



1 On [DATE], this Court heard the unopposed Motion for Preliminary Approval of Class  
2 Settlement ("Motion") filed by plaintiff Danielle Skarpnes ("Plaintiff") in the pending action against  
3 defendant Elixir Cosmetics OPCO, LLC ("Defendant" or "Elixir") under California Rule of Court  
4 3.769(c) and (d). This Court reviewed the Motion, including the Stipulated Class Settlement  
5 Agreement and Release ("Agreement"); the Memorandum of Points and Authorities in support of the  
6 Motion; the other submissions filed; and all exhibits, declarations and evidence submitted in support  
7 of the Motion. Based on this review and the findings below, the Court finds good cause to GRANT  
8 the Motion.

9 **THE COURT FINDS:**

10 A. Unless otherwise specified, defined, or capitalized, the terms in this Order approving  
11 Preliminary Approval of Class Settlement and Provisional Settlement Class Certification have the  
12 same definitions and meanings as the terms set forth in the Agreement attached as Exhibit 1 to the  
13 Declaration of Peter Farnese ("Farnese Declaration") filed in support of the Motion.

14 B. For settlement purposes only, the Settlement Class is so numerous that joinder of all  
15 Settlement Class Members is impracticable, Plaintiff's claims are typical of the Settlement Class's  
16 claims, there are questions of law and fact common to the Settlement Class, which predominate over  
17 questions affecting only individual Settlement Class Members, and Settlement Class certification is  
18 superior to other available methods for the fair and efficient adjudication of the controversy.

19 C. The Court finds that (a) the Long Form Notice, Email Notice, Internet Notice, Mailed  
20 Notice, Reminder Notice, and Publication Notice as provided for in the Agreement collectively  
21 constitute the best notice practicable under the circumstances, (b) the notice constitutes valid, due, and  
22 sufficient notice to all members of the Settlement Class, (c) the method of notice is reasonably  
23 calculated to reach a substantial percentage of Settlement Class Members, and is expected to reach, at  
24 a minimum, seventy percent of the Settlement Class; and (d) the content, form, and method of notice  
25 comply fully with the requirements of Code of Civil Procedure Section 382, California Rules of Court  
26 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

27 D. The Agreement falls within the range of possible final approval as fair, reasonable, and  
28 adequate, and appears to be presumptively valid.

1 **IT IS HEREBY ORDERED THAT:**

2 1. **Settlement Approval.** The Agreement, which is attached as Exhibit 1 to the Farnese  
3 Declaration filed concurrently in support of the Motion, is preliminarily approved.

4 2. **Provisional Certification.** The Settlement Class is provisionally certified, for  
5 settlement purposes only, to include all persons in the United States or its territories who purchased  
6 any Elixir Product for personal, family, household, or professional purposes between June 1, 2019 and  
7 the date of the entry of an order granting preliminary approval to the Settlement Agreement excluding  
8 (a) any individuals who have pending litigation against Elixir; (b) any Settlement Class Members who  
9 file a timely request for exclusion; (c) any officers, directors, or employees, or immediate family  
10 members of the officers, directors, or employees, of Elixir or any entity in which Elixir has a  
11 controlling interest; (d) any person who has acted as a consultant of Elixir; (e) any legal counsel or  
12 employee of legal counsel for Elixir; (f) any federal, state, or local government entities; and (g) any  
13 judicial officers presiding over the Action and the members of their immediate family and judicial  
14 staff.

15 3. **Preliminary and Conditional Appointment of Class Representative.** Plaintiff  
16 Danielle Skarpnes is conditionally appointed as the Class Representatives to implement the Settlement  
17 in accordance with the Agreement.

18 4. **Preliminary Appointment of Class Counsel.** Farnese P.C. is conditionally appointed  
19 as Class Counsel for settlement purposes, with Peter J. Farnese of Farnese P.C. conditionally  
20 appointed as Class Counsel. Plaintiff and Class Counsel must fairly and adequately protect the  
21 Settlement Class's interests.

22 5. **Preliminary Appointment of Settlement Administrator.** The Court approves AI  
23 Class Solutions as the Settlement Administrator for the purposes of providing notice, processing  
24 claims and administering the settlement of this case.

25 6. **Funding of the Settlement Fund.** No later than thirty (30) calendar days after entry of  
26 this Order, Elixir shall deposit 25% of the Cash Settlement Fund Amount (\$575,000.00) with the  
27 Settlement Administrator to be held in escrow by the Settlement Administrator. On or before thirty  
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1 (30) calendar days prior to the Final Approval Hearing, Elixir shall deposit another 25% of the Cash  
2 Settlement Fund Amount (\$575,000.00) with the Settlement Administrator.

