

TONIA ARABIA, DANA KARES, PHILIP
NAYLOR, THOMAS YOUNG and
BONNIE YOUNG, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

INFINITY DIAGNOSTICS
LABORATORY, INC.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

DOCKET NO.: ATL-L-3962-20

SETTLEMENT AGREEMENT

Plaintiffs Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young (referred to herein collectively as “Plaintiffs” or “Class Representatives”), on behalf of themselves and the Settlement Class defined below, by and through their counsel, and Defendant Infinity Diagnostics Laboratory, Inc. (referred to herein as “Defendant” or “Infinity”), by and through its counsel (collectively referred to herein as the “Parties”), hereby enter into this Settlement Agreement providing, subject to the approval of the Court, for the settlement of the claims of the Plaintiffs and the Class as described herein against Defendant.

RECITALS:

WHEREAS, on or about December 4, 2020, a class action complaint was filed in the Superior Court of New Jersey, Atlantic County, captioned Bell v. Infinity Diagnostics Laboratory, Inc., et al., No. ATL-L-003962-20, alleging that Defendant had fraudulently sold and administered, in New Jersey, finger-stick antibody blood tests for COVID-19 as “rapid blood tests” capable of diagnosing active cases of COVID-19 to its customers;

WHEREAS, on or about December 10, 2020, a second class action complaint was filed

by Plaintiff Donna Kares in the Superior Court of New Jersey, Atlantic County, captioned Kares v. Infinity Diagnostics Laboratory, Inc., No. ATL-L-004043-20, setting forth similar allegations;

WHEREAS, on or about December 15, 2020, the Kares action was amended to add Plaintiffs Philip Naylor, Thomas Young, and Bonnie Young, and on or about March 1, 2021 the Bell action was amended to add Plaintiff Tonia Arabia;

WHEREAS, on or about April 7, 2021, the Kares and Bell actions were consolidated into a single action via a Second Amended Class Action Complaint (“Complaint”), naming Plaintiffs Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young and captioned Arabia, et al. v. Infinity Diagnostics Laboratory, Inc., No. ATL-L-3962-20 (Super. Ct. N.J., Atlantic Cnty.) (the “Litigation”);

WHEREAS, Plaintiffs’ operative Complaint also alleges that Defendant fraudulently sold and administered, in New Jersey, finger-stick antibody tests as “rapid blood tests” capable of diagnosing active cases of COVID-19, despite the fact that those tests did and could not diagnose COVID-19;

WHEREAS, Plaintiffs’ operative Complaint seeks relief on behalf of Plaintiffs and a proposed class of similarly-situated customers of Defendant who, like Plaintiffs, purchased and received the allegedly fraudulent blood tests, under the New Jersey Consumer Fraud Act, the New Jersey Truth in Consumer Contract, Notice and Warranty Act, and common law, including the implied covenant of good faith and fair dealing, the doctrine of unjust enrichment/disgorgement, and the principles of equity;

WHEREAS, Defendant vehemently denies the claims of Plaintiffs and the proposed class, denies any wrongdoing or liability whatsoever to Plaintiffs and the class, and asserts that it fully complied with New Jersey law in all its dealings with Plaintiffs and the class;

WHEREAS, Plaintiffs have served significant discovery on Defendant, and Defendant has provided informal responses to certain discovery requests specifically requested by Plaintiffs, and additionally has provided further information in connection with the Parties settlement negotiations;

WHEREAS, the Parties have concluded that settlement is desirable in order to avoid the time, expense, and inherent uncertainties of protracted litigation and to resolve finally and completely all pending and potential claims of Plaintiffs and all members of the proposed class relating to claims which were or could have been asserted by Plaintiffs and the Settlement Class Members in the Litigation, relating to the practices at issue;

WHEREAS, substantial settlement negotiations have taken place between the Parties over the last five (5) months, resulting in this Settlement Agreement, subject to the Court approval process set forth herein;

WHEREAS, Defendant enters the Settlement with no admission of liability and expressly does not waive any argument, defense, or position that has been or can be asserted in this Litigation;

WHEREAS, the Parties agree that this Settlement will apply to a Settlement Class defined as:

All New Jersey citizens who, between March 1, 2020 and the present, purchased finger-stick antibody blood tests for COVID-19 which were administered and sold, in New Jersey, by Infinity Diagnostics Laboratory, Inc. ("Infinity") or Infinity's employees;

WHEREAS, the Parties believe that there are approximately 400 individuals in the Settlement Class, based on informal discovery provided to Plaintiffs by Defendant;

WHEREAS, Plaintiffs and Class Counsel believe that this Settlement Agreement offers significant benefits to Settlement Class Members and is fair, reasonable, adequate

and in the best interest of Settlement Class Members; and

WHEREAS, this Settlement Agreement is made and entered into by and among the Parties and on behalf of the approximately 400 potential Settlement Class Members.

NOW, THEREFORE, it is hereby stipulated and agreed, by and between the undersigned Parties, as follows:

I. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meaning set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

1.1 Action. “Action” or “Litigation” shall mean this above-captioned, consolidated putative class action, Arabia, et al. v. Infinity Diagnostics Laboratory, Inc., No. ATL-L-3962-20, pending before Superior Court of New Jersey, Atlantic County.

1.2 Claim. “Claim” shall mean the submission of a completed Claim Form, along with any accompanying documentation or certifications, if applicable, by a Settlement Class Member for payment of a Class Award.

1.3 Claim Form. “Claim Form” shall mean the document to be submitted by Settlement Class Members who submit a Claim seeking payment of a Class Award pursuant to this Settlement Agreement. The Claim Form shall be substantially similar to the document attached hereto as **Exhibit A**.

1.4 Claimant. “Claimant” shall mean a Settlement Class Member who timely submits a Claim for payment of a Class Award pursuant to this Settlement Agreement.

1.5 Claims Administrator. “Claims Administrator” shall mean Angeion Group (“Angeion”).

1.6 Claims Period. “Claims Period” shall mean the time period through which Claim Forms may be submitted by Settlement Class Members. The Claims Period shall begin upon the Court’s entry of the Preliminary Approval Order (defined below) preliminarily approving this Settlement and shall conclude one hundred (100) days thereafter.

