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17 **Attorneys for Plaintiffs**

18 **UNITED STATES DISTRICT COURT**

19 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

20 **MICHAEL LAVIGNE, *et al.*,**  
21 **Plaintiffs,**

22 **vs.**

23 **HERBALIFE LTD., *et al.*,**  
24 **Defendants.**

**CASE NO. 2:18-cv-07480-JAK (MRWx)**

**[Related Case 2:13-cv-02488-BRO-RZ]**

**PLAINTIFFS' NOTICE OF  
MOTION; MOTION FOR FINAL  
DISTRUBUTION AND TO  
AUTHORIZE ADDITIONAL  
CLAIMS ADMINISTRATION COSTS  
; MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT  
THEREOF**

**Date: October 28, 2024**

**Time: 8:30 AM**

**Courtroom: 10B**

**Assigned to Hon. John A. Kronstadt**

1 NOTICE OF MOTION AND MOTION

2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that, on September 30, 2024, at 8:30am, or as  
4 soon thereafter as the parties may be heard, Plaintiffs Patricia Rodgers, Jennifer  
5 Ribalta and Izaar Valdez (“**Plaintiffs**”) will move, and hereby move, this Court for  
6 the relief as follows:

7 1. Approve A.B. Data Ltd.’s (“**A.B. Data**”) request for payment in the  
8 amount of \$83,038.01 for administration costs incurred and up to an additional  
9 \$46,657.90 in additional administration costs to complete the initial distribution of the  
10 Net Settlement Fund.

11 2. Authorize A.B. Data to distribute the Net Settlement Fund consistent  
12 with the process described in this Motion, the Status Report, the Stipulation of  
13 Settlement, the Final Approval Order, and the Final Judgment.

14 3. Order A.B. Data to commence such distribution immediately upon final  
15 calculation of the Net Settlement Fund.

16 4. If there is a balance remaining in the Net Settlement Fund after at least  
17 120 days from the date of the initial distribution to Authorized Claimants, authorize  
18 A.B. Data to consult with counsel for the Settling Parties and conduct a second  
19 distribution to Authorized Claimants if feasible and economical; otherwise, any  
20 remaining funds will be directed to the *cy pres* recipient Consumer Federation of  
21 America pursuant to Section 4.1 of the Stipulation of Settlement.


22 5. Release any further claims against the Net Settlement Funds beyond the  
23 amount allocated to Authorized Claimants, and to provide that all persons involved in  
24 the review, verification, calculation, tabulation, or any other aspect of the processing  
25 of the Proofs of Claim submitted herein, or otherwise involved in the administration  
26 or taxation of the settlement funds or Net Settlement Funds, be released and discharged  
27 from any and all claims arising out of such involvement, provided, however, that the  
28 Court’s distribution order shall not release any claim by Plaintiffs against the Claims

1 Administrator with respect to distributions if later discovered to have been made not  
2 substantially in accordance with any order of the Court.

3 This Motion is based on the accompanying memorandum of points and  
4 authorities, the September 8, 2023 Declaration of Eric Miller of A.B. Data (Dkt. 401-  
5 2, the “**First Miller Declaration**”), the September 10, 2024 Declaration of Eric Miller  
6 (the “**Second Miller Declaration**”) attached hereto as an Exhibit, the Court’s files  
7 and records in this matter, argument of counsel, and such other and further matters as  
8 the Court may consider.

9 DATED: September 13, 2024 Mark Migdal & Hayden

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By:   
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Etan Mark  
Attorneys for Plaintiffs Patricia Rodgers,  
Jennifer Ribalta, and Izaar Valdez

1 **MEMORANDUM OF POINTS AND AUTHORITIES**<sup>1</sup>

2 Plaintiffs Patricia Rodgers, Jennifer Ribalta and Izaar Valdez (“**Plaintiffs**”)  
3 seek a final order authorizing the distribution of the Net Settlement Funds to eligible  
4 Class Members and for approval of payment to A.B. Data, Ltd.(“**A.B. Data**”), the  
5 Claims Administrator, of up to \$125,521.92 in additional claims administration costs.  
6 Concurrent with the filing of this Motion, Plaintiffs and Defendant Herbalife  
7 International of America, Inc. (“**Herbalife**”) are filing a Joint Stipulation Regarding  
8 Final Status Report and Distribution (the “**Status Report**”) where the Parties provide  
9 the Court with an update regarding the post-approval claims administration process.  
10 As required by the Court’s Final Approval Order (Dkt. 408), Plaintiffs separately filed  
11 this Motion to authorize payment of additional claims administration costs and fees  
12 incurred by A.B. Data between the time Plaintiffs moved for final approval and the  
13 time for final disbursement of all Settlement Funds. As further discussed below, good  
14 cause supports payment of these additional claims administration costs and once the  
15 Court rules on this Motion, A.B. Data can disburse funds to the Settlement Class  
16 Members and this matter can be closed.

