

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CHARLES COPLEY, JASON EVANS,
HUMBERTO GARCIA, LUZ ANGELINA
GARCIA, JOAN MCDONALD, JOHN
PETERSON, BETTY PRESSLEY, NATALIE
ROBERTS, NORMAN SKARE, individually and
as personal representative for BETTY SKARE,
DAVID STONE, and KAYE WINK, individually
and as next of kin of DONALD WINK, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

BACTOLAC PHARMACEUTICAL, INC.;
NATURMED, INC. d/b/a INSTITUTE FOR
VIBRANT LIVING; and INDEPENDENT VITAL
LIFE, LLC,

Defendants.

JEFFREY FARIS, ANTONIA HAMPTON, RAUL
ROBLES, and KATHLEEN CANNON,
Individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

BACTOLAC PHARMACEUTICAL, INC.;
NATURMED, INC. d/b/a INSTITUTE FOR
VIBRANT LIVING; and INDEPENDENT VITAL
LIFE, LLC,

Defendants.

No.: 2:18-cv-00575-FB-PK

Consolidated with

No. 2:20-cv-01338-FB-PK

**DECLARATION OF BRADLEY MADDEN
REGARDING NOTICE PLAN
IMPLEMENTATION AND SETTLEMENT
ADMINISTRATION**

1 I, Bradley Madden, hereby declare as follows:

2 1. I am a Project Manager for Postlethwaite & Netterville, APAC (“P&N”), a full-service
3 administration firm providing legal administration services. The following statements are based on my
4 personal knowledge as well as information provided by other experienced P&N employees working under
5 my supervision.

6 2. On January 10, 2022, the Court approved the Notice Plan and appointed P&N as the Class
7 Administrator in the *Order Granting Preliminary Approval of the Settlement* (the “Order,” Dkt 248). The
8 Court conditionally certified a Class defined as “all Persons in the United States who purchased one or more
9 canisters of ADEG that were manufactured as part of the Recalled Lots, except for Excluded Persons.”

10 3. Upon preliminary approval of the Settlement, P&N began to implement the Notice Plan as
11 described in the January 10, 2022, *Declaration of Bradley Madden Regarding Proposed Administration*
12 (“Madden Declaration,” Dkt. 247-4). This declaration will discuss the implementation of the Notice Plan
13 and settlement administration.

14 **NOTICE PLAN EXECUTION**

15 ***NOTICE DATABASE***

16 4. P&N maintains a database of 213,044 Class Member records which was used to effectuate
17 the notice campaign as outlined within the Settlement Agreement. P&N received the two different class data
18 files on November 15, 2021: (1) The list of customers that Defendants have identified as purchasing
19 product(s) from the Recalled Lots, and (2) the list of customers who have been identified as receiving a
20 refund. The first list consisted of names, addresses, email addresses, and Customer IDs, while the second
21 list consisted of names and Customer IDs. P&N determined that there were 213,044 unique Class Members
22 that did not already receive a refund from Defendants.

23 ***MAIL NOTICE***

24 5. On February 9, 2022, P&N coordinated and caused the mailing of the Postcard Notice to be
25 mailed via Business Reply Mail to all 213,044 Class Members at the mailing addresses provided by
26 Defendants. The Postcard Notice included the URL to the case website for access to additional information,
27 the URL to access the Claim Form and the return address of the P.O. Box maintained for the purpose of
28 receiving the Claim Form submissions and undeliverable Postcard Notices in connection with this

1 Settlement. A true and correct copy of the Postcard Notice is attached hereto as **Exhibit A**.

2 **MAIL NOTICE DELIVERY**

3 6. Prior to the mailing, all mailing addresses were checked against the National Change of
 4 Address (NCOA) database maintained by the United States Postal Service (“USPS”). In addition, the
 5 addresses were certified via the Coding Accuracy Support System (CASS) to ensure the quality of the zip
 6 code and verified through Delivery Point Validation (DPV) to verify the accuracy of the addresses.

