SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

PATRICIA BLAND, et al, Plaintiff, v. PREMIER NUTRITION CORPORATION, et al, Defendants.	No. RG19-002714 ORDER (1) GRANTING THE MOTION OF PLAINTIFF FOR CLASS CERTIFICATION AND (2) GRANTING PREMIER'S MOTION TO SEAL Date: 7/22/20 Time: 10:00 AM Dept.: 21

The motion of Plaintiff for class certification came on regularly for hearing on 6/5/20, in Department 21, the Honorable Winifred Y. Smith presiding. Plaintiffs and Defendants appeared at the hearing through counsel of record. The Court, after full consideration of all papers submitted in support and opposition to the motion, as well as the oral arguments of counsel, decides as follows: IT IS HEREBY ORDERED: The motion of Plaintiff for class certification is GRANTED with an amended class definition. The motion of Premier to seal is GRANTED.

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PROCEDURAL AND FACTUAL BACKGROUND

The Complaint filed 1/15/19 asserts that California-based Premier Nutrition Corporation ("Premier") manufactures, distributes, and promotes Joint Juice, a drinkable supplement containing glucosamine hydrochloride and chondroitin sulfate. (Cpt 8.) Premier's advertisements and packages encourage consumers to drink Joint Juice to "keep cartilage lubricated and flexible" or "for healthy, flexible joints." (Cpt 11-28.) Plaintiff asserts Joint Juice does not and cannot provide any joint health benefits to anyone.

The Complaint filed 1/15/19 asserts three causes of action regarding the alleged false and misleading advertisements: (1) violations of the Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1770; (2) violations of the California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, and (3) unjust enrichment.

Plaintiff moves to certify a class of California consumers defined as "All persons who purchased Joint Juice in the State of California from June 21, 2016, up to and including the date class notice is disseminated." (Notice of Motion.)

A federal district court granted class certification of identical claims against the same defendant but for the time period March 1, 2009, through June 20, 2016. (*Mullins v. Premier Nutrition Corporation* (N.D. Cal., 2016) 2016 WL 1535057.)[1]

[1] The federal court subsequently denied a motion for classwide summary judgment. (*Mullins v. Premier Nutrition Corporation* (N.D. Cal., 2016) 178 F.Supp.3d 867.) Plaintiffs then dropped the CLRA cause of action to proceed entirely on the equitable UCL claim, and Premier moved to dismiss the claims for restitution. The federal court granted the motion to dismiss, stating, "Because [plaintiff has not shown her remedy at law is inadequate], and—having dropped her prayer for damages despite being advised of the potential consequences—is unable to do so, she may not proceed on her equitable claims for restitution in lieu of a damages claim."

STANDARDS FOR CLASS CERTIFICATION.

The standard for class certification is that there must be both an ascertainable class and a well-defined community of interest among the class-members." (*Duran v. U.S. Bank Nat. Assn* (2014) 59 Cal.4th 1, 28.) This requires an inquiry into numerosity, ascertainability, whether common questions of law or fact predominate, whether the class representatives have claims or defenses typical of the class, and whether the class representatives can represent the class adequately. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) (See also *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1022.) Other relevant considerations include the probability that each class member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing. (*Linder*, 23 Cal.4th at 435.)

The trial of a class action involves the balancing of many factors to ensure that plaintiffs and defendants get a fair trial and the judicial system recognizes the benefits of the class mechanism. The court may not alter substantive law to accommodate the class action procedure (*Discover Bank v. Superior Court* (2005) 36 Cal. 4th 148, 161) but the court should be "procedurally innovative" in managing class actions (*Duran*, 59 Cal.4th at 57 [Werdegar, conc]; *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal. 4th 319, 339-340).

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Mullins v. Premier Nutrition Corporation (N.D. Ca., 2018) 2018 WL 510139, affirmed by *Sonner v. Premier Nutrition Corporation* (9th Cir., 2020) 962 F.3d 1072.)

NUMERIOSITY (PRACTICALITY OF BRINGING ALL CLASS MEMBERS BEFORE THE COURT).