17 **I. BACKGROUND**

18 Plaintiffs and Herbalife entered into a Stipulation of Settlement on May 27,  
19 2022 (Dkt. 383, the “**Stipulation of Settlement**”) and Plaintiffs filed their Motion for  
20 Preliminary Approval (Dkt. 384, the “**Preliminary Approval Motion**”). The  
21 Stipulation of Settlement and Preliminary Approval Motion included a  
22 comprehensive notice program (the “**Notice Program**”) to provide notice to over 2.8  
23 million Herbalife U.S. Distributors (despite the putative class being a much smaller  
24 subset). On April 6, 2023, the Court entered an order granting preliminary approval  
25 of the class action settlement (Dkt. 396, the “**Preliminary Approval Order**”).

26  
27 \_\_\_\_\_  
28 <sup>1</sup> Unless otherwise noted, the terms used herein are defined in the Stipulation of Settlement.

1           Once the Preliminary Approval Order was entered, the Notice Program was  
2 implemented with great success. A.B. Data promptly received a list from Herbalife  
3 containing contact information for 2,841,430 U.S. Herbalife Distributors. *See* First  
4 Miller Declaration at ¶ 3. A.B. Data then performed the following tasks consistent  
5 with the Notice Program:

- 6       - E-mailed notice to 2,347,562 unique e-mail addresses, *see id.* at ¶ 6;
- 7       - Sent Summary Notices via First-Class Mail to 463,187 U.S.-based Herbalife  
8 Distributors without e-mail addresses, *see id.* at ¶ 5;
- 9       - Sent an additional 596,611 Summary Notices via First-Class Mail to U.S.-  
10 based Herbalife Distributors whose e-mails bounced, *see id.* at ¶ 7; and
- 11       - Rемаiled 108,610 Notices to U.S.-based Herbalife Distributors whose  
12 addresses were reported as undeliverable by either forwarding addresses  
13 provided by the United States Postal Service or updated mailing addresses  
14 ascertained through a third-party information provider to which A.B. Data  
15 subscribes, *see id.* at ¶ 9.

16           In total, A.B. Data caused over 1.1 million Summary Notices to be mailed to  
17 potential Settlement Class Members, incurring costs totaling approximately  
18 \$665,000, including approximately \$450,000 in postage. *See id.* at ¶ 25. A.B. Data  
19 also operated a toll-free number and website where, during the claims filing period,  
20 Settlement Class Members could submit a Claim Form. *See id.* at ¶ 12-13.

21           On September 8, 2023, Plaintiffs filed their Motion for Final Approval of Class  
22 Action Settlement (Dkt. 401, the “**Final Approval Motion**”) seeking, in part,  
23 disbursement of \$840,269.81 to A.B. Data for “administering the claims  
24 administration process thus far.” Final Approval Motion at p. 18. The Final Approval  
25 Motion noted that Class Counsel intends to file a motion for final distribution after  
26 the Claims Administrator has completed its claim administration. *See id.* at p. 20.

27           On November 16, 2023, the Court entered an order granting final approval over  
28 the settlement in this Action (Dkt. 408, the “**Final Approval Order**”) and entered

1 final judgment (Dkt. 409, the “**Final Judgment**”). The Final Judgment provided that  
2 the Court “retains jurisdiction as to all matters relating to the administration,  
3 consummation, enforcement and interpretation of the Agreement and of this Final  
4 Judgment, and for any other necessary purpose” (*id.* at ¶ 11).

5 To finalize the administration of the class action, after entry of the Final  
6 Approval Order and Final Judgment, A.B. Data sent deficiency notices via e-mail to  
7 putative class members starting on February 21, 2024 through February 24, 2024. *See*  
8 Second Miller Declaration at ¶ 18. The deficiency notice provided each deficient  
9 claimant with 30 days from the date of the notice, to address and correct any  
10 deficiency. *See id.* at ¶ 18. The deficiency notice indicated that additional information  
11 was needed to process their claim and noted that their claims would be recommended  
12 for rejection to the extent the deficiencies were not cured. *See id.* at ¶ 18.