7 **SECOND MAILED NOTICE**

8 7. After 30 days, P&N coordinated a reverse lookup analysis to obtain mailing addresses
 9 associated with 28,275 Postcard Notices deemed to be undeliverable (13.27%). This process resulted in
 10 mailing addresses for 26,161 (92.52%) records representing 12.0% of all Class Members. Of these, 497
 11 addresses were undeliverable as determined by NCOA.

12 8. On March 24, 2022, Postcard Notices were mailed to 25,664 Class Members who had not
 13 received Mailed Notice in the initial distribution due to a returned or dropped Postcard Notice.

14 **NOTICE PROGRAM REACH**

15 9. The Direct Notice program conducted by P&N reached a total of 203,785 (95.7%) Settlement
 16 Class Members. Table 1 below provides an overview of dissemination results for the Notice Program.

17

Table 1: Direct Notice Program Dissemination Results		
Description	Volume	% of Class Members
Class Members	213,044	100.0%
Mail Notice		
Total Postcards Mailed	213,044	100.0%
(-) Total Postcards Returned as Undeliverable	28,275	13.3%
Re-Mailed Notice		
(+) Total Postcards Re-mailed	25,664	12.0%
(-) Total Re-mailed Postcards Returned as Undeliverable	6,648	3.1%
(=) Received Direct Notice	203,785	95.7%

EMAIL REMINDER

10. In the initial data sets received, P&N identified 87,119 class members with a known email address. P&N sent an email reminder on April 7, 2022, to 73,461 email addresses, after removing those who had already submitted a claim as well as any email flagged by email validation. A true and correct copy of the email reminder is attached hereto as **Exhibit B**. Table 2 below provides an overview of dissemination results for the email reminder.

Table 2: Email Reminder Reach Statistics		
Description	Volume	% of Email Reminders
Total Reminders Emailed	73,461	100.0%
(-) Total Emails Undeliverable	5,148	7.0%
(=) Email Reminders Delivered	68,313	92.8%
Unique Email Reminders Opened	4,327	5.9%
Unique Clicks to the Website	792	1.1%

SETTLEMENT WEBSITE

11. On February 8, 2022, P&N established the Settlement Website, www.NaturMedIVLSettlement.com. Visitors to the Settlement Website can download the Long Form Notice, the Claim Form, as well as Court Documents, such as the Class Action Complaint; Settlement Agreement; Motions filed by Class Counsel; and Orders of the Court. Visitors are also able to submit claims electronically, submit address updates electronically, and find answers to frequently asked questions (FAQs), important dates and deadlines, and contact information for the Claims Administrator. As of May 9, 2022, the Settlement Website has received 27,428 unique visitors and 89,401 page views.

EMAIL SUPPORT

12. P&N established the email address, info@NaturMedIVLSettlement.com, to provide email support so Class Members could address specific questions and requests to the Claims Administrator. The

1 email address is included in the Long Form Notice and displayed on the Settlement Website.

2 **SETTLEMENT POST OFFICE BOX**

3 13. P&N also established a dedicated Post Office Box (“P.O. Box”):

4 NaturMed/IVL Settlement Administrator
5 P.O. Box 3958
6 Baton Rouge, LA 70821

7 14. The P.O. Box serves as a location for Class Members to submit Claim Forms, exclusion
8 request forms, and other Settlement related correspondences. The P.O. Box appears in the Long Form Notice
9 and in multiple locations on the Settlement Website. P&N monitors the P.O. Box daily and uses a dedicated
10 mail intake team to process each item received.