Legal Standard. The statutory touchstone for numerosity is whether there are so many class members that "it is impracticable to bring them all before the court." (CCP 382.) Although "[n]o set number is required as a matter of law for the maintenance of a class action," classes of more than 30 to 40 class members generally satisfy the numerosity requirement because at that point, joinder is not practical. (*Hendershot v. Ready to Roll Transportation, Inc.* (2014) 228 Cal.App.4th 1213, 1222; *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934.)

Facts of this case. From 2016 through 2019, over 500,000 units of Joint Juice were purchased in California. (Exh 52.) The federal district court order dated 9/23/19 remanding the case states that the evidence presented on the remand motion was that between June 21, 2016 and January 19, 2019, Sam's Club sold Joint Juice to 12,840 persons in California and that from fiscal year 2015 through fiscal year 2019 Target sold Joint Juice to 228,110 persons in California. The total California sales and the information in the remand order support a finding that the proposed class is sufficiently numerous.

ASCERTAINABILITY

Legal standard. A class is ascertainable when it is defined "in terms of objective characteristics and common transactional facts" that make "the ultimate identification of class members possible when that identification becomes necessary." The class definition must be "sufficient to allow a member of [the class] to identify himself or herself as having a right to recover based on the [class] description." (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980.) A plaintiff is not required to identify the individual members of the class at the class

certification stage. (*Noel*, 7 Cal.5th at 982; (*Harper v. 24 Hour Fitness* (2008) 167 Cal.App.4th 966, 976-977; *Medrazo v. Honda of North Hollywood* (2008) 166 Cal.App.4th 89, 101.)

The need to define the class with reference to objective characteristics and common transactional facts might mean that the class definition is slightly under-inclusive or over-inclusive. (*Ghazayan v. Diva Limousine, Ltd.* (2008) 169 Cal.App.4th 1524, 1528–1529, 1533 fn 8.)

"The court itself can and should redefine the class where the evidence before it shows such a redefined class would be ascertainable." (*Marler v. E.M. Johansing, LLC* (2011) 199 Cal.App.4th 1450, 1462.) (See also *Franchise Tax Bd. Limited Liability Corp. Tax Refund Cases* (2018) 25 Cal.App.5th 369, 711.)

Facts of this case. The proposed class definition is: "All persons who purchased Joint Juice in the State of California from June 21, 2016, up to and including the date class notice is disseminated." (Notice of Motion.)

The reference is to "Joint Juice" is adequate even though it does not identify particular products. The claims are for false advertising, so any product identified as "Joint Juice" is the subject of the claims without regard to flavor, size of container, or other variation. The court adopts the definition of "Joint Juice" in First Amended Complaint, para 1 and fn 1.

The reference is to "up to and including the date class notice is disseminated" is not adequate. "As it is the court's duty to certify an identifiable and ascertainable class, the court is not limited ... to the class description contained in plaintiff's complaint." (*Marler v. E.M. Johansing, LLC* (2011) 199 Cal.App.4th 1450, 1462.) A class definition needs a clearly defined temporal scope. In the usual case the class definition has a specific start and end date. This case

concerns products that continue to be marketed to the general public, so the putative class increases each day. The class notice in this case will likely be by publication, which would start on one day and continue for a period of 30-90 days. To ensure that each member of the putative class has the benefit of the full notice period, the end date of the class must be the date that class notice begins, not the date when class notice is complete.

The court will change the class definition to: "All persons who purchased Joint Juice in the State of California from June 21, 2016, through the date class notice is first disseminated."

PREDOMINANCE OF COMMON QUESTIONS OF LAW AND FACT - LEGAL FRAMEWORK.

Plaintiff's burden on moving for class certification is not merely to show that some common issues exist, but, rather, to place substantial evidence in the record that common issues *predominate*. (*Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal. 4th 1096, 1108.) "The ultimate question in [class actions] is whether . . . the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants." (*Lockheed Martin*, 29 Cal. 4th at 1104-1105.)

