

**BARON & BUDD, P.C.**

Scott Summy (*Pro Hac Vice*, TX Bar No. 19507500)

SSummy@baronbudd.com

Carla Burke Pickrel (*Pro Hac Vice*, TX Bar No. 24012490)

cburkepickrel@baronbudd.com

3102 Oak Lawn Ave, #1100

Dallas, Texas 75219

Telephone: (214) 521-3605

**BARON & BUDD, P.C.**

John P. Fiske (SBN 249256)

Fiske@baronbudd.com

11440 W. Bernardo Court, Suite 265

San Diego, California 92127

Telephone: (858) 251-7424

*Proposed Lead Class Counsel*

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

CITY OF LONG BEACH, a municipal corporation; COUNTY OF LOS ANGELES, a political subdivision; CITY OF CHULA VISTA, a municipal corporation; CITY OF SAN DIEGO, a municipal corporation; CITY OF SAN JOSE, a municipal corporation; CITY OF OAKLAND, a municipal corporation; CITY OF BERKELEY, a municipal corporation; CITY OF SPOKANE, a municipal corporation; CITY OF TACOMA, a municipal corporation; CITY OF PORTLAND, a municipal corporation; PORT OF PORTLAND, a port district of the State of Oregon; BALTIMORE COUNTY, a political subdivision; MAYOR AND CITY COUNCIL OF BALTIMORE; all individually and on behalf of all others similarly situated,

Plaintiffs,

v.

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

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

**TABLE OF CONTENTS**

<b>I.</b>	THE COURT’S MAY 19, 2021 ORDER AND JUNE 4, 2021 MINUTE ENTRY .....	2
<b>A.</b>	Settlement Agreement Paragraph 71 .....	2
<b>B.</b>	Deadline for Applications Under Special Needs Fund, Part B .....	2
<b>C.</b>	Special Master Costs .....	2
<b>D.</b>	Proposed Attorneys’ Fees for Class Counsel .....	3
<b>II.</b>	THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE PROPOSED SETTLEMENT .....	6
<b>III.</b>	THE COURT SHOULD APPROVE THE CONTENT AND DISTRIBUTION OF THE PROPOSED NOTICE TO THE SETTLEMENT CLASS MEMBERS .....	6
<b>IV.</b>	THE COURT SHOULD APPOINT CLASS COUNSEL .....	6
<b>V.</b>	ESTABLISHMENT OF FINAL APPROVAL AND FAIRNESS HEARING AND ASSOCIATED DEADLINES .....	7
<b>VI.</b>	CONCLUSION .....	7
	EXHIBIT INDEX .....	9

**TABLE OF AUTHORITIES**

**Page(s)**

**Cases**

<i>Briseño v. Henderson</i> , 2021 WL 2197968 (9th Cir. June 1, 2021).....	3, 4, 5
<i>Glover v. City of Laguna Beach</i> , 2018 WL 6131601 (C.D. Cal. July 18, 2018) .....	6
<i>In re Bluetooth Headset Prods. Liab. Litig.</i> , 654 F.3d 935 (9th Cir. 2011) .....	3, 5
<i>In re Magsafe Apple Power Adapter Litig.</i> , 2015 WL 428105 (N.D. Cal. Jan. 30, 2015).....	4
<i>In re Volkswagen “Clean Diesel” Mktg., Sales Practices, and Prods. Liab. Litig.</i> , 895 F.3d 597 (9th Cir. 2018) .....	3, 4, 5

**Rules**

Fed. R. Civ. P. 23 .....	1, 7
Fed. R. Civ. P. 23(g) .....	6

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.<sup>1</sup>

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

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.