1.7 Class. “Class” or “Settlement Class” shall mean the following:

All New Jersey citizens who, between March 1, 2020 and the present, purchased finger-stick antibody blood tests for COVID-19 which were administered and sold, in New Jersey, by Infinity Diagnostics Laboratory, Inc. (“Infinity”) or Infinity’s employees.

1.8 Class Award. “Class Award” shall mean the cash payment that each Claimant shall be eligible to receive under this Settlement, consisting of either: (i) a \$75.00 check to Claimants who submit documentary evidence (such as a payment receipt, a test result, or other record) that they received a COVID-19 finger-stick antibody blood test from Defendant in New Jersey; or (ii) a check for up to \$37.50 to Claimants who do not submit documentary proof of testing, but who certify that they received a COVID-19 finger-stick antibody blood test from Defendant in New Jersey; as set forth in Paragraph 3.1(b), this amount may be reduced on a pro rata basis depending on the number of Claimants.

1.9 Class Counsel. “Class Counsel” shall mean DeNittis Osefchen Prince, P.C. and Hankin Sandman Palladino Weintrob & Bell.

1.10 Class Counsel Fees and Expense Award. “Class Counsel Fees and Expense Award” shall mean the amount of \$100,000.00 awarded to Class Counsel for attorneys’ fees and costs, subject to approval by the Court.

1.11 Class Members. “Class Members” or “Settlement Class Members” shall mean the members of the Class defined herein, subject to Court approval.

1.12 Class Notice and Class Publication Notice. “Class Notice” shall mean the Court-

approved form of notice to Class Members containing the following information: (i) a summary of the case; (ii) the preliminary approval of the Settlement; (iii) the scheduled date of the Final Approval Hearing; (iv) the terms of the Settlement and amount of proposed Class Counsel Fees and Expense Award; and (v) their opportunity to opt out, object, or submit a Claim Form. The Class Notice shall be substantially similar to the document attached hereto as **Exhibit B** and shall be approved by the Court prior to its dissemination. “Class Publication Notice” shall mean the abbreviated version of the Class Notice formatted for publication, which shall be substantially similar to the document attached hereto as **Exhibit C** and shall be approved by the Court prior to its publication.

1.13 Class Representatives. “Class Representatives” shall mean named Plaintiffs Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young.

1.14 Cost of Administration and Notice. “Cost of Administration and Notice” shall mean the amount of up to \$10,000 to be paid by Defendant to the Claims Administrator Angeion to cover the costs of disseminating notice of the Settlement to Class Members, distributing Class Award checks, and otherwise administering the Settlement.

1.15 Court. “Court” shall mean the Superior Court of New Jersey, Atlantic County, where the Action is pending.

1.16 Defendant. “Defendant” shall mean Defendant Infinity Diagnostics Laboratory, Inc.

1.17 Effective Date. “Effective Date” or “Settlement Effective Date” is the date on which this Settlement becomes Final.

1.18 Final. With respect to the Judgment, this Settlement, or any payment of any Class Awards, Incentive Awards, or Class Counsel Fees and Expense Award, “Final” means that the

time for appeal or petition for review or writ of certiorari has expired or, if an appeal or petition for review is taken and dismissed or the Settlement is affirmed, the time period during which further petition for hearing, appeal, or writ of certiorari can be taken has expired. If the Judgment is set aside, materially modified, or overturned by the Court or on appeal, and is not fully reinstated on further appeal, the Judgment shall not become Final. Any proceeding or order or any appeal or petition for review or writ of certiorari pertaining solely to the Class Counsel Fees and Expense Award or any Incentive Award to Plaintiffs will not in any way delay or preclude the Class Awards or the Judgment or this Settlement from becoming Final.

1.19 Final Approval Hearing and Order. “Final Approval Hearing” shall mean the hearing at which the Court will consider and finally decide whether to enter the Final Approval Order, and “Final Approval Order” shall mean the Court order that finally approves this Settlement and Agreement, approves payment of the Incentive Awards and Class Counsel Fees and Expense Award, and makes such other final rulings as are contemplated by this Settlement Agreement.

1.20 Incentive Award. “Incentive Award” shall mean the five (5) \$1,000.00 payments that Defendant has agreed to pay to Plaintiff Class Representatives Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young (\$1,000.00 to each Plaintiff), subject to approval of the Court.

1.21 Objection Date. “Objection Date” shall mean the date agreed upon by the Parties or otherwise ordered by the Court for Class Members to object to the Settlement Agreement’s terms or provisions and submit any required statements, proof, or other materials and/or argument.

1.22 Parties. “Parties” shall mean Plaintiffs Tonia Arabia, Dana Kares, Philip Naylor,

Thomas Young, and Bonnie Young, on behalf of themselves and the Settlement Class, by and through Class Counsel, and Defendant Infinity Diagnostics Laboratory, Inc., by and through its counsel.

1.23 Plaintiffs. “Plaintiffs” shall mean named Plaintiffs and Class Representatives Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young.

1.24 Preliminary Approval. “Preliminary Approval” means that the Court has entered an order preliminarily approving the terms and conditions of this Settlement Agreement, including the content and manner of providing notice to Class Members.

1.25 Preliminary Approval Order. “Preliminary Approval Order” shall mean the order of the Court preliminarily approving this Settlement Agreement, which order shall be substantially similar to the document attached hereto as **Exhibit D** or as otherwise agreed to by the Parties and approved by the court.

1.26 Settlement. “Settlement” shall mean the agreement by the Parties to resolve this Litigation and all Released Claims, the terms of which have been memorialized and set forth in this Settlement Agreement.

1.27 Settlement Agreement. “Settlement Agreement” or “Agreement” shall mean this Settlement Agreement and all the exhibits attached hereto.

II. REQUIRED EVENTS

Promptly after execution of this Settlement Agreement by all Parties:

2.1. Class Counsel shall take all reasonable and necessary steps, subject to the Court’s availability, to obtain entry of the Preliminary Approval Order and to move for entry of the Final Approval Order. Defendant and its Counsel shall cooperate as set forth in this Settlement Agreement.

2.2. Class Counsel shall move for entry of a Preliminary Approval Order in the same or substantially identical form as that attached hereto as **Exhibit D**. Defendant and its Counsel shall not oppose the motion for Preliminary Approval, and shall cooperate as set forth in this Settlement Agreement.