It is not necessary that every member of the proposed class be exposed to the allegedly wrongful practice and the practice was either consistently lawful or unlawful as to all members of the class. *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal. 4th 319, addresses this in several places, stating, "Predominance is a comparative concept," (34 Cal. 4th at 334), that the community of interest requirement does not mandate that class members' claims be uniform or identical, (34 Cal.4th at 338), that the "logic of predominance" does not require a plaintiff to

prove that a defendant's policy was "either right as to all members of the class or wrong as to all members of the class," (34 Cal. 4th at 338), and "the established legal standard for commonality ... is comparative," (34 Cal.4th at 339).

The determination of how much commonality is enough to warrant use of the class mechanism requires a fact specific evaluation of the claims, the common evidence, and the anticipated conduct of the trial. Commonality is determined with reference to the claims asserted. (*Hicks v. Kaufman and Broad Home Corp.* (2001) 89 Cal.App.4th 908, 916 fn 22.) The Court's focus is on not just the presence or absence of individual issues but the *nature* of those issues and how significant they will be to the conduct of the trial. (*Dunbar v. Albertson's, Inc.* (2006) 141 Cal. App. 4th 1422, 1431-1432.)

COMMONALITY OF FACTS AND ISSUES

The Complaint filed 1/15/19 asserts three causes of action regarding the alleged false and misleading advertisements: (1) violations of the Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1770; (2) violations of the California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, and (3) unjust enrichment.[2]

Common issues fact predominate regarding the representations that Premier made in its marketing and advertising and labelling. Premier acknowledges that it made the following

[2] The Court of Appeal for the First District recognizes "unjust enrichment" as a cause of action. (*O'Grady v. Merchant Exchange Productions, Inc.* (2019) 41 Cal.App.5th 771, 790-792.) "The elements of a cause of action for unjust enrichment are simply stated as receipt of a benefit and unjust retention of the benefit at the expense of another." (*Professional Tax Appeal v. Kennedy-Wilson Holdings, Inc.* (2018) 29 Cal.App.5th 230, 238.)

common statements on Joint Juice's packaging/advertising: (1) "Keep your Joints Happy & Healthy" (2) Drink Daily for Healthy, Flexible Joints," and (3) A Full Day's Supply of Glucosamine Combined with Chondroitin Helps Keep Cartilage Lubricated and Flexible." (Oppo at 3:21-25.) The acknowledged core common representations alone are sufficient.

The parties dispute whether the relevant common representations include a TV commercial by Joe Montana, Joint Juices' website, Joint Juices' AdWords, and other marketing/advertising. (Oppo at 12:5-8.) The issue is whether these additional representations were sufficiently common that they can be the basis of a class claim.

The court will address this issue at class certification in the context of defining the claim rather than waiting to address it at trial in the context of a motion in limine. This is a fact specific discretionary case management decision. A plaintiff is not required to know the specific evidence she will present at trial at class certification, but the claim must be sufficiently defined that a defendant can move for summary judgment on a classwide basis. The court is guided by *Williams-Sonoma Song-Beverly Act Cases* (2019) 40 Cal.App.5th 647, where the trial court decertified a class because the information presented to consumers varied between individual transactions. (See also *Downey v. Public Storage* (2020) 44 Cal.App.5th 1103, 1117 ["Common issues do not predominate (and class certification is properly denied) when the evidence demonstrates variations in how—and, critically, *whether*—class members were exposed to an allegedly deceptive advertisement"].) The court has also considered *Hill v. Roll Internat. Corp.* (2011) 195 Cal.App.4th 1295 [Appendix], where the court considered the specific marketing/advertising and affirmed dismissal of a false advertising claim.

The common representations for purposes of class certification include:

1. Joint Juice labels and packaging during the class period (E.g. Ex 5 at 031827-031834; Exh 8 at 131436 and 131444-131447; Exh 62; Davenport Dec, Exh A; 1ACpt para 28)

2. The Joint Juice website during the class period. (E.g. Ex 67, 70)

The common representations do not include:

1. Joe Montana TV advertisement. (E.g. Ex 19-21) Joint Juice discontinued the advertisement in 2013, which was before the class period.