13 In the exercise of its discretion (in consultation with Class Counsel and  
14 Herbalife’s Counsel), and in the interests of maximizing distributions to Authorized  
15 Claimants pursuant to the Stipulation of Settlement, A.B. Data determined that claims  
16 by Authorized Claimants for Herbalife Corporate Events that were not reflected in  
17 Herbalife’s events data would be paid out in their claimed amounts up to a maximum  
18 of \$175 per event, and that claims by Authorized Claimants for Herbalife Events other  
19 than Herbalife Corporate Events that were not reflected in Herbalife’s event data  
20 would be paid out in their claimed amounts up to a maximum of \$35 per event. *Id.* at  
21 ¶ 20.

22 Pursuant to Section 4.2.4 of the Stipulation of Settlement, Authorized  
23 Claimants can be paid up to 150% of their claimed amounts, subject to total payments  
24 not exceeding the amount of the Net Settlement Fund. Because the total amount of  
25 valid claims is less than the amount remaining in the Net Settlement Fund, A.B. Data  
26 has determined that Authorized Claimants will be paid more than their claimed  
27 amounts (on a *pro rata* basis) in order to exhaust the Net Settlement Fund. Second  
28 Miller Declaration at ¶ 23.

1 Based on A.B. Data’s review and audit of submitted claims, A.B. Data has  
2 determined that it has received 4,030 valid claims, including 2,844 claims filed by  
3 known distributors who attended Herbalife Corporate Events, and an additional 1,186  
4 claims filed by known distributors who submitted claims for Herbalife Events other  
5 than Herbalife Corporate Events, both of which were accepted as valid claims by A.B.  
6 Data. *See id.* at ¶ 20.

7 Subject to final calculation of the amount of the Net Settlement Fund, the final  
8 step is resolution of this Motion, and then A.B. Data is prepared to immediately  
9 distribute funds to Authorized Claimants pursuant to the approved Stipulation of  
10 Settlement and Final Judgment entered by the Court (*see* Miller Second Declaration  
11 at ¶ 22).

12 Class Counsel has been informed that A.B. Data has incurred an additional  
13 \$83,038.01 in claims administration costs and estimates an additional \$46,657.90 in  
14 claims administration costs to be incurred to complete the distribution of the Net  
15 Settlement Fund (*see id.* at ¶ 26), approval of which A.B. Data states is necessary for  
16 A.B. Data to calculate the final amount to be distributed to each Authorized Claimant.

17 As of June 30, 2024, the Settlement Fund has a balance of \$7,336,177.26. *Id.*  
18 at ¶ 23. The 4,030 claims that A.B. Data has determined to be valid have a total value  
19 of \$5,244,851.21. *Id.* at ¶ 23. As indicated in paragraph 4.2.4 of the Stipulation of  
20 Settlement, Authorized Claimants can be paid up to 150% of their claimed amounts.  
21 Claims will be paid more than their claimed amounts in order to exhaust the Net  
22 Settlement Fund, the final amount of which hinges on resolution of this Motion. *Id.*  
23 at ¶ 23.

## 24 **II. ARGUMENT**

### 25 **A. The Court should authorize disbursement of an additional** 26 **\$125,521.92 to A.B. Data.**

27 Good cause supports the approval of an additional \$125,521.92 to A.B. Data in  
28 claims administration costs.



1 Two variables make administration of this particular class action uniquely  
2 expensive. First, the notice program approved by the Court in its Preliminary  
3 Approval Order (Dkt. 396) resulted in A.B. Data being responsible for sending the  
4 Notice of Proposed Class Action Settlement to 2,841,430 U.S. Herbalife Distributors.  
5 Miller Second Declaration at ¶ 5. While most of those individuals were contacted via  
6 e-mail, A.B. Data caused Summary Notices to be mailed to 1.1 million people,  
7 incurring \$665,000 in printing and mailing costs. *See id.* at ¶ 10.

8 Second, the claims administration process yielded a large number of claims  
9 suspected to be fraudulently filed using automated computer programs and bots. The  
10 involvement of these bots, which is becoming increasingly common in the  
11 administration of class action claims, resulted in A.B. Data having to undergo  
12 additional layers of verification and quality control to ensure the integrity of the  
13 claims administration process. *See, e.g., id.* at ¶ 14. A.B. Data worked closely with  
14 counsel for both Plaintiffs and Herbalife to manage this process. *See id.* at ¶ 18.

15 Ultimately, the Claims Administration process was a success due in large part  
16 to the hard work, time, and costs expended by A.B. Data. While the bulk of the work  
17 was performed prior to the Final Approval Order, \$83,038.01 of additional fees have  
18 already been incurred and A.B. Data expects an additional \$46,657.90 in costs to  
19 complete the distribution of the Net Settlement Fund. A further (specific) breakdown  
20 of A.B. Data's administration costs, including invoices, is appended as exhibits to  
21 Eric Miller's declaration.