2.3. Class Counsel will use their best reasonable efforts, consistent with the terms of this Settlement Agreement, to promptly obtain entry of a Final Approval Order. Defendant and its Counsel shall not oppose the motion for Final Approval, and shall cooperate as set forth in this Settlement Agreement.

2.4. In the event that the Court fails to enter the Preliminary Approval Order or Final Approval Order in all material aspects as those proposed by the Parties, this Settlement Agreement is voidable by the Party or Parties adversely affected by the Court's reason for its failure to provide approval, except that any failure to approve the Class Counsel Fees and Expense Award or Incentive Awards in the amount requested shall not give Plaintiffs or Class Counsel the right to void the Settlement Agreement.

2.5. The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement set forth in this Settlement Agreement is essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take any and all actions and execute and deliver any and all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated hereby.

III. SETTLEMENT TERMS

3.1 Benefit to Class Members. Defendant will pay a benefit in the form of a Class

Award to each eligible Settlement Class Member who submits a timely Claim (i.e., to each “Claimant”), as follows:

a.

A check for seventy-five dollars (\$75.00) to any Claimant who submits, along with his or her completed Claim Form, documentary evidence that he or she received a COVID-19 finger-stick antibody blood test from Defendant in New Jersey within the class period. For the purposes of this paragraph, evidence or proof of testing shall include, but not be limited to, a receipt of payment to Defendant (or to an employee of Defendant), a test result, or other record demonstrating that the Claimant received a COVID-19 finger-stick antibody blood test from Defendant in New Jersey. Any form of proof submitted by a Claimant shall be subject to review and approval by the Parties and the Claims Administrator; and

b. A check for up to thirty-seven dollars and fifty cents (\$37.50) to any Claimant who does not submit documentary evidence of testing, but who certifies that he or she received a COVID-19 finger-stick antibody blood test from Defendant in New Jersey within the class period. The total Class Awards to be paid by Defendant pursuant to this paragraph shall be capped at \$15,000.00. If the total value of valid Claims under this paragraph exceeds \$15,000.00, all Class Awards paid pursuant to this paragraph shall be reduced on a pro-rata basis, so that each Claimant receives the same Class Award amount and the total of such Class Awards equals \$15,000.00.

3.2 Claims and Claims Process. In order to receive a Class Award under the Settlement pursuant to Paragraph 3.1, a Settlement Class Member must timely submit a completed Claim Form either by email, U.S. mail, or facsimile to the Claims Administrator. Upon timely submission of a completed Claim Form, along with any necessary documentation

and/or certification, the Settlement Class Member shall be entitled to receive a Class Award as set forth in Paragraph 3.1, subject to the review described in Paragraph 3.4. Settlement Class Members who received multiple COVID-19 tests from Defendant during the class period may submit one Claim Form per test received, and will be eligible for one Class Award for each test received and Claim submitted.

3.3 Proof of Claim. Class Members must submit, along with their Claim Form, proof of claim as set forth in Paragraphs 3.1(a) and (b) to receive a Class Award. Such proof of claim consists of either: (i) documents sufficient to demonstrate that the Claimant received a COVID-19 test from Defendant, as described in Paragraph 3.1(a); or (ii) certification that the Claimant received a COVID-19 test from Defendant, as described in Paragraph 3.1(b). Claimants who do not submit proof of claim as described herein will not be eligible to receive a Class Award.

3.4 Review of Claims. The Claims Administrator shall be responsible for reviewing all Claims to determine their validity and eligibility for a Class Award. The Claims Administrator shall reject any Claim that does not comply in any material respect with the instructions on the Claim Form or the terms outlined herein, or that is submitted after the close of the Claims Period ("Claims Period Close Date"). The Claims Administrator will provide a list of Claims and whether each claim was accepted or denied, along with copies of the Claim Forms, so that Class Counsel and Defendant's Counsel may review and approve said list before the Settlement becomes Final.

3.5 Pro-Rata Reduction. No part of this Settlement shall be subject to any pro-rata reduction, except that, as set forth in Paragraph 3.1(c), certification-only claims shall be capped at \$15,000.00. If the total dollar value of such certification-only Class Awards exceeds \$15,000.00, payments to certification-only Claimants shall be reduced on a pro-rata basis, such

that \$15,000.00 will satisfy all certification-only Claims.

3.6 Cost of Administration and Notice Paid by Defendant. Defendant shall pay up to \$10,000.00 to the Claims Administrator Angeion to cover the costs of disseminating notice of the Settlement and Class Award payments to Class Members, and otherwise administering the Settlement.

3.7 Total Financial Commitment. Defendant's total financial commitment and obligation under this Settlement Agreement shall be as follows:

- a. Payment of a \$75 Class Award to each eligible Claimant who timely submits a valid Claim pursuant to Paragraph 3.1(a);
- b. Payment of a Class Award up to \$37.50 to each eligible Claimant who timely submits a valid Claim pursuant to Paragraph 3.1(b), which amount may be reduced on a pro rata basis depending on the number of Claimants, such claims collectively not to exceed \$15,000.00, as set forth in Paragraph 3.1(b) above;
- c. Payment of up to \$10,000.00 to the Claims Administrator for the Cost of Administration and Notice, subject to Court approval;
- d. Payment of \$5,000.00 in Incentive Awards to the five (5) Class Representatives (\$1,000.00 to each Class Representative), as described below and subject to Court approval; and
- e. Payment of \$100,000.00 to Class Counsel as the Class Counsel Fee and Expense Award, as described below and subject to Court approval.

Except as set forth above, Defendant shall have no further cash payment obligations to Plaintiffs, the Settlement Class Members, the Claims Administrator, or Class Counsel, or otherwise, under this Settlement Agreement.

3.8 Unclaimed Settlement Class Benefits or Uncleared Checks. Those Settlement Class Members whose checks are not cleared within one hundred eighty (180) days after issuance shall be ineligible to receive a cash settlement benefit, and Defendant shall have no further obligation to make any payment pursuant to this Settlement Agreement, or otherwise, to such Settlement Class Members, and such monies will revert back to the Defendant.

IV. ATTORNEYS' FEES AND EXPENSES AND CLASS REPRESENTATIVE INCENTIVE AWARDS

4.1. Class Counsel shall petition the Court (and Defendant has agreed not to oppose) for an award of attorneys' fees and costs in an amount not to exceed one hundred thousand dollars (\$100,000.00). Class Counsel's attorneys' fees and costs (the "Class Counsel Fees and Expense Award"), if approved by the Court, shall be paid within ten (10) days of the Settlement becoming Final.