2. Joint Juice's AdWords. (E.g. 33-34) These reflect Joint Juice's marketing efforts, but they are not in themselves representations that customers viewed. If the AdWords directed customers to the Joint Juice website, then the customers viewed the website.

3. Joint Juice's advertisements, coupons, and in-store promotional materials. (E.g. Ex 12 at 029504, Ex 64.)

4. The Joint Juice website outside the class period. (E.g. Ex 68, 69)

The identified examples are examples. Joint Juice may serve interrogatories or document requests to identify the labels, packaging, and website pages during the class period that plaintiffs contend are common and are the basis for the class claim. At trial the court might limit the case to a certain number of labels, packaging, and website pages. (Evid Code 352.)

Common issues of fact predominate regarding the message that Premier's labels, packaging, and website during the class period convey to a reasonable consumer. Under the CLRA and the UCL, the court considers the message that is conveyed to the "reasonable consumer." (*Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th 1125, 1135-1136.)

Common issues fact predominate regarding whether the message is false or likely to deceive a reasonable consumer. "This focus on the "reasonable consumer"—rather than any particular consumer—means that an ad or practice may be "fraudulent" even without any individualized proof of deception, reliance and injury." (*Schaffer*, 44 Cal.App.5th at 1135-1136.)

Premier argued at the hearing on 7/22/20 that in defining the certified claim the court should exclude claims based on implied statements. This conflates class certification with the merits. Plaintiffs may prosecute claims based on the statements on the labels, packaging, and website pages. The court will not decide at class certification whether the common express statements were misleading. The court similarly will not decide at class certification whether a reasonable consumer would have understood the common express statements to be making common implied assertions and that those were misleading. Premier's argument that there is no evidence to support the claim that there were implied assertions is a merits argument that the trier of fact can resolve on a classwide basis.

Premier argued that the plaintiff must at class certification present expert testimony supported by a customer survey that demonstrates that Premier's labels and packaging conveyed a common message to a reasonable consumer and that the message was false or likely to deceive a reasonable consumer. (Oppo at 8-10.) Premier argued more specifically at the hearing on 7/22/20 that plaintiff must present expert testimony supported by a customer survey that the common express statements convey common implied assertions. (Hearing on 7/22/20.) California law "reject[s] defendants' view that a plaintiff must produce a consumer survey or similar extrinsic evidence to prevail on a claim that the public is likely to be misled by a representation." (*Colgan v. Leatherman Tool Group, Inc.* (2006) 135 Cal.App.4th 663, 681-

682.) A plaintiff's case on the merits might be stronger with an expert and a customer survey, but they are not required. Similarly, a defendant's case on the merits can be presented through expert testimony and customer survey evidence.

On the issue of customer surveys, there is evidence that Premier did a customer preference perception survey in the ordinary course of its business. (Davenport Dec, para 7; Poret Dec., para 5-11.) In the federal *Mullins* case Plaintiffs submitted an expert suggesting that the customer preference survey has utility regarding customer perception. (Blood Supp Dec. Exh 5 [Keegan & Donato report].) The parties dispute whether a customer *preference* survey is relevant to customer *perception*, would be confusing, and would be admissible at trial. (Evid Code 352.) The court does not resolve this evidence issue.

The court has considered *Townsend v. Monster Beverage Corporation* (C.D. Ca., 2018) 303 F.Supp.3d 1010, in which a federal trial judge at class certification excluded expert testimony about customer perception and customer injury and then denied class certification based on individualized customer perception and an inability to determine classwide customer injury.[3] A federal trial judge is no binding on this court. California law does not require surveys. California courts do not deny class certification based on complications in calculating aggregate damages, in allocating aggregate damages among the members of the class, or "even if the

[3] In *Townsend* the judge appears to have front-loaded issues of evidence and proof of the merits to class certification that this court would be inclined to resolve on the merits at summary judgment or trial. Under California law, a court can inquire into the merits to determine whether an element may be established collectively or only individually, which in turn "can turn on the precise nature of the element and require resolution of disputed legal or factual issues affecting the merits." That said, "Such inquiries are closely circumscribed." (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1024.)

members must individually prove their damages." (*Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1, 28.)

