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10 **UNITED STATES DISTRICT COURT**

11 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

12 CITY OF LONG BEACH, a municipal
corporation; COUNTY OF LOS
13 ANGELES, a political subdivision; CITY
OF CHULA VISTA, a municipal
14 corporation; CITY OF SAN DIEGO, a
municipal corporation; CITY OF SAN
15 JOSE, a municipal corporation; CITY OF
16 OAKLAND, a municipal corporation;
17 CITY OF BERKELEY, a municipal
corporation; CITY OF SPOKANE, a
18 municipal corporation; CITY OF
TACOMA, a municipal corporation;
19 CITY OF PORTLAND, a municipal
corporation; PORT OF PORTLAND, a
20 port district of the State of Oregon;
21 BALTIMORE COUNTY, a political
subdivision; MAYOR AND CITY
22 COUNCIL OF BALTIMORE; all
individually and on behalf of all others
23 similarly situated,

24 Plaintiffs,

25 v.

26 MONSANTO COMPANY; SOLUTIA
INC.; and PHARMACIA LLC; and DOES
27 1 through 100,

28 Defendants.

CASE NO.: 2:16-cv-03493-FMO-AS

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
RENEWED MOTION FOR
CERTIFICATION OF SETTLEMENT
CLASS, PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT,
APPROVAL OF NOTICE PLAN,
APPOINTMENT OF CLASS ACTION
SETTLEMENT ADMINISTRATOR,
AND APPOINTMENT OF CLASS
COUNSEL**

*[Filed Concurrently with Notice Motion
and Motion]*

Time of Hearing: 10:00 a.m.
Date of Hearing: July 22, 2021
Courtroom: 6D
Honorable Fernando M. Olguin

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1 Pursuant to the Court’s May 19, 2021 Order (ECF 273), Plaintiffs respectfully
2 submit this renewed motion for preliminary approval. Plaintiffs incorporate by reference
3 their previously-submitted Points and Authorities in Support of Renewed Motion for
4 Preliminary Approval of Class Action Settlement filed on December 31, 2020 (ECF 256)
5 and March 19, 2021 (ECF 267). Additionally, Plaintiffs address herein the specific
6 matters raised by the Court at the May 19, 2021 hearing, including modifications to the
7 Settlement Agreement made in response to the Court’s comments, as well as the Court’s
8 June 4, 2021 minute entry (ECF 276).

9 Plaintiffs and Defendants Monsanto Company, Solutia Inc., and Pharmacia LLC
10 (collectively, “Monsanto” or “Defendant”) have reached a proposed nationwide class
11 action settlement (the “Settlement”) to resolve allegations that Defendant’s design,
12 manufacture, sale, promotion, and supply of chemicals known as polychlorinated
13 biphenyls (“PCBs”) resulted in the contamination of Plaintiffs’ stormwater and other
14 resources, necessitating treatment and/or remediation to remove PCBs. Subject only to
15 any potential Litigating Entity Sediment Site Entity opt-out, Defendant has agreed to pay
16 \$550 million as a net class benefit to be distributed to 2,528 class members across the
17 United States. Defendant also has agreed to separately pay class counsel attorneys’ fees
18 and expenses, special master costs, and class administration and notice costs.

19 This Settlement is the result of contentious, prolonged, arm’s-length negotiations
20 during in-person meetings and numerous telephone conference mediation sessions
21 between early to mid-2019 and March 2020 when a confidential term sheet was executed.
22 The mediation process was led by JAMS mediator Judge (Ret.) Jay Gandhi. The Parties
23 negotiated a resolution to litigation that has been pending since early 2015 in several
24 jurisdictions across the United States. The Settlement confers substantial relief for
25 Settlement Class Members who will automatically receive a minimum payment and may
26 obtain additional payments upon application.

27 The Parties move this Court for an Order pursuant to Fed. R. Civ. P. 23 that would:
28 (1) certify the Settlement Class; (2) preliminarily approve the terms of the proposed

1 Settlement Agreement; (3) approve and direct the proposed Notice Plan; (4) appoint the
2 Class Action Settlement Administrator; and (5) appoint Lead and Co-Class Counsel.

3 **I. THE COURT’S MAY 19, 2021 ORDER AND JUNE 4, 2021 MINUTE**
4 **ENTRY**

5 On May 19, 2021, the Court denied without prejudice the Parties’ request for
6 preliminary approval of the Settlement Agreement. ECF 273. The Parties address below
7 the comments raised by the Court at the May 19, 2021 hearing and respond to the Court’s
8 June 4, 2021 minute entry (ECF 276).

9 **A. Settlement Agreement Paragraph 71**

10 The Parties have revised Paragraph 71 of the Settlement Agreement in response to
11 the Court’s comments at the hearing. Exhibit 1, Settlement Agreement, ¶ 71.¹

12 **B. Deadline for Applications Under Special Needs Fund, Part B**

13 During the hearing, the Court suggested that the deadline for submission of
14 applications under Special Needs Fund, Part B should be one year from the date of a
15 Settlement Class Member’s receipt of payment from the Monitoring Fund, rather than one
16 year from the date of the Final Approval Order. The Settlement Agreement has been
17 modified to incorporate the Court’s suggestion. To provide a single fixed deadline for all
18 Part B applications, the due date has been set at one year and fourteen days from the Class
19 Action Settlement Administrator’s mailing of Monitoring Fund payments to Settlement
20 Class Members. Exhibit 1, Settlement Agreement, ¶ 80(i) and Ex. I (Direct Notice) at 12-
21 13.

22 **C. Special Master Costs**

23 In response to the Court’s comments at the hearing, the Settlement Agreement has
24 been revised to provide that Defendant will pay Special Master Costs. Exhibit 1,
25 Settlement Agreement, ¶¶ 58, 73 and Ex. I (Direct Notice) at 4. The Special Master will
26 allocate and implement the Settlement with the assistance of the Allocation Experts,
27

28 ¹ Attached as Exhibit 1-A, the Parties have provided the Court with a redline of the
revisions made to the Settlement Agreement.

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