11 **DEDICATED TOLL-FREE HOTLINE**

12 15. On February 8, 2022, P&N also established the toll-free hotline, 1-844-563-0649, dedicated
13 to this Settlement. The toll-free hotline is accessible 24 hours per day, seven days per week and utilizes an
14 interactive voice response (“IVR”) system where Class Members can obtain essential information regarding
15 the Settlement and be provided responses to frequently asked questions. Class Members have the option to
16 leave a voicemail and receive a call back from the call center representative. The toll-free hotline appears
17 in the Short Form and Long Form Notice and in multiple locations on the Settlement Website. As of May
18 9, 2022, the toll-free hotline has received 1,313 calls and 256 voicemails, totaling 3,455 minutes.

19 **CLAIM FORM SUBMISSIONS**

20 16. P&N has received 10,373 claims as of May 9, 2022. The deadline for claim submissions is
21 May 20, 2022. Upon request, P&N will provide a declaration with updated claim submission statistics.

22 17. Table 3 below provides summary statistics of claim submissions. P&N shall continue to
23 analyze claims that have already been received as well as any additional timely claims mailed to the P.O.
24 Box and postmarked by the claim filing deadline.

Table 3: Claims Statistics	
Claims Summary	Claims as of May 9, 2022
Total Claims Submitted	10,373
Total Mailed Claims	9,405
Total Online Claims	968

25 18. As the claims deadline has not passed, P&N can only provide approximate counts and

1 tabulations for the number of vouchers as well as the number and amount of the pro-rata share for alternate
2 payments. To date, P&N has received 4,237 claims for Settlement Credits and 6,136 claims for Alternative
3 Payments. As indicated on the Postcard Notice claim form, all claims with no selection of Settlement Benefit
4 will receive a Settlement Credit. P&N continues to review the claim forms and counts are subject to final
5 review and validation. Based on the current total of claims received and reviewed, the Alternative Payment
6 would be approximately \$16.29, though this amount will likely decrease as additional claims are received
7 and processed through the claims deadline.

8 19. After the claims deadline has passed, P&N will identify and remove duplicate claims or
9 otherwise invalid claims.

10 20. Duplicate claims are defined as two or more claims submitted with either the same name and
11 address, or the same name and Settlement Claim ID. In instances where duplicate claims are identified,
12 P&N will count only the most recently submitted claim.

13 21. Invalid claims consist of claims that were not identified in Defendants' data provided for the
14 Notice Program and did not contain appropriate documentation to validate status as a Class Member. P&N
15 will send a notice to each invalid claim, providing an opportunity for the claimant to submit appropriate
16 identification in order to validate their claim.

17 **EXCLUSIONS AND OJECTIONS**

18 22. The deadline for Class Members to ask to be excluded from the Settlement was April 11,
19 2022. To date, P&N has received one (1) exclusion, which has been provided to the Parties. The Class
20 Member requesting to be excluded and accompanying exclusion request are attached as **Exhibit C**.

21 23. The Order directs Class Members to either file objections with the Court or mail them to the
22 Claims Administrator. P&N has not directly received any objections.

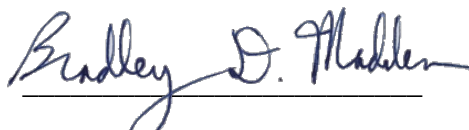
23 **NOTICE AND ADMINISTRATION EXPENSES**

24 24. P&N has incurred \$123,731 in fees and costs, including postage, completing the Notice Plan.
25 P&N has also incurred \$75,422 in fees and costs administering the Settlement. P&N anticipates incurring
26 \$47,911 in additional fees and costs for administration, for a total administration cost of approximately
27 \$247,064.
28

1
2 **CERTIFICATION**

3 I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge
4 and belief.

5 Executed this 10th day of May, 2022 in Baton Rouge, Louisiana.
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10 Bradley Madden
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Exhibit A

(Postcard Notice)

Legal Notice about a Class Action Settlement

If you purchased one or more canisters of All Day Energy Greens or All Day Energy Greens Fruity in 2014 or 2015, you could get benefits from a class action settlement.