California law is clear that "the question of certification as essentially a procedural one that does not ask whether an action is legally or factually meritorious." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 439-440.) The court at class certification will not address:

1. whether the common express representations in the labels, packaging, and website pages convey implied assertions to reasonable consumers;

2. whether the common representations comply with FDA law and, if so, whether compliance with FDA law precludes liability under California law (Oppo at 4-5; Reply at 4);

3. whether the arguably common disclaimer mitigates or eliminates any misrepresentations in the common representations (Oppo at 4; Reply at 4-5); or

4. whether Premier's labelling/marketing/advertising is consistent with the industry standard and, if so, whether that is a defense (Choi Dec., para 11-19).

All of these are common merits issues.

The court finds that common issues of law and fact will predominate at trial. The analysis of commonality in this case also relies on the analysis of commonality regarding the same claims against the same defendant in *Mullins v. Premier Nutrition Corporation* (N.D. Cal., 2016) 2016 WL 1535057 at *3.

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TYPICALITY.

The named Plaintiffs must be generally typical of the members of the putative classes even though each plaintiff's specific factual situation is not the same as the specific factual situation of all the other class members. (*Medrazo v. Honda of North Hollywood* (2008) 166 Cal.App.4th 89, 99; *Wershba v. Apple Computer* (2001) 91 Cal. App. 4th 224, 238; *Daniels v. Centennial Group, Inc.* (1993) 16 Cal. App. 4th 467, 473.)

Plaintiff Bland and plaintiff White are sufficiently typical. Premier argues that Bland is not typical because in addition to purchasing Joint Juice in the class period and asserting claims in this case she also purchased Joint Juice outside the class period and was a member of the class in the federal Mullins case. (Oppo at 14-16.) This does not make Bland atypical. This does not mean that Bland is splitting her claims - she had claims during the *Mullins* class period and she has separate claim in the class period in this case. "When an obligation or liability arises on a recurring basis, a cause of action accrues each time a wrongful act occurs." (*Aryeh v. Cannon Business Solutions* (2013) 55 Cal.4th 1185, 1199.)

ADEQUACY.

The responsibilities of a class representative fall into two categories: (1) to have no interests adverse to the class and (2) to select and monitor class counsel to ensure the vigorous prosecution of the case. (*Lazar v. Hertz* (1983) 143 Cal.App.3d 128, 141-142; *McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450.) A class representative has a fiduciary duty to protect the interest of the absent class members throughout the litigation. (*Barboza v. West Coast Digital GSM, Inc.* (2009) 179 Cal.App.4th 540, 546.) (See also *Apple Computer v.*

Superior Court (2005) 126 Cal.App.4th 1253, 1271 [named plaintiffs have an obligation to adequately monitor the case and advise counsel on the prosecution of the case].)

The Court finds that Plaintiff Bland and Plaintiff White are sufficiently motivated to adequately prosecute the claims of the class and have no interests adverse to those of the class.

Premier argues that White is not sufficiently engaged in the case to be an adequate class representative. (Oppo at 16-17.) A named plaintiff is a fiduciary who should participate actively in the prosecution of the case. *Earley v. Superior Court* (2000) 79 Cal. App. 4th 1420, 1434, states, "The representative parties not only make the decision to bring the case in the first place, but even after class certification and notice, they are the ones responsible for trying the case, appearing in court, and working with class counsel on behalf of absent members." Similarly, *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal. App. 4th 1253, 1572, states that a class representative should provide participation and supervision from the start to the finish of a lawsuit. The "incentive awards" frequently sought by class representatives likewise suggest that named plaintiffs spend, or should spend, significant time and energy in the service of the interests of the class. White meets the standard. (White Dec.)

The Court finds that Blood, Hurst, and O'Reardon LLP are adequate as class counsel.

ALTERNATIVE PROCEDURES FOR HANDLING THE CONTROVERSY

There are no alternate procedures for handling the controversy. There is no parallel law enforcement or administrative proceeding. (*Caro v. Procter & Gamble Co.* (1993) 18 Cal. App. 4th 644, 660 [class certification denied in part because defendant had already entered in to consent decrees with public law enforcement entities].)