3 7. **Provision of Class Notice.** Elixir, through the Settlement Administrator, will notify  
4 Settlement Class Members of the Settlement in the manner and within the time period specified under  
5 Section 5.2 of the Agreement. The Court hereby approves, as to form and content, the proposed Long  
6 Form Notice, Email Notice, and Postcard Notice as provided in the Exhibits attached to the Agreement.

7 8. **Funding of Class Notice and Settlement Administration.** On or before fourteen (14)  
8 calendar days after entry of this Order, Elixir shall pay the estimated Settlement Administration Costs  
9 to the Settlement Administrator.

10 9. **Claim Form.** Pursuant to Section 5.3 of the Agreement, Settlement Class Members  
11 must complete a valid and timely Claim Form and submit the Claim Form to the Settlement  
12 Administrator no later than the Claim Filing Deadline to be qualified to receive payment under the  
13 Settlement.

14 10. **Objection to Settlement.** Class Members who have not submitted a timely written  
15 exclusion request pursuant to Paragraph 9 below and who wish to object to the fairness,  
16 reasonableness, or adequacy of the Agreement, may elect to object to the Agreement by sending a  
17 written objection to the Settlement Administrator that (a) states the case name and number: *Danielle*  
18 *Skarpnes v. Elixir Cosmetics OPCO, LLC*, Case No. CU23-04638 (Superior Court of California,  
19 County of Solano; (b) states the full name, address, and telephone number of the Settlement Class  
20 Member making the objection; (c) contains a statement that he/she objects to the Agreement and the  
21 reasons for the objections; and (d) is signed by the Settlement Class Member making the objection or  
22 an authorized representative. Any written objection must be submitted to the Settlement Administrator  
23 by U.S. Mail. Written objections must be postmarked no later than the Objection Deadline. The  
24 Settlement Administrator must serve on Class Counsel and Elixir's Counsel a list of Settlement Class  
25 Members who have objected along with the substance of those objections no later than seven (7) days  
26 prior to the filing date of Plaintiff's motion for final approval. If a Settlement Class Member submits  
27 both an exclusion request and an objection, the exclusion request shall take precedence and will be  
28 considered valid and binding, and the objection shall be deemed to have been sent by mistake and

1 rejected. Settlement Class Members have the option to appear at the Final Approval Hearing, either in  
2 person or through counsel hired at the Settlement Class Member's expense, to object to the fairness,  
3 reasonableness, or adequacy of the Agreement, or to the award of attorneys' fees regardless of whether  
4 they have timely submitted a written objection to the Settlement Administrator.

5       **11. Requesting Exclusion.** Settlement Class Members may elect not to be part of the  
6 Settlement Class and not to be bound by this Agreement. To make this election, Settlement Class  
7 Members may send a signed letter or postcard to the Settlement Administrator stating: (a) the name  
8 and case number of the Action; (b) the full name, address, and telephone number of the person  
9 requesting exclusion; and (c) a statement that he/she does not wish to participate in the Agreement,  
10 postmarked no later than the Exclusion Deadline. The Settlement Administrator must serve on Class  
11 Counsel and Elixir's Counsel a list of Settlement Class Members who have timely and validly excluded  
12 themselves from the Settlement Class no later than seven (7) days prior to the filing date of Plaintiff's  
13 motion for final approval. If a Settlement Class Member submits both a Claim Form and an exclusion  
14 request, the Claim Form shall take precedence and will be considered valid and binding, and the  
15 exclusion request shall be deemed to have been sent by mistake and rejected.

16       **12. Stay of Dates and Deadlines.** All discovery and pretrial proceedings and deadlines in  
17 this case, including Elixir's deadline for responding to Plaintiff's Complaint, are stayed and suspended  
18 until further notice from the Court, except for such actions as are necessary to implement the  
19 Agreement and this Order.

20       **13. No Admission.** Nothing in this Order is, or may be construed as, an admission or  
21 concession on any point of fact or law by or against any Party.

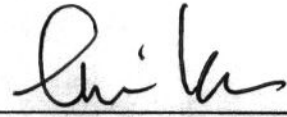
22       **14. Motion for Final Approval.** Plaintiff shall file a motion for final approval of the  
23 Settlement, Class Representative Service Payment, and Class Counsel's Fees and Expenses no later  
24 than fourteen (14) days prior to the Final Approval Hearing.

25       **15. Final Approval Hearing.** On MAY 20, 2024, at 9<sup>00</sup> a.m., this Court  
26 will hold a Final Approval Hearing to determine whether the Agreement should be finally approved  
27 as fair, reasonable, and adequate. This Court may order the Final Approval Hearing to be postponed,  
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1 adjourned, or continued. If that occurs, the Parties will not be required to provide additional notice to  
2 Settlement Class Members.

3 **IT IS SO ORDERED**

4 Date: 1/19/2024



Hon. Tim P. Kam  
Judge of the Superior Court

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