A Settlement has been reached with Bactolac Pharmaceutical, Inc. (“Bactolac”), NaturMed, Inc. (d/b/a Institute for Vibrant Living) (“NaturMed”), and Independent Vital Life, LLC (“IVL2”) in a class action lawsuit about the sale of certain recalled lots of the dietary supplement All Day Energy Greens and All Day Energy Greens Fruity (collectively, “ADEG”) in 2014 and 2015.

Who is Included? You are a Settlement Class Member if you are a Person in the United States who purchased one or more canisters of ADEG that were manufactured as part of the Recalled Lots (see Long Form Notice at www.NaturMedIVLSettlement.com for details and exclusions). The Recalled Lots are 99 lots included in the March 2016 voluntary product recall of ADEG conducted by NaturMed with the knowledge of the Food and Drug Administration. The lot numbers for the Recalled Lots are available on the Settlement Website.

Visit www.NaturMedIVLSettlement.com or call 1-844-563-0649 for more information.

NaturMed/IVL Settlement Administrator
P.O. Box 3958
Baton Rouge, LA 70821

PRESORTED
FIRST CLASS
U.S. POSTAGE
PAID
FPI



1*1*1*****SNGLP!!!
Settlement Claim ID: [Settlement Claim ID]
[Recipient Name]
[Mailing Address]
[City], [State] [Zip]



Postal Service: Do Not Mark or Cover Barcode DD14

Settlement Claim ID: [Settlement Claim ID]

*Denotes Information You Must Provide To Have A Valid Claim. Questions? Visit www.NaturMedIVLSettlement.com or call 1-844-563-0649

I affirm that to the best of my knowledge I am a Settlement Class Member and purchased one or more canisters of ADEG that were manufactured as part of the Recalled Lots in 2014 and 2015 and I affirm that I have not previously received a full refund for my purchase.

*Signature: _____
*Date (MM/DD/YY): ____/____/____

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Step 3: Email Address (Required if you have selected digital payment or digital delivery of credit)
 Alternative Payment: Expected \$5, adjusted based on number of claimants
 Settlement Credit: \$10 toward future IVL2 product purchase, valid for 3 years
 Digital Settlement Credit/Alternative Payment
 Mailed Settlement Credit/Alternative Payment
 (select one option below)
 For my Settlement Benefit, I choose:
 For my preferred credit/payment method, I choose: ***Step 3**

*City	*State	*Zip Code

*Street Address

*First Name	*Last Name

To submit a Claim for a Settlement Credit or Alternative Payment from the Settlement Fund, please fill out the Claim Form below and send it by U.S. mail. You may also submit a Claim Form online at www.NaturMedIVLSettlement.com. The deadline to file a Claim online is **May 20, 2022**. If you send in a Claim Form by regular mail, it must be postmarked on or before **May 20, 2022**.

Claim Form

What Are the Settlement Terms? The Defendants have agreed to pay \$1,725,000 into a Settlement Fund. Eligible Settlement Class Members will be able to elect to receive a cash payment of \$5 or \$5 cash. If, however, the number of claimants electing to receive the cash payment exceeds the \$100,000 Alternative Payment Fund, then each Settlement Class Member electing a cash payment shall receive a pro rata share. If monies remain in the Alternative Payment Fund after payment of \$5 to each Settlement Class Member electing a cash payment, the excess will be distributed pro rata to all such Settlement Class Members.

How Can I Get a Payment? To qualify for a Settlement payment or receive a Settlement Credit, you must complete and submit a Claim Form by May 20, 2022. You may submit a Claim Form by returning the form attached to the postcard you received in the mail notifying you of this Settlement, or you may use the online Claim Form available at www.NaturMedIVLSettlement.com. Claim Forms are also available by calling 1-844-563-0649 or by writing to: NaturMed/IVL Settlement Administrator, P.O. Box 3958, Baton Rouge, LA 70821.

Your Other Options.

Do Nothing: If you do nothing, you will not get a payment or other benefits from this Settlement and you will give up certain legal rights allocated to Settlement Class Members.

