prods. Liability Lit.*, 270 F.R.D. 377, 381-387 (N.D. Ill. Oct. 4, 2010) (denying class certification in CPSC recall class action based on superiority prong, as well as procedural and choice of law issues); *Dukich v. IKEA US Retail LLC*, 343 F.R.D. 296, 308–10 (E.D. Pa. Dec. 20, 2022) (denying class certification in CPSC recall class action based on failure to satisfy predominance and superiority prongs). In one of the only decisions granting class certification other than *Kaupelis* that Class Counsel is aware of, the court granted certification of an issues class as to liability only pursuant to Rule 23(c)(4), but not a damages class pursuant to Rule 23(b)(3), thereby requiring class members to individually prove up damages after trial. *See In re Rock n' Play Sleeper Mktg., Sales Practices,*

& Prods. Liab. Lit., No. 1:19-md-2903, 2022 WL 22922234, at *13, 17 (W.D.N.Y. June 2, 2022). This case is no exception to the rule. There are numerous substantial hurdles Plaintiff would have to overcome before the Court might find a trial appropriate, including a motion to dismiss (which was fully briefed but not decided by the Court), class certification, and summary judgment. Given the extreme complexity of CPSC recall cases generally, and this case specifically, involving a recall with a proffered remedy of a full repair by Defendant, this factor strongly supports final approval.

Rather than face this risk and uncertainty, the Settlement allows for Settlement Class Members to obtain benefits within the near future (as opposed to potentially waiting for years) and gets potentially dangerous products out of consumer households. It also eliminates the possibility of receiving no benefits whatsoever beyond the existing recall. *See In re CertainTeed Fiber Cement Siding Litig.*, 303 F.R.D. 199, 216 (E.D. Pa. 2014) ("[I]f the parties were to continue to litigate this case, further proceedings would be complex, expensive and lengthy, with contested issues of law and fact …. That a settlement would eliminate delay and expenses and provide immediate benefit to the class militates in favor of approval."). Resolution in the near-term also helps mitigate any continuing harm that consumers and the general public may have suffered if these products continued to be used without repair, as the Settlement incentivizes class members to promptly submit their products for repair and provides free extended warranties to the repaired products, in addition to $45 product vouchers.

Litigating this case to a favorable conclusion would require a considerable amount of time and resources, and weighs in favor of approving the Settlement now. *See In re AT & T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 347 (N.D. Ill. 2010) ("Even if Plaintiffs were to succeed on the merits at some future date, a future victory is not as valuable as

a present victory. Continued litigation carries with it a decrease in the time value of money, for '[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now.'") (internal citation omitted)).

The Settlement easily weighs in favor of final approval.

(b) *The Solvency of Defendant on a Litigated Judgment is Neutral and Does Not Preclude Final Approval*

There is no evidence that Defendant is in danger of becoming insolvent in the likelihood of a recovery in Plaintiff's favor on a litigated judgment. Thus, this factor is neutral in the analysis and does not preclude the Court from granting final approval.

(c) *The Degree of Opposition to the Proposed Settlement*

2. The reaction of the Settlement Class to the proposed Settlement has been undeniably positive. Out of the 376,000 class members Settlement Class Members, not a single class member has objected, and only two have requested to be excluded. Boub Decl. ¶¶ 19, 20. This is a *de minimis* number of requests for exclusion, and the opt-outs do not undercut the conclusion that the Settlement satisfies the adequacy requirement. *See Skochin v. Genworth Fin., Inc.*, No. 3:19-cv-49, 2020 WL 6697418, at *4 (E.D. Va. 2020) (holding that proposed settlement satisfied adequacy requirement with 191 opt outs and 32 objections out of class of 207). "'It is well established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.'" *West v. Continental Automotive, Inc.*, No. 3:16-cv-00502-FDW-DSC, 2018 WL 1146642, at *6 (W.D. N.C. Feb. 5, 2018)) (quoting *National Rural Telecom. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (collecting cases)). The presumption in favor of final approval applies here with no objection to the Settlement, and a negligible number of opt-outs.

3. The Settlement Terms Meet the *Jiffy Lube* Fairness Requirements

The Fourth Circuit has listed four factors that a court should consider in concluding whether a proposed settlement agreement is fair, and reached in good faith and without collusion: (1) the posture of the case at the time it settled; (2) the extent of discovery that had been conducted; (3) the circumstances surrounding the negotiations; and (4) the relevant experience of counsel. *Beaulieu*, 2009 WL 2208131 at *24 (citing *Jiffy Lube*, 927 F.2d at 158–59; *Horton*, 855 F. Supp. at 828).

"A proposed class action settlement is considered presumptively fair where there is no evidence of collusion and the parties, through capable counsel, have engaged in arms' length negotiations." *Harris v. McCrackin*, Nos. 2:03–3845–23, 2:03–3943–23, 2:04–2314–23, 2006 WL 1897038, at *5 (D. S.C. July 10, 2006); *see also ADESSO Homeowners' Ass'n v. Holder Properties, Inc.*, No. 3:16-cv-710-JFA, 2017 WL 11272589, at *8 (D. S.C. May 23, 2017) ("[A] proposed class action settlement is considered presumptively fair where there is no evidence of collusion and the parties, through capable counsel, have engaged in arms' length negotiations."). This presumption is applicable here.

Here, the posture of the case at the time of settlement supports final approval. The parties had fully briefed Defendant's motion to dismiss and were on the precipice of class certification briefing when serious discussions concerning settlement arose. *See, e.g.*, April 2, 2025 Minute Order (denying motion to extend class certification deadline without prejudice until after second mediation scheduled for April 16, 2025). Plaintiff's motion for class certification was originally due on May 22, 2025 (though was extended shortly before the deadline), *see* ECF 26, and the initial settlement in this case was not signed until July 23, 2025. The parties also completed substantial discovery to evaluate the strengths and merits of the claims, and to adequately assess the benefits of the Settlement. Both sides served document requests and interrogatories, and

worked cooperatively to focus on the requests that were most relevant to early case evaluation and class certification. Smith Decl. at ¶¶ 7-8. In addition, Plaintiff personally met with one of Defendant's local agents to produce her product for inspection, which was then subjected to a battery of tests. *Id*. at ¶ 9.

The Settlement is also the result of protracted and intense arm's-length negotiations between highly experienced attorneys who are familiar with class action litigation—and CPSC recall class actions in particular. *See* Smith Decl. ¶¶ 19-23 and Firm Resume attached thereto as Exhibits 2. As discussed above, the Settlement was reached only after two in-person mediation sessions before Judge Gerald E. Rosen (Ret.) of JAMS, and months of follow-on negotiations. Smith Decl. at ¶¶ 10-11.

Accordingly, the Settlement satisfies the *Jiffy Lube* test for fairness and adequacy, and the Settlement should therefore be finally approved by the Court.

VII. CONCLUSION

Plaintiff has negotiated a fair, adequate, and reasonable settlement that guarantees Settlement Class Members substantial, immediate benefits, and gets dangerous products out of consumer households. For these and the above reasons, Plaintiff respectfully requests this Court grant her Motion for Final Approval of the Class Action Settlement, finally certify the Settlement Class, and determine that the Notice met the requirements of Rule 23(c)(2)(B) and due process.

Dated: January 5, 2026

Respectfully submitted,

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CERTIFICATE REGARDING USE OF ARTIFICIAL INTELLIGENCE

1. No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard online legal research resources, such as Westlaw, Lexis, FastCase, and Bloomberg;

2. Every statement and every citation to an authority contained in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2026, a copy of the foregoing was filed electronically through the Court's CM/ECF system and served on all counsel of record.

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