22 **B. The Court should authorize final distribution of the Net**  
23 **Settlement Funds to Authorized Claimants.**

24 The only remaining item requiring Court approval is payment of an additional  
25 \$125,521.92 to A.B. Data. The method and manner in which the remaining funds are  
26 distributed to Class Members has already been approved by the Court in the  
27 Preliminary Approval Order, the Final Approval Order, and the Final Judgment.  
28 Moreover, in approving the Stipulation of Settlement, the Court also empowered A.B.



1 Data to have “discretion to make equitable decisions to carry out the intent of the  
2 Settlement Agreement.” Stipulation of Settlement, Section 4.9.

3 In exercising its discretion, A.B. Data notes that if there is a balance remaining  
4 in the Net Settlement Fund after at least 120 days from the date of the initial  
5 distribution to Authorized Claimants, A.B. Data will consult with counsel for the  
6 Settling Parties and conduct a second distribution to Authorized Claimants if feasible  
7 and economical; otherwise, any remaining funds will be directed to the *cy pres*  
8 recipient Consumer Federation of America pursuant to Section 4.1 of the Stipulation  
9 of Settlement. *See* Miller Second Declaration at ¶ 20. As noted in the accompanying  
10 Status Report, all Parties agree this course of action is consistent with the Stipulation  
11 of Settlement, Final Approval Order, and Final Judgment.

### 12 C. Release of Claims Regarding Administration

13 To allow the full and final distribution of the Net Settlement Funds, it is  
14 respectfully requested that the Court bar any further claims against the Net Settlement  
15 Funds beyond the amount allocated to Authorized Claimants, and to provide that all  
16 persons involved in the review, verification, calculation, tabulation, or any other  
17 aspect of the processing of the Proofs of Claim submitted herein, or otherwise  
18 involved in the administration or taxation of the settlement funds or Net Settlement  
19 Funds, be released and discharged from any and all claims arising out of such  
20 involvement, provided, however, that the Court’s distribution order shall not release  
21 any claim by Plaintiffs against the Claims Administrator with respect to distributions  
22 if later discovered to have been made not substantially in accordance with any order  
23 of the Court.

### 24 III. CONCLUSION

25 Plaintiffs respectfully request the Court:

26 1. Approve A.B. Data’s request for payment in the amount of \$83,038.01  
27 for fees incurred and up to an additional \$46,657.90 in additional administration costs  
28 to complete the initial distribution of the Net Settlement Fund.

1           2.     Authorize A.B. Data to distribute the Net Settlement Fund consistent  
2 with the process described in this Motion, the Status Report, the Stipulation of  
3 Settlement, the Final Approval Order, and the Final Judgment.

4           3.     Order A.B. Data to commence such distribution immediately upon final  
5 calculation of the Net Settlement Fund.

6           4.     If there is a balance remaining in the Net Settlement Fund after at least  
7 120 days from the date of the initial distribution to Authorized Claimants, authorize  
8 A.B. Data to consult with counsel for the Settling Parties and conduct a second  
9 distribution to Authorized Claimants if feasible and economical; otherwise, any  
10 remaining funds will be directed to the *cy pres* recipient Consumer Federation of  
11 America pursuant to Section 4.1 of the Stipulation of Settlement.

12           5.     Release any further claims against the Net Settlement Funds beyond the  
13 amount allocated to Authorized Claimants, and to provide that all persons involved in  
14 the review, verification, calculation, tabulation, or any other aspect of the processing  
15 of the Proofs of Claim submitted herein, or otherwise involved in the administration  
16 or taxation of the settlement funds or Net Settlement Funds, be released and discharged  
17 from any and all claims arising out of such involvement, provided, however, that the  
18 Court's distribution order shall not release any claim by Plaintiffs against the Claims  
19 Administrator with respect to distributions if later discovered to have been made not  
20 substantially in accordance with any order of the Court.

21 DATED: September 13, 2024     Mark Migdal & Hayden

22  
23 By: 

24 \_\_\_\_\_  
25 Etan Mark  
26 Attorneys for Plaintiffs Patricia Rodgers,  
27 Jennifer Ribalta, and Izaar Valdez  
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**Local Rule 7-3 Certificate of Compliance**

This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place over several e-mails and phone calls in August 2024.