4.2. Given the efforts of Plaintiffs on behalf of the Class Members, the Parties have also agreed that Class Representative Plaintiffs Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young shall each receive a one-time Incentive Award in the amount of \$1,000.00 (for a total of \$5,000.00 in Incentive Awards). Defendant shall pay the Incentive Awards by issuing a separate check made payable to each Class Representative, and shall deliver said checks to Class Counsel within ten (10) days of the date the Settlement becomes Final.

V. CLAIMS ADMINISTRATION AND NOTICE TO CLASS MEMBERS

5.1 The Claims Administrator Angeion shall administer the Settlement, subject to Court approval. Angeion shall be responsible for administrative tasks, including, without limitation, (a) notifying the appropriate state officials about the Settlement, if required; (b) distributing and publishing the Class Notice, Class Publication Notice, and Claim Forms to Class Members; (c) answering inquiries from Class Members and/or forwarding such written inquiries

to Class Counsel; (d) receiving and maintaining on behalf of the Court and the Parties any Class Member correspondence regarding Requests for Exclusion or Objections to the Settlement; (e) receiving and processing Claims and distributing payments to Class Members; and (f) otherwise assisting with implementation and administration of the Settlement Agreement terms. Defendant shall pay up to \$10,000.00 to the Claims Administrator for the Cost of Administration and Notice.

5.2 Performance Standards of Claims Administrator. The Claims Administrator Angeion shall abide by the following performance standards:

a. Angeion shall accurately and neutrally describe, and shall train and instruct its employees and agents to accurately and objectively describe, the provisions of the Settlement Agreement in communications with Class Members;

b. Angeion shall provide prompt, accurate and objective responses to inquiries from Class Counsel and/or Defendant's Counsel, and shall periodically report on Claims, objectors, exclusions, etc.;

c. Angeion shall seek clarification, instruction, or authorization for performance of its duties from both Class Counsel and Defendant's Counsel; and

d. Angeion shall keep no confidences among the Parties in connection with its administration of this Settlement Agreement.

5.3 Notice Requirements to Class Members

a. Within ten (10) days after Preliminary Approval, Defendant will provide to Angeion (1) copies of paper receipts issued for tests administered by Defendant in New Jersey; and (2) a list of those who, according to Defendant's records, received a COVID-19 PCR test from Defendant in New Jersey during the class period; the list shall include the contact

information available from Defendant's records, including their full name, mailing address, and telephone number.¹ Angeion and Class Counsel will keep confidential the identity and contact information of potential Settlement Class Members.

b. Angeion will send via U.S. Mail a Class Notice and Claim Form to all those who have been identified as potential Class Members. The Class Notice and Claim Form will contain information informing Class Members of (i) the preliminary approval of the Settlement; (ii) the scheduling of the Final Approval Hearing; (iii) information for Class Members to submit a Claim Form, see **Exhibit A**, in order to submit a Claim; and (iv) information for Class Members to object or opt out of the Settlement. The form of the Class Notice shall be agreed upon by the Parties, be designated as **Exhibit B** hereto and shall be approved by the Court prior to its dissemination.

c. Angeion shall be responsible, subject to the Court's approval, for mailing the Class Notice and Claim Form to the last known addresses of all persons identified as potential Settlement Class Members. Should Angeion receive any undelivered Class Notices, it will conduct one skip trace or postal look-up to search for a new address for the said Class Member and resend the Class Notice and Claim Form to any newly found Class Member address. The Class Notice and Claim Form will also be posted by Class Counsel in a prominent

¹ The information and documents to be disclosed, pursuant to this paragraph, is (or may be) protected health information, as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its attendant regulations. The Parties, therefore, will request that the Court enter an order requiring the Defendant to disclose the information and documents to the Claims Administrator, and authorizing the Claims Administrator to disclose the information and documents to Class Counsel, pursuant to 45 C.F.R. § 164.512(e)(1)(i). Similarly, although communications from Class Members to the Claims Administrator, Class Counsel, or defense counsel concerning the Settlement (including Claim Forms, objections, and requests for exclusion) may contain protected health information, the Parties will request that the Court enter an order authorizing the Claims Administrator to disclose the information and documents to Class Counsel and defense counsel.

location on Class Counsel's website www.denittislaw.com.

d. Angeion shall be responsible, subject to the Court's approval, for publishing the Class Publication Notice on one date in the Star Ledger, the Courier Post, and the Press of Atlantic City (1/6 of a page Monday through Friday). The form of the Class Publication Notice shall be agreed upon by the Parties, be designated as **Exhibit C** hereto and shall be approved by the Court prior to its publication.

e. Angeion shall mail and publish all Class Notices and Claim Forms within thirty (30) days of Preliminary Approval.

f. The Claims Period shall run for a period of one hundred (100) days, commencing on the date the Preliminary Approval Order is entered.

g. Proof of Notice. No later than ten (10) days prior to the Final Approval Hearing, Angeion shall provide an affidavit to the Court, with a copy to Class Counsel and Defendant's Counsel, attesting that notice was mailed and published in a manner consistent with the terms of this Settlement Agreement.

h. All Claim Forms must be postmarked, or received by Angeion, no later than 100 days from the date of the Preliminary Order. The Claim Forms may be submitted via electronic mail, facsimile, or via U.S. Mail.

i. Within ten (10) days of the Settlement becoming Final, Angeion shall provide to Defendant's Counsel and Class Counsel a list identifying each Claimant and the amount of each Claim, as well as the total number of Claims made and the total monetary amount all Claims ("Total Amount of Class Claims"). Within thirty (30) days of the Settlement becoming Final, Defendant shall pay the specified Total Amount of Class Claims to Angeion. Within ninety (90) days of the Settlement becoming Final, Angeion shall send checks via first

class U.S. Mail, distributing the Total Amount of Class Claims to the Claimants. Should a check be returned as insufficiently addressed, Angeion will use its best efforts to conduct a postal look-up to locate the proper address of the Claimant in order to re-mail the check to the proper address. The costs for processing and mailing out checks to Claimants will be paid from the Cost of Administration and Notice. Should any portion of the Total Amount of Class Claims remain with Angeion one hundred eighty (180) days after the last check was issued (i.e., from any un-cashed checks), such amount will be returned to Defendant within 210 days after the last check was issued.