Opt-Out: If you exclude yourself from the Settlement (opt-out), you will not get a payment or other settlement benefits. This is the only option that allows you to be part of any other lawsuit against the Released Parties, including the Settling Defendants, for the legal claims made in this lawsuit and released by the Settlement. You must mail your request for exclusion to the NaturMed/IVL Settlement Administrator postmarked no later than April 11, 2022.

Object: You may also object to any part of this Settlement by writing to the Court with reasons why you do not agree with the Settlement. Objections must be mailed to Class Counsel and Defense Counsel and postmarked no later than April 11, 2022.

Detailed instructions on how to exclude yourself or object to the Settlement are available on the Settlement Website.

Has the Court Approved the Settlement? No. The Court will hold a Fairness Hearing at 3:00 p.m. on May 19, 2022, at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. It will also consider whether to approve Class Counsel's request for an award of attorneys' fees and costs, as well as the class representative Plaintiffs' service awards. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement.

How Do You Get More Information? This notice is only a summary. To obtain a detailed information, find answers to common questions about the Settlement plus other information, including a copy of the Settlement Agreement, visit the Settlement Website.

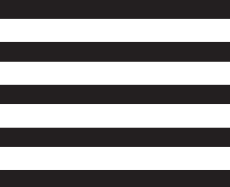
www.NaturMedIVLSettlement.com 1-844-563-0649

Postal Service: Do Not Mark or Cover Barcode



NATURMED/IVL SETTLEMENT ADMINISTRATOR
PO BOX 3958
BATON ROUGE LA 70821-9924

POSTAGE WILL BE PAID BY ADDRESSEE



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



Exhibit B

(Email Reminder)

COPLEY V. BACTOLAC PHARMACEUTICAL, INC. ET AL.
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK
CASE NO. 2:18-CV-00575-FB-PK

Reminder: Legal Notice about a Class Action Settlement

You have received this email because you have been identified as a Class Member and may be eligible to receive benefits from the *Copley v. Bactolac Pharmaceutical, Inc. et al.* settlement. **If you have already submitted a claim for this settlement, no further action is required.**

To be eligible for benefits in this matter, you must file a claim by **May 20, 2022 using the below Settlement Claim ID**. You can submit your claim online at www.NaturMedIVLSettlement.com. More information can be found in the summary notice provided below.

Class Member Name: [Recipient Name]

Settlement Claim ID: [Settlement Claim ID]

If you purchased one or more canisters of All Day Energy Greens or All Day Energy Greens Fruity in 2014 or 2015, you could get benefits from a class action settlement.

A Settlement has been reached with Bactolac Pharmaceutical, Inc. (“Bactolac”), NaturMed, Inc. (d/b/a Institute for Vibrant Living) (“NaturMed”), and Independent Vital Life, LLC (“IVL2”) in a class action lawsuit about the sale of certain voluntarily recalled lots of the dietary supplement All Day Energy Greens and All Day Energy Greens Fruity (collectively, “ADEG”) in 2014 and 2015.

General Information

Who is Included? You are a Settlement Class Member if you are a Person in the United States who purchased one or more canisters of ADEG that were manufactured as part of the Recalled Lots (see Long Form Notice at www.NaturMedIVLSettlement.com for details and exclusions).

The Recalled Lots are 99 lots included in the March 2016 voluntary product recall of ADEG conducted by NaturMed with the knowledge of the Food and Drug Administration. The lot numbers for the Recalled Lots are available on the Settlement Website.

What Are the Settlement Terms? The Defendants have agreed to pay \$1,725,000 into a Settlement Fund. Eligible Settlement Class Members will have the choice to claim a credit worth \$10.00 toward purchase of any IVL2 product, which will remain valid for three years, or \$5 cash. If, however, the number of claimants electing to receive the cash payment exceeds the \$100,000 Alternative Payment Fund, then each Settlement Class Member electing a cash payment shall receive a pro rata share. If monies remain in the Alternative Payment Fund after payment of \$5 to each Settlement Class Member electing a cash payment, the excess will be distributed pro rata to all such Settlement Class Members.