**Local Rule 11-6.2 Certificate of Compliance**

The undersigned counsel of record for Plaintiffs certifies that this brief contains 2147 words which complies with the word limit of L.R. 11-6.1.

Mark Migdal & Hayden



By:

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Etan Mark  
Attorneys for Plaintiffs Patricia Rodgers,  
Jennifer Ribalta, and Izaar Valdez

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17 **Attorneys for Plaintiffs**

18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

20 **MICHAEL LAVIGNE, *et al.*,**  
21 **Plaintiffs,**  
22 **vs.**  
23 **HERBALIFE LTD., *et al.*,**  
24 **Defendants.**

25 **CASE NO. 2:18-cv-07480-JAK (MRWx)**  
26 **[Related Case 2:13-cv-02488-BRO-RZ]**

27 **DECLARATION OF ERIC MILLER**  
28 **OF A.B. DATA IN SUPPORT OF**  
**PLAINTIFFS' MOTION FOR FINAL**  
**DISTRIBUTION AND TO**  
**AUTHORIZE ADDITIONAL**  
**CLAIMS ADMINISTRATION COSTS**

Assigned to Hon. John A. Kronstadt,  
Courtroom 10B

1 I, Eric Miller, declare under penalty of perjury as follows:

2 1. I am a Senior Vice President with A.B. Data, Ltd. (“A.B. Data”). I am fully  
3 familiar with the facts contained herein based upon my personal knowledge, and if called  
4 as a witness, could and would testify competently hereto.

5 2. As recited in my prior declarations, A.B. Data was selected by Counsel to  
6 serve as Claims Administrator and to, among other things, provide notice to the Settlement  
7 Class and receive and process claims. All claims received by A.B. Data have been carefully  
8 processed in accordance with the Stipulation of Settlement (“Settlement Agreement”) and  
9 the Court-approved plan of allocation set forth in the Notice. A.B. Data has responded in a  
10 prompt manner to all inquiries from potential Settlement Class Members regarding the  
11 Action, the Settlement, and the procedures for completing and submitting claims, and has  
12 worked with Settlement Class Members throughout the administration process to help them  
13 perfect their claims.

14 **Notice to Settlement Class Members**

15 3. As detailed in my Declaration of Eric Miller of A.B. Data in Support of  
16 Plaintiffs’ Motion for Final Approval of Class Action Settlement, dated September 8, 2023  
17 (ECF No. 401-2) and my Declaration of Eric Miller of A.B. Data Regarding Compliance  
18 with Notice Requirements, dated September 24, 2023 (ECF No. 402), A.B. Data carried  
19 out a robust and comprehensive Notice Plan to inform Settlement Class Members of the  
20 Settlement and provide them with the information they needed to file a claim.

21 4. Pursuant to the Settlement Agreement, A.B. Data was responsible for sending  
22 the Notice of Proposed Class Action Settlement (the “Notice”) to potential Settlement  
23 Class Members via email and postal mail. Copies of the final versions of each were  
24 presented in the prior Declarations.

25 5. As previously stated, on April 11, 2023, A.B. Data received from Counsel for  
26 the Defendant a list containing the name, address, email address, and distributor  
27 information in Defendants’ records for 2,841,430 U.S. Herbalife distributors during the  
28

1 Class Period (the “Class List”). This enabled A.B. Data to provide direct notice to the  
2 millions of individuals who were active Herbalife distributors between 2009 and 2023,  
3 without limiting the notice to those that attended an event. Additional discussion of the  
4 data provided to A.B. Data can be found in the prior Declarations.

5 6. As previously stated, prior to the initial mailing of the Notices to potential  
6 Settlement Class Members, A.B. Data standardized and updated the mailing addresses for  
7 the Class List using the National Change of Address (“NCOA”) system maintained by the  
8 United States Postal Service (“USPS”) in an effort to improve deliverability rates.

9 7. As previously stated, on May 19, 2023, A.B. Data caused Summary Notices  
10 to be sent by First-Class Mail to the 463,187 U.S.-based Herbalife Distributors with  
11 mailing addresses on the Class List, but without email addresses. Pursuant to the Settlement  
12 Agreement, the Summary Notice was to be emailed to all U.S.-based Herbalife Distributors  
13 with a known email address. Beginning on May 8, 2023, and concluding on May 19, 2023,  
14 A.B. Data emailed the Notice (the “Email Notice”) to 2,347,562 email addresses derived  
15 from the Class List.

16 8. As previously stated, 597,183 emails were returned undeliverable, known as  
17 a bounce-back. On June 4, 2023, Summary notices were sent to 596,611 potential  
18 Settlement Class Members for whom mailing addresses were available via First-Class  
19 Mail.