VI. REQUESTS FOR EXCLUSION BY CLASS MEMBERS

6.1 Any Settlement Class Member may make a Request for Exclusion by mailing or delivering such request in writing to the Claims Administrator, with copies to Class Counsel and Defendant's Counsel, at the addresses set forth in the Class Notice. Any Request for Exclusion must be postmarked or delivered no later than twenty (20) days prior to the date of the Final Approval hearing. Any Request for Exclusion shall state the name, address, and telephone number of the person requesting exclusion, shall include a statement that they are a Class Member, and shall contain a clear statement communicating that such person elects to be excluded from the Settlement Class and from any Judgment entered pursuant to this Settlement.

6.2 Any Class Member who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement and/or this Agreement.

6.3 The Claims Administrator shall report the names of all individuals who have submitted a Request for Exclusion to the Court no less than ten (10) days prior to the Final Approval Hearing.

6.4. This Settlement Agreement is voidable by Defendant if more than 10 individuals request exclusion from the Settlement.

VII. OBJECTIONS BY CLASS MEMBERS

7.1. The Parties will request that the Court enter an order requiring any Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, to file a written notice of objection with the Court, with copies to the Claims Administrator, Class Counsel, and Defendant's Counsel, no later than twenty (20) days prior to the Final Approval hearing ("Objection Date"). Such objections shall state the name, address and telephone number of the person, whether the person is represented by counsel or has consulted with counsel, and provide proof of membership in the Settlement Class, as well as a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents such person wishes to be considered.

7.2. The agreed-upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member's objections to the Settlement Agreement, in accordance with such Class Member's due process rights. The Preliminary Approval Order and Class Notice will require all Class Members who have any objections to file such notice of objection or request to be heard with the Court, and serve by mail or hand delivery such notice of objection or request to be heard upon the Claims Administrator, Class Counsel and Defendant's Counsel at the addresses set forth in the Class Notice, by no later than the Objection Date. The Preliminary Approval Order will further provide that objectors who fail to properly or timely file their objections with the Court, along with the required information and documentation set forth above, or to serve them as provided above shall not be heard during the Final Approval Hearing,

nor shall their objections be considered by the Court.

VIII. RELEASE, DISMISSAL OF LITIGATION, AND JURISDICTION OF COURT

8.1. **Release.** Upon the Settlement Effective Date, the Class Representative Plaintiffs, for themselves and on behalf of all Settlement Class Members, and each of the Class Representative Plaintiffs' and Settlement Class Members' respective heirs, spouses, parents, family members, trustees, executors, administrators, successors, assigns, employees, agents, representatives, any and all other persons or entities acting under the supervision, direction, control or on behalf of any of the foregoing, and any and all other persons or entities that could claim by or through them (collectively, the "Class Representative and Settlement Class Releasers"), hereby fully, finally, and forever settle and compromise with, and release and discharge, Defendant and its respective present and former parent companies, subsidiaries, divisions, related or affiliated companies, wholly owned companies, owners, shareholders, partners, members, officers, directors, managers, employees, consultants, agents, attorneys, insurers, representatives, accountants, beneficiaries, heirs, successors, predecessors, assigns, vendors, business partners, and any individual or entity which could be jointly liable with any of the foregoing, and all other persons acting under the supervision, direction, control or on behalf of any of the foregoing (collectively, the "Defendant Releasees") of and from all claims that were alleged or could have been alleged in the Complaint filed in this Litigation arising prior to the Settlement Effective Date, known or unknown, including, but not limited to, any and all manner of legal, equitable, federal, state, administrative, statutory or common law action or causes of action, suits, claims, debts, liabilities, charges, losses, demands, obligations, guarantees, torts, contracts, agreements, promises, liens, damages of any kind (including liquidated damages and punitive damages), restitution, interest, penalties, attorneys' fees, costs

and expenses of any kind or nature whatsoever, asserted or unasserted, willful or not willful, intentional or not intentional, fixed or contingent, liquidated or unliquidated which the Class Representative and Settlement Class Releasors now have, ever had or shall later have against the Defendant Releasees, or any of them, arising out of, relating to, or in connection with the facts alleged in Plaintiffs' operative Complaint or any prior version thereof (collectively, the "Released Claims"). This paragraph is referred to in this Settlement Agreement as the "Release."

8.2. The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, the Release. The Court expressly retains jurisdiction in order to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement, including, but not limited to, orders enjoining Class Members from prosecuting Released Claims.

8.3. Upon issuance of the Final Approval Order and the Effective Date of the Settlement: (i) the Settlement Agreement shall be the exclusive remedy for any and all Class Members; (ii) Defendant shall not be subject to liability or expense of any kind to any Class Members except as set forth herein; and (iii) Class Members shall be permanently barred from initiating, asserting, or prosecuting any and all Released Claims against Defendant in any manner, including in any federal or state court in the United States or any other tribunal.

8.4 Dismissal of the Litigation and No Other Action Pending. Plaintiffs agree that, if they have not already done so, they will take steps to cause the Litigation to be dismissed or withdrawn with prejudice and agree not to refile the Litigation or otherwise pursue their claims.

Other than the Litigation, Plaintiffs represent that they have not filed any lawsuit, claim, charge, or complaint against Defendant with any local, state, or federal agency or court. In the event that any agency or court assumes jurisdiction of any lawsuit, claim, charge or complaint, or purports to bring any legal proceedings on Plaintiffs' behalf against Defendant, then Plaintiffs shall promptly request that the agency or court withdraw from and dismiss the lawsuit, claim, charge, or complaint with prejudice.

IX. REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1. Class Counsel, who are signatories hereof, represent and warrant that they have the authority, on behalf of Plaintiffs and the Settlement Class, to execute, deliver, and perform this Settlement Agreement and to consummate all of the transactions contemplated hereby. This Settlement Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiffs and constitutes their legal, valid and binding obligation.

9.2. Defendant's Counsel, who are signatories hereof, represent and warrant that they have the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Defendant of this Settlement Agreement and the consummation by it of the actions contemplated hereby have been duly authorized by all necessary corporate action on the part of Defendant. This Settlement Agreement has been duly and validly executed and delivered by Defendant's Counsel and Defendant and constitutes their legal, valid, and binding obligation.