How Can I Get a Payment? To qualify for a Settlement payment or receive a Settlement Credit, you must complete and submit a Claim Form by **May 20, 2022**. You may submit a Claim Form by returning the form attached to the postcard you received in the mail notifying you of this Settlement, or you may use the online Claim Form available at www.NaturMedIVLSettlement.com. Claim Forms are also available by calling 1-844-563-0649 or by writing to: NaturMed/IVL Settlement Administrator, P.O. Box 3958, Baton Rouge, LA 70821.

Your Other Options

Do Nothing: If you do nothing, you will not get a payment or other benefits from this Settlement and you will give up certain legal rights allocated to Settlement Class Members.

Opt-Out: If you exclude yourself from the Settlement (opt-out), you will not get a payment or other settlement benefits. This is the only option that allows you to be part of any other lawsuit against the Released Parties, including the Settling Defendants, for the legal claims made in this lawsuit and released by the Settlement. You must mail your request for exclusion to the NaturMed/IVL Settlement Administrator **postmarked no later than April 11, 2022**.

Object: You may also object to any part of this Settlement by writing to the Court with reasons why you do not agree with the Settlement. Objections must be mailed to Class Counsel and Defense Counsel and **postmarked no later than April 11, 2022**.

Detailed instructions on how to exclude or object to the Settlement are available on the [Settlement Website](#).

Frequently Asked Questions

Has the Court Approved the Settlement? No. The Court will hold a Fairness Hearing at 3:00 p.m. on May 19, 2022, at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. It will also consider whether to approve Class Counsel's request for an award of attorneys' fees and costs, as well as the class representative Plaintiffs' service awards. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement.

How Do You Get More Information? This notice is only a summary. To obtain a detailed information, find answers to common questions about the Settlement plus other information, including a copy of the Settlement Agreement, visit the [Settlement Website](#).

NaturMed/IVL Settlement Administrator
P.O. Box 3958
Baton Rouge, LA 70821
[Unsubscribe](#) - [Unsubscribe Preferences](#)

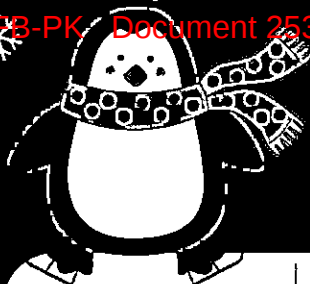
Exhibit C

(Exclusion Requests)

Exhibit C - Exclusion Request

Copley v. Bactolac Pharmaceutical, Inc. et al., No. 2:18-cv-00575-FB-PK (E.D. New York)

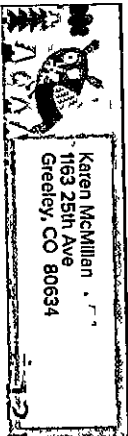
First Name	Last Name	Address	City	State	Zip	Received Date	Postmarked Date
Karen	McMillan	116 25th Ave.	Greeley	CO	80634-3525	2/22/2022	2/12/2022



2/12/2022

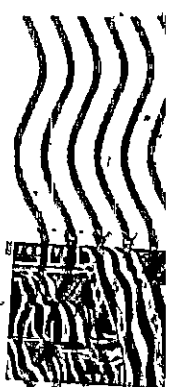
I would like to
(opt out) of the
"All Day Energy
Greens" (I VL)
lawsuit/settle-
ment, claim
ZPN-1080782

Thank you.
Karen McMillan
1163-25th Avenue
Greeley, CO.
80634-3523



Karen McMillan
1163 25th Ave
Greeley, CO 80634

DENVER CO 802
FEB 2022 PM 6 L



Nature Med / IVL Settlement. Adminis-
trator

P.O. Box 3958

Baton Rouge, LA. 70821

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