20 9. As previously stated, 181,308 Notices mailed to U.S.-based Herbalife  
21 Distributors were reported by the USPS to A.B. Data as undeliverable as addressed  
22 (“UAA”). A.B. Data promptly remailed 108,610 of these UAA Notices to either  
23 forwarding addresses provided by the USPS or updated mailing addresses ascertained  
24 through a third-party information provider to which A.B. Data subscribes.

25 10. In total, A.B. Data caused over 1.1 million Summary Notices to be mailed to  
26 potential Settlement Class Members. These mailings incurred costs totaling approximately  
27 \$665,000, including approximately \$450,000 in postage.

1 **Website and Toll-Free Number**

2 11. On May 5, 2023, A.B. Data established a case-dedicated website  
3 [www.herbalifeclassactionsettlement.com](http://www.herbalifeclassactionsettlement.com), which contains important deadlines including  
4 the claim, exclusion and objection filing deadlines; date of the Court’s Final Approval  
5 Hearing; and general information about the Settlement and relevant case documents,  
6 including the Settlement Agreement, the Notice in English and Spanish, and other  
7 important Court documents. The Settlement Website also had an online claim filing portal  
8 where, during the claims filing period, Settlement Class Members could submit a Claim  
9 Form. The Settlement Website also has a “Contact Us” page whereby Settlement Class  
10 Members can contact A.B. Data via email, submit address updates, and ask questions  
11 regarding the Settlement.

12 12. On May 5, 2023, A.B. Data established a toll-free telephone line devoted to  
13 the Settlement that is listed in all forms of notice and on the website: 1-866-217-4455. The  
14 toll-free line utilizes an interactive voice response (“IVR”) system to provide Settlement  
15 Class Members with responses to frequently asked questions and important information  
16 regarding the Settlement. The toll-free line further provides callers with the option to speak  
17 with a live customer service representative in English or Spanish.

18 **Settlement Class Member Claims**

19 13. Pursuant to the terms of the Settlement Agreement and as set forth in the  
20 Summary Notice and Notice posted to the Settlement Website, to be eligible to recover  
21 money damages from the Settlement, potential Settlement Class Members were required  
22 to submit a Claim Form by mail, by email, or online via the website  
23 [www.herbalifeclassactionsettlement.com](http://www.herbalifeclassactionsettlement.com) no later than August 4, 2023.

24 14. A.B. Data received 164,822 Claim Forms as of the date of this Declaration,  
25 inclusive of timely and late claims. As previously discussed, a large number of these claims  
26 were suspected to be fraudulently filed with the use of automated computer programs or  
27 bots.



1 15. A.B. Data processed the Claim Forms in accordance with the requirements set  
2 forth in the Settlement Agreement. Information from each Claim Form (including the  
3 claimant’s name, address, email address, and Unique ID) was entered into a database  
4 developed by A.B. Data to process the Claim Forms submitted for the Settlement.

5 16. Known current and former distributors were provided a unique identification  
6 number (the “Unique ID”) with the Summary Notice. This Unique ID was requested on  
7 the Claim Form and used to link known corporate event purchases and validate the  
8 claimant’s status as a Settlement Class Member.

9 17. Claim Forms submitted without a Unique ID or suspected to be submitted by  
10 automated computer programs or bots underwent an additional screening process to verify  
11 eligibility to participate in the Settlement as detailed below.

12 18. After consulting with the Settling Parties, it was determined that A.B. Data  
13 would send email notices of deficiency to claimants who were not listed in the distributor  
14 data provided by Herbalife but claimed two or more events. Those who claimed zero events  
15 or one event were rejected without further notice as ineligible under the Settlement  
16 Agreement. A.B. Data sent a deficiency notice via email to individuals with a deficient  
17 claim as noted above starting on February 21, 2024 through February 24, 2024. The  
18 deficiency notice provided each deficient claimant with 30 days from the date of the notice,  
19 to address and correct any deficiency. The deficiency notice indicated that additional  
20 information was needed to process their claim. The notice requested additional information  
21 or documentation such as an Herbalife Distributor ID, the Unique ID provided on their  
22 Notice if they had one, and/or their name, mailing address, and email address to cure the  
23 deficient claim, and noted that their claims would be recommended for rejection to the  
24 extent the deficiencies were not cured. A copy of the deficiency notice is attached as  
25 **Exhibit A.**

1 **Final Administrative Determinations on Claim Eligibility**

2 19. The time period during which Claimants having deficient claims could  
3 provide further information to attempt to cure the deficiencies has ended. In consultation  
4 with the Settling Parties, A.B. Data carefully reviewed all information provided by  
5 Claimants to cure deficiencies, and A.B. Data made final determinations regarding whether  
6 deficient claims were cured or remain deficient. A.B. Data has marked cured claims as  
7 eligible and valid and marked uncured claims as denied. A number of Claimants who  
8 submitted claims with curable deficiencies were able to properly complete their claims and  
9 are now eligible to participate in the Settlement and receive a payment from the Net  
10 Settlement Fund.