X. MISCELLANEOUS PROVISIONS

10.1. This Settlement Agreement, and the exhibits and related documents hereto, are not to be used in evidence and shall not at any time be construed or deemed to be any admission or concession by Defendant with respect to any alleged wrongdoing, fault, or omission of any

kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Approval Order as contemplated herein. Defendant specifically denies all of the allegations made in connection with the Litigation. This provision shall survive the expiration or voiding of the Settlement Agreement.

10.2. This Settlement Agreement is entered into only for purposes of Settlement. Except as otherwise provided herein, in the event that this Settlement Agreement is not finally approved in all material ways as written, then this Settlement Agreement, including any releases or dismissals hereunder, is canceled, and no term or condition of this Settlement Agreement, or any draft thereof, or of the discussion, negotiation, documentation or other part or aspect of the Parties' settlement discussions shall have any effect, nor shall any such matter be admissible in evidence for any purpose, or used for any purposes whatsoever in the Litigation, and all Parties shall be restored to their prior positions as if the Settlement Agreement had not been entered into.

10.3. The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

10.4. This Settlement Agreement, including all exhibits attached hereto, may not be modified or amended except in writing signed by all counsel for the Parties.

10.5. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

10.6. This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the State of New Jersey without giving effect to any choice or conflict of law provision, or rule that would cause the application of the laws of any other jurisdiction.

10.7. Except as otherwise provided in this Settlement Agreement, each Party to this Settlement Agreement shall bear his or its own costs of the Litigation.

10.8. The Parties to this Settlement Agreement reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

10.9. The determination of the terms of, and the drafting of, this Settlement Agreement, including its exhibits, has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. Each of the Parties was represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

10.10. Integrated Agreement. All of the Exhibits of this Settlement Agreement are material and integral parts hereof, and are fully incorporated herein by reference. This Settlement Agreement and the Exhibits hereto constitute the entire, fully integrated agreement among the Parties and cancel and supersede all prior written and unwritten agreements and understandings pertaining to the Settlement of the Litigation.

10.11. Dispute Resolution. The Parties agree that any disputes regarding the terms and

conditions of this Agreement, the Parties' rights and obligations under this Settlement Agreement, and/or as to any disagreement regarding the manner in which any issue or dispute arising under this Settlement Agreement should be resolved shall be submitted to the Court.

10.12. Notices. All notices to the Parties' attorneys under this Settlement Agreement shall be made in writing and communicated by electronic and regular mail to the following addresses:

If to Plaintiffs or Class Counsel:

Stephen P. DeNittis, Esquire
Joseph Osefchen, Esquire
Shane Prince, Esquire
DeNittis Osefchen Prince, P.C.
5 Greentree Centre
525 Route 73 North, Suite 410
Marlton, New Jersey 08053
856-797-9951 (phone)
sdenittis@denittislaw.com

Colin G. Bell, Esquire
Hankin Sandman Palladino
Weintrob & Bell
30 S. New York Avenue
Atlantic City, NJ 08401
609-344-5161
coling@hankinsandman.com

If to Defendant or Defendant's Counsel:

Shalom D. Stone, Esquire
Stone Conroy, LLC
25 Hanover Road, Suite 301
Florham Park, NJ 07932
973-400-4181 – phone
973-498-0070 – fax
sstone@stoneconroy.com

IN WITNESS WHEREOF, Plaintiffs and Defendant and their respective counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Plaintiffs:

Dated: Oct 12, 2021, 2021

Toni Arabia

Toni Arabia (Oct 12, 2021 19:13 EDT)

Toni Arabia

Dated: _____, 2021

Dana Kares

Dated: _____, 2021

Philip Naylor

Dated: _____, 2021

Thomas Young

Dated: _____, 2021

Bonnie Young

IN WITNESS WHEREOF, Plaintiffs and Defendant and their respective counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Plaintiffs:

Dated: _____, 2021

Tonia Arabia

Dated: _____, 2021



Dana Kares

Dated: _____, 2021

Philip Naylor

Dated: _____, 2021

Thomas Young

Dated: _____, 2021

Bonnie Young

IN WITNESS WHEREOF, Plaintiffs and Defendant and their respective counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Plaintiffs:


Dated: _____, 2021

Tonia Arabia

Dated: _____, 2021

Dana Kares

Dated: 10/2/21, 2021



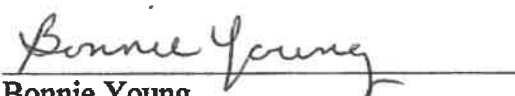
Philip Naylor

Dated: 10/9/2021, 2021



Thomas Young

Dated: 10-9-2021, 2021



Bonnie Young


Counsel for Plaintiffs and the Settlement Class:

Dated: _____, 2021



Stephen P. DeNittis

Dated: 10/13/, 2021



Colin G. Bell

Defendant:

Dated: _____, 2021

Infinity Diagnostic Laboratory, Inc.

Counsel for Defendant:

Dated: _____, 2021

Shalom D. Stone

Counsel for Plaintiffs and the Settlement Class:

Dated: _____, 2021

Stephen P. DeNittis

Dated: _____, 2021

Colin G. Bell

Defendant:

Dated: 10/11/21, 2021

Margaret Kraus
Infinity Diagnostic Laboratory, Inc.

Counsel for Defendant:

Dated: _____, 2021

Shalom D. Stone

Exhibit A

CLAIM FORM

THE DEADLINE TO SUBMIT THIS CLAIM FORM IS [to be inserted]

This is the official Claim Form you must use to make a claim in the Class Settlement of Arabia, et al. v. Infinity Diagnostics Laboratory, Inc., Docket No. ATL-L-3962-20, filed in the Superior Court of Atlantic County, New Jersey. Please read this form carefully and fill it out completely.

In order to qualify for relief under the Settlement, you must be a New Jersey citizen who, between March 1, 2020 and the present, purchased a finger-stick antibody blood test for COVID-19 that was administered or sold, in New Jersey, by Infinity Diagnostics Laboratory, Inc. ("Infinity") or its employees. If this applies to you, then you are a Settlement Class Member. The Settlement Class does *not* include, for example, tests administered outside New Jersey, tests administered to citizens of states other than New Jersey, or COVID-19 PCR (nasal swab) tests.

