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Class Counsel

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

STEPHEN HADLEY, MELODY DIGREGORIO,
ERIC FISHON, KERRY AUSTIN, and
NAFEESHA MADYUN, on behalf of themselves,
all others similarly situated, and the general public,

Plaintiffs,

v.

KELLOGG SALES COMPANY,

Defendant.

Case No. 5:16-cv-04955-LHK

**DECLARATION OF JACK FITZGERALD IN
SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL**

[Fed. R. Civ. P. 23(e)]

Judge: Hon. Lucy H. Koh

Date: November 18, 2021

Time: 1:30 p.m.

Location: Courtroom 8 – 4th Floor

1 I, Jack Fitzgerald, declare:

2 1. I am a member in good standing of the State Bars of California and New York; and of the
3 United States District Courts for the Northern, Eastern, Central, and Southern Districts of California, the
4 Southern and Eastern Districts of New York, and the Western District of Wisconsin; and of the United States
5 Court of Appeals for the Second, Eighth, and Ninth Circuit Courts of Appeal. I make this Declaration based
6 on my own personal knowledge in support of Plaintiffs' Motion for Final Approval.

7 2. Based on the IRI data in this case, the average retail price for the Class Products was \$3.56
8 for Frosted Mini-Wheats, \$3.60 for Raisin Bran, and \$4.39 for Smart Start. *See* Dkt. No. 380, Declaration
9 of Colin Weir in Support of Motion for Preliminary Approval at 5, Table 1. Based on the price premia
10 derived from Plaintiffs' damages analyses, damages for those products were, on average 4.6 ¢ per purchase
11 for Frosted Mini-Wheats, 18.8 ¢ per purchase for Raisin Bran, and 23.8 ¢ per purchase for Smart Start.
12 Given the 513,324 valid claims that Class Members made, if the Court awards the full amount of fees, costs,
13 service awards, and Class Administrator fees requested, claimants will receive an average refund of
14 approximately \$14.09 as follows.

Settlement Fund	\$13,000,000
Notice & Administration	(\$680,283)
Attorneys' Fees	(\$3,900,000)
Expenses	(\$1,157,501)
Service Awards	(\$30,000)
Approved Documented Claims	(\$562.77)
Remainder	\$7,231,653.23
Claims	513,342
Remainder ÷ Claims	\$14.09

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23 3. Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards ("Fee Motion"), and my
24 supporting Declaration (Dkt. Nos. 398-99) were publicly filed on August 3, 2021 and posted to the
25 Settlement Website the next morning. Class Members thus had full access to the motion for five weeks
26 before the objection deadline, but no Class Member has objected to any aspect of the motion.

27 4. With regards to the settlement in *Krommenhock v. Post Foods, LLC*, No. 16-cv-1958 (N.D.
28 Cal.), for which the Honorable William H. Orrick granted final approval in June 2021, *see Krommenhock*

1 *v. Post Foods, LLC*, 2021 WL 2910205 (N.D. Cal. Jun 25, 2021), the estimated class size was 20 million,
2 and there were 355,816 valid claims made, representing a 1.78% claims rate. The claims rate here, of 3.21%
3 (513,342 claims compared to a class estimated at 16 million), is nearly double.

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5 I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge
6 and belief. Executed this 23rd day of September 2021, in San Diego, California.

7 /s/ Jack Fitzgerald
8 Jack Fitzgerald
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