11 20. Based on these determinations, A.B. Data has accepted 4,030 claims as valid.  
12 This includes 2,844 claims filed by known distributors who attended Herbalife Corporate  
13 Events, and an additional 1,186 claims filed by known distributors who submitted claims  
14 for Herbalife Events other than Herbalife Corporate Events, both of which were accepted  
15 as valid claims by A.B. Data. In the exercise of its discretion (in consultation with Class  
16 Counsel and Herbalife’s Counsel), and in the interests of maximizing distributions to  
17 Authorized Claimants pursuant to the Settlement Agreement, A.B. Data determined that  
18 claims by Authorized Claimants for Herbalife Corporate Events that were not reflected in  
19 Herbalife’s events data would be given credit for purposes of claims administration up to  
20 a maximum of \$175 per event. It was also determined that claims by Authorized Claimants  
21 for Herbalife Events other than Herbalife Corporate Events that were not reflected in  
22 Herbalife’s event data would be given credit for purposes of claims administration up to a  
23 maximum of \$35 per event. A.B. Data recommends that the Court accept these claims as  
24 valid and eligible for payment from the Settlement Fund (net of Court-approved fees,  
25 expenses, and any other Court-approved deductions) (“Net Settlement Fund”).

26 21. A.B. Data has denied 160,792 claims for failure to provide sufficient  
27 information to validate their claim. A.B. Data recommends that the Court approve denial  
28

1 of these claims and bar any further claims against the Net Settlement Fund by Settlement  
2 Class Members.

3 **Distribution**

4 22. A.B. Data has completed its final review process and is now ready to distribute  
5 payments from the Net Settlement Fund to Authorized Claimants.

6 23. A.B. Data has calculated payment amounts for each claim based on the  
7 distributor data provided to us by Herbalife and in consultation with and agreement of the  
8 Settling Parties on claims submitted by distributors that were not included in the events  
9 data as discussed in paragraph 20. As of June 30, 2024, the Settlement Fund has a balance  
10 of \$7,336,177.26. The 4,030 claims that A.B. Data has determined to be valid have a total  
11 value of \$5,244,851.21. As indicated in paragraph 4.2.4 of the Settlement Agreement,  
12 Authorized Claimants can be paid up to 150% of their claimed amounts. Accordingly,  
13 Authorized Claimants will be paid more than their claimed amounts (on a *pro rata* basis)  
14 in order to exhaust the Net Settlement Fund.

15 24. If there is a balance remaining in the Settlement Fund after at least 120 days  
16 from the date of the initial distribution, and after any necessary adjustments in payments  
17 upon sufficient proof and/or to pay additional taxes, costs, and administration fees, A.B.  
18 Data will consult with the Settling Parties and conduct a second distribution if feasible and  
19 economical. A.B. Data will redistribute the remaining funds, along with any remaining  
20 balance of the reserve, on a *pro rata* basis after reserving any additional taxes, costs, and  
21 administration fees to the Eligible Claimants who cashed their initial distribution checks  
22 and who would receive at least \$10.00 from such redistribution; and

23 25. At such time as the Settling Parties, in consultation with A.B. Data, determine  
24 that further distribution of the funds remaining in the Settlement Fund is not cost-effective,  
25 the remaining funds will be directed to the *cy pres* recipient Consumer Federation of  
26 America as stated in 4.1 of the Stipulation of Settlement.

**Unreimbursed Claims Administration Expenses and Proposed Reserves**

26. To date, A.B. Data has incurred a total of \$923,307.82 in claims administration costs, of which \$840,269.81 has been paid and \$83,038.01 remains unpaid. A.B. Data estimates that it will incur approximately \$46,657.90 in additional administration costs to complete the initial distribution of the Net Settlement Fund. As noted above, approximately \$665,000 of the costs incurred to date (over 72%) were pass-through expenses, such as print and postage, related to mailing notice to Settlement Class Members as required by the Settlement Agreement. A.B. Data also expended significant resources to process claims submitted by potential Settlement Class Members, including the identification of over 100,000 suspicious claims from bots and other non-Settlement Class Members, and working closely with Settlement Class Members to cure deficient claims. Going forward, A.B. Data will issue payments to eligible Settlement Class Members as described above, will continue to maintain the case-specific website and toll-free telephone number to address any Settlement Class Member inquiries, and will handle all required tax filings on behalf of Settlement Fund.