To be eligible for benefits under the settlement, a Settlement Class Member must complete this Claim Form and mail, email, or fax the completed Claim Form, along with any supporting documentation, to the Claims Administrator on or before [redacted]. The information you provide below will determine if you qualify for a payment and the amount thereof. If you qualify, you will be eligible to receive a cash benefit under the Settlement, in the form of a check once the Settlement is finally approved. Please complete a separate Claim Form for each finger-stick antibody blood test you received from Infinity.

If you have any questions please contact Claims Administrator at 1-800-###-#### or via email at [redacted]. You may also contact Class Counsel at 856-797-9951 or via email at sdenittis@denittislaw.com.

**THIS COMPLETED FORM MUST BE POSTMARKED,
E-MAILED, OR FAXED NO LATER THAN [redacted].**

1. Contact Information.

Provide your full name, present address, and either a phone number or e-mail address at which you may be contacted if necessary:

First Name

Last Name

Address

City

State

Zip Code

() _____
Phone Number

E-Mail Address

2. Select ONE of the following:

_____ I am enclosing herewith the following documents evidencing that I received a COVID-19 finger-stick antibody blood test from Infinity:

(Examples of acceptable evidentiary documents include, but are not limited to, a payment receipt, a test result, or other document demonstrating that you received a COVID-19 finger-stick antibody blood test from Infinity.) Please send me a check for \$75.00.

_____ I do not have any documents evidencing that I received a COVID-19 finger-stick antibody blood test from Infinity, but I am certifying below that I received a COVID-19 finger-stick antibody blood test in New Jersey from Infinity. Please send me a check for up to \$37.50. I understand that this amount may be reduced on a pro rata basis depending on the number of Claimants.

Reminder: The Settlement Class does not include tests administered outside New Jersey, tests administered to citizens of states other than New Jersey, or COVID-19 PCR (nasal swab) tests.

3. Certification

By signing below, I am certifying under oath that:

- a. The foregoing information is accurate to the best of my knowledge;
- b. I am a citizen of New Jersey; and
- c. I received a finger-stick antibody blood test in New Jersey from Infinity between March 1, 2020 and the present.

Class Member Signature

Date

Return the completed Claim Form by **DATE** to:

INFINITY CLASS SETTLEMENT
Angeion Group
1650 Arch Street, Suite 2210
Philadelphia, PA 19103
FAX:
EMAIL:

*****REMEMBER TO COMPLETE AND RETURN THIS CLAIM FORM BY **DATE*******

Exhibit B

LEGAL NOTICE

YOU MAY BE ENTITLED TO A CASH BENEFIT IF YOU ARE A NEW JERSEY CITIZEN WHO, BETWEEN MARCH 1, 2020 AND THE PRESENT, PURCHASED A FINGER-STICK ANTIBODY BLOOD TEST FOR COVID-19 THAT WAS ADMINISTERED AND SOLD IN NEW JERSEY BY INFINITY DIAGNOSTICS LABORATORY, INC. OR ITS EMPLOYEES.

WHAT IS THIS NOTICE ABOUT? A lawsuit entitled Arabia, et al. v. Infinity Diagnostics Laboratory, Inc., Docket No. ATL-L-3962-20, was filed in the Superior Court of New Jersey, Atlantic County on behalf of all New Jersey citizens who purchased a finger-stick antibody blood test for COVID-19 that was administered and sold in New Jersey by Infinity Diagnostics Laboratory, Inc. ("Infinity") or its employees between March 1, 2020 and the present. The lawsuit alleges that Infinity fraudulently sold and administered these finger-stick antibody blood tests as "rapid blood tests" capable of diagnosing active cases of COVID-19, despite the fact that the tests did not and could not diagnose COVID-19. The lawsuit seeks to obtain refunds for class members who paid money for such allegedly fraudulent tests. Infinity denies the claims and allegations asserted by Plaintiffs, denies any wrongdoing or liability to Plaintiffs and the class whatsoever, and maintains that it has fully complied with New Jersey law in all its dealings with Plaintiffs and the class. The parties nevertheless have agreed to settle the lawsuit on a class-wide basis, and the proposed class settlement has now been preliminarily approved by the Court.

WHY SHOULD I READ THIS NOTICE? You may be a member of the Class. This is a class action lawsuit that the parties have proposed to settle on a class-wide basis. If the proposed settlement is approved by the Court, your legal rights may be affected. This notice describes what the lawsuit is about, explains the terms of the proposed settlement, tells you who would be covered and what legal claims would be resolved by the settlement if the Court approves it, and explains how individuals can obtain benefits under the settlement.

AM I COVERED BY THIS CLASS ACTION LAWSUIT AND THE PROPOSED SETTLEMENT?

You are a Class member if you are a New Jersey citizen who purchased a finger-stick antibody blood test for COVID-19 that was administered and sold by Infinity or its employees in New Jersey between March 1, 2020 and the present. If you have any questions regarding whether you are a Class member, you can contact the Claims Administrator at 1-800-###-#### or via email at [REDACTED], or you may contact Class Counsel at 856-797-9951 or via e-mail at sdenittis@denittislaw.com. You can also obtain more information about the settlement by visiting the Settlement website [REDACTED] or Class Counsel's website www.denittislaw.com.

WHAT ARE THE TERMS OF THE SETTLEMENT? Infinity has agreed to pay a benefit in the form of a cash award to each eligible Class Member who submits a timely, completed Claim Form, as follows: (i) a check for \$75 to Claimants who submit documentary proof (such as a payment receipt, a test result, or other record) that they received a COVID-19 finger-stick antibody blood test from Infinity; or (ii) a check for up to \$37.50 to Claimants who do not submit documentary proof of testing, but who certify that they received a COVID-19 finger-stick antibody blood test from Infinity; that amount may be reduced on a pro rata basis depending on the number of Claimants..

Infinity has also agreed to pay \$1,000.00 to each of the five Class Representatives as an Incentive Award to compensate them for their efforts in bringing this case. Also, Infinity has agreed to pay up to \$10,000.00 for costs of notice and administering the settlement, and up to \$100,000.00 to Class Counsel in attorney's fees and litigation expenses, subject to court approval, for their time and expenses incurred in prosecuting

the case. All incentive awards, notice and administration costs, and attorney's fees and costs awarded will be paid separately by Infinity and will not reduce the benefit to you or any class member. The proposed settlement is intended to settle all claims against Infinity that arise in any way from Infinity's actions that are the subject of this lawsuit. By participating in this Settlement, each class member is releasing all such claims.