The federal district court order filed in this case on 10/4/19 remanding the case states that the federal judge is presiding over nine substantially similar case against defendant in federal court. As noted by federal Judge Seeborg, "In a more efficient world, a state court would not be adjudicating Bland's action while, in parallel, a federal court adjudicates nine other actions against the same defendant alleging the same facts." (*Bland v. Premier Nutrition Corp.*, ND CA, Case 19-cv-00875-RS, Order of 9/23/19 at p1-2 and 6.) This inefficiency is the result of the home state exemption to the Class Action Fairness Act. It does not affect the analysis of whether California claims can be efficiently tried in a class action.

DETERRING AND REDRESSING THE ALLEGED WRONGDOING

Trial courts have an obligation to consider the role of the class action in deterring and redressing wrongdoing. (*Linder*, 23 Cal.4th at 446.) A class action would be an effective means to redress any misleading advertising.

EVIDENCE

Plaintiff submitted new evidence with the reply brief. Consistent with due process and fairness, a court will not generally permit a party to raise new issues or to present new evidence reply. (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-1538.)

The court does not consider Blood Reply Dec Exh 1 (FTC report) or Exh 2 (OIG report).

The court does consider Blood Reply Dec Exh 3 (Bland Depo excerpts) and Exh 4 (White Depo exerpts). Premier took the depositions of the class representatives, had the transcripts, and presented deposition excerpts. It was not unfair to offer additional deposition excerpts in reply.

The court does consider Blood Reply Dec Exh 5 (Keegan Report from *Mullins* case). Premier had the Keegan report from the *Mullins* case and Premier argued in opposition that plaintiffs were required to submit a report, so it was not unfair to offer the report in reply.

The court does consider the White Declaration submitted in reply. The chronology is important. White was not a plaintiff in the original complaint. On 3/13/20, plaintiff Bland filed the motion for class certification and did not include a Declaration of White. On 4/29/20, the parties submitted a stipulation to file a First Amended Complaint to add White as a plaintiff. On 5/6/20, Premier deposed White and on 6/17/20 Premier opposed the motion for class certification arguing that White was not adequate. On 7/1/20, Plaintiffs filed the White Declaration. In this circumstance it was not unfair to offer the White Declaration in reply.

The Court's consideration of the evidence in this motion is limited to the motion for class certification and should not be construed as an indication of admissibility in future motions or at trial.

SUMMARY

The motion of Plaintiff for class certification is GRANTED.

The claims are based on the common representations in labelling, packaging, and the website during the class period. The class definition is: "All persons who purchased Joint Juice in the State of California from June 21, 2016, through the date class notice is first disseminated."

The Court approves Plaintiffs Bland and White as representative plaintiffs. The Court finds that Blood, Hurst, and O'Reardon LLP are adequate as class counsel.

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CLASS NOTICE

The court ORDERS that within 20 court days of this order, Plaintiffs must file a motion for class notice or a stipulation regarding class notice. (CRC 3.766(b).) If a motion is required, then counsel must get a reservation.

MOTION OF PREMIER TO SEAL

The motion of Premier to seal is GRANTED IN PART.

The motion to seal is GRANTED regarding PX 32 and PX 53. Exhibit 32 is dated 2018 and contains forward looking information that is of current commercial value. Exhibit 53 is store specific sales data through 6/2019 and is of current commercial value. These meet the stnadards of CRC 2.550(d).

The motion to seal is DENIED regarding the reference to PX 32 in Plaintiffs' opening brief at 11:16-17. The sentence is substantially similar to other information that is not under seal and the sentence is not forward looking information that is of current commercial value.

The court ORDERS that the clerk is to file under seal all the documents that are currently lodged conditionally under seal.

The court ORDERS that on or before 8/14/20 plaintiffs are to file public versions of all documents previously lodged conditionally under seal, removing only PX 32 and PX 53 from the public filings.

Dated: July 22, 2020

Winifred Y. Smith
Judge of the Superior Court