27. A.B. Data is not able to finalize the exact amount of the Net Settlement Fund to be paid to the valid claimants until the total amount of claims administration costs has been finalized. A.B. Data will finalize all other work required to distribute the fund such that the payments to valid claims can begin within days of the Court’s approval to proceed.

I hereby declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct to the best of my knowledge.

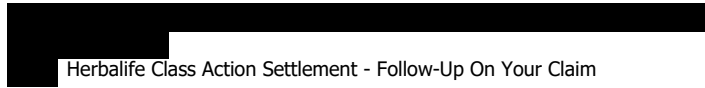
Dated: September 10, 2024



Eric Miller

# EXHIBIT A

**From:**



Herbalife Class Action Settlement - Follow-Up On Your Claim  
Tuesday, February 20, 2024 3:52:42 PM

**Date:**

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EXTERNAL SENDER

Re: Claim Number 

Dear Claimant:

We have received your claim in the Herbalife Settlement, but it is missing key information needed to process it. Please provide the following information by **March 22, 2024**:

1. Your Herbalife Distributor ID
2. Your Notice ID Number (if you previously received an email notice about the Herbalife Settlement)
3. Your Name (first and last)
4. Your Mailing Address
5. Your Email Address

Please note that failure to provide the requested information will result in rejection of your claim. If you have any questions, please contact us at 1-866-217-4455 or email us at [info@HerbalifeClassActionSettlement.com](mailto:info@HerbalifeClassActionSettlement.com).

Sincerely yours,

Herbalife Class Action Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173076  
Milwaukee, WI 53217

If you'd like to unsubscribe [click here](#).

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

MICHAEL LAVIGNE, *et al.*,  
Plaintiffs,  
vs.  
HERBALIFE LTD., *et al.*,  
Defendant.

CASE NO. 2:18-cv-07480-JAK (MRWx)  
[Related Case 2:13-cv-02488-BRO-RZ]  
**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR FINAL  
DISTRIBUTION AND TO  
AUTHORIZE ADDITIONAL  
CLAIMS ADMINISTRATION COSTS  
(DKT. \_\_)**  
Assigned to Hon. John A. Kronstadt,  
Courtroom 10B



1 **TO ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 Upon consideration of Plaintiffs' Motion for Final Distribution and to  
3 Authorize Additional Claims Administration Costs, and for good cause appearing  
4 therefore,

5 IT IS HEREBY ORDERED THAT:

6 1. Plaintiffs' Motion for Final Distribution and to Authorize Additional  
7 Claims Administration Costs is hereby GRANTED.

8 2. A.B. Data's request for payment in the amount of \$83,038.01 for fees  
9 incurred and up to an additional \$46,657.90 in additional administration costs to  
10 complete the initial distribution of the Net Settlement Fund is APPROVED.

11 3. A.B. Data is authorized to distribute the Net Settlement Fund consistent  
12 with the process described in this Motion, the Status Report, the Stipulation of  
13 Settlement, the Final Approval Order, and the Final Judgment.

14 4. A.B. Data is to commence such distribution immediately upon final  
15 calculation of the Net Settlement Fund.

16 5. If there is a balance remaining in the Net Settlement Fund after at least  
17 120 days from the date of the initial distribution to Authorized Claimants, A.B. Data  
18 will consult with counsel for the Settling Parties and conduct a second distribution to  
19 Authorized Claimants if feasible and economical; otherwise, any remaining funds will  
20 be directed to the *cy pres* recipient Consumer Federation of America pursuant to  
21 Section 4.1 of the Stipulation of Settlement.

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1           6. Any further claims against the Net Settlement Funds beyond the amount  
2 allocated to Authorized Claimants are hereby **BARRED**, and all persons involved in  
3 the review, verification, calculation, tabulation, or any other aspect of the processing  
4 of the Proofs of Claim submitted herein, or otherwise involved in the administration  
5 or taxation of the settlement funds or Net Settlement Funds are **RELEASED AND**  
6 **DISCHARGED** from any and all claims arising out of such involvement.

7 IT IS SO ORDERED.

8

9 DATED:

\_\_\_\_\_  
Hon. John A. Kronstadt  
United States District Judge

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