The foregoing is a summary of the basic settlement terms. The full settlement is set forth in a Settlement Agreement that can be viewed at [Settlement Website] or www.denittislaw.com, or by contacting the Claims Administrator or Class Counsel at the below email address or telephone number.

WHAT ARE MY RIGHTS? If you are a member of the Class and wish to participate in the Settlement, you need to complete and submit a Claim Form on or before _____.

If you do not wish to be a part of this Settlement, you may exclude yourself. If you do not exclude yourself, you will be bound by the Settlement and all Orders of the Court. As a result, you will no longer be able to sue or continue to sue Infinity about the claims in the lawsuit that are covered by the Settlement. To request exclusion, you must mail your request in writing, postmarked no later than _____, 2021, to the Infinity Class Settlement Administrator – Exclusions at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103.

If you are a member of the Class and you wish to intervene or object to this Settlement, you must file an Objection with the Court. Your Objection must also be mailed, postage pre-paid, to the Infinity Class Settlement Administrator at the address listed above; to Class Counsel at DeNittis Osefchen Prince, P.C., 5 Greentree Centre, Suite 410, 525 Route 73 N., Marlton, NJ 08053; and to Defendant's Counsel at Shalom D. Stone, Stone Conroy, LLC, 25 Hanover Road, Suite 301, Florham Park, NJ 07932. Your Objection must be post-marked on or before _____, and contain: the name of the lawsuit; your full name, current address, and phone number; your signature; proof that you are in the Class; a specific statement of your intention to object to the Settlement; and the reasons you are objecting to the Settlement.

On _____, at _____ p.m., the Superior Court of New Jersey, Law Division, Atlantic County, the Honorable _____, J.S.C., Courtroom ___, Atlantic County Civil Courts Building, 1201 Bacharach Blvd., Atlantic City, New Jersey 08401, will hold a public hearing to determine whether the proposed settlement is fair, adequate, and reasonable and should be approved. Class members who support the proposed settlement do not need to appear at the hearing or take any other action to indicate their approval. Class members who object to the proposed settlement are not required to attend the settlement hearing. If you want to be heard orally in opposition to the settlement, either personally or through counsel, you must indicate your intention to appear at the hearing in your written objection.

HOW DO I GET MORE INFORMATION? Claim forms and further information about the settlement can be obtained by visiting [Settlement website] or www.denittislaw.com, by contacting the Claims Administrator at 1-800-###-#### or _____, or by contacting Class Counsel at 856-797-9951 or sdenittis@denittislaw.com

PLEASE DO NOT WRITE OR TELEPHONE THE COURT FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

Dated: _____, 2021

Exhibit C

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

THIS NOTICE ADVISES YOU OF A PROPOSED CLASS ACTION SETTLEMENT CONCERNING A FINGER-STICK ANTIBODY BLOOD TEST FOR COVID-19 THAT YOU MAY HAVE RECEIVED FROM INFINITY DIAGNOSTICS LABORATORY, INC. IN NEW JERSEY. THIS NOTICE PROVIDES A WEBSITE, TELEPHONE NUMBER, AND ADDRESS WHERE YOU CAN OBTAIN INFORMATION AND SUBMIT A CLAIM FORM.

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY.

Arabia, et al. v. Infinity Diagnostics Laboratory, Inc.
Superior Court of New Jersey, Atlantic County, Civil Action No. ATL-L-3962-20

THIS NOTICE ONLY PROVIDES LIMITED INFORMATION ABOUT THIS SETTLEMENT

Your rights may be affected by a proposed class action settlement of claims against Infinity Diagnostics Laboratory, Inc. ("Infinity"). The settlement would resolve a lawsuit filed by Plaintiffs on behalf of all New Jersey citizens who purchased a finger-stick antibody blood test for COVID-19 that was administered and sold in New Jersey by Infinity or its employees between March 1, 2020 and the present. The lawsuit alleges that Infinity fraudulently sold and administered these finger-stick antibody blood tests as "rapid blood tests" capable of diagnosing active cases of COVID-19, despite the fact that the tests did not and could not diagnose COVID-19. The lawsuit seeks to obtain refunds for class members who paid money for such tests. Infinity denies the claims and allegations asserted by Plaintiffs, denies any wrongdoing or liability to Plaintiffs and the class, and maintains that it has fully complied with New Jersey law in all its dealings with Plaintiffs and the class. The parties nevertheless have agreed to settle the lawsuit on a class-wide basis, and the proposed class settlement has now been preliminarily approved by the Court. You might be a member of the Settlement Class if you received and paid for a finger-stick antibody blood test for COVID-19 from Infinity or its employees in New Jersey between March 1, 2020 and the present.

The Settlement provides that eligible Settlement Class Members may receive a benefit in the form of a cash award, as follows: (i) a check for \$75 to Claimants who submit documentary proof (such as a payment receipt, a test result, or other record) that they received a COVID-19 finger-stick antibody blood test from Infinity; or (ii) a check for up to \$37.50 to Claimants who do not submit documentary proof of testing, but who certify that they received a COVID-19 finger-stick antibody blood test from Infinity; that amount may be reduced on a pro rata basis depending on the number of Claimants. To receive a benefit under the Settlement, you must timely complete and submit a Claim Form and submit it to the claims administrator by either fax or email no later than [REDACTED], 2021, or by mail postmarked no later than [REDACTED], 2021. You may obtain complete information about the Settlement (including the full Class Notice and Claim Form) and deadlines by visiting Class Counsel's website at www.denittislaw.com, telephoning [REDACTED], or writing the Infinity Class Settlement Administrator at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103.

If you do not wish to be a part of this Settlement, you may exclude yourself. If you do not exclude yourself, you will be bound by the Settlement and all Orders of the Court. As a result, you will no longer be able to sue or continue to sue the Infinity about the claims covered by the Settlement. To request exclusion, you must mail your request in writing, postmarked no later than [REDACTED], 2021, to the Infinity Class Settlement Administrator – Exclusions at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. The Court, located at Atlantic County Civil Courts Building, 1201 Bacharach Blvd., Atlantic City, New Jersey 08401, will conduct a hearing on whether to approve the Settlement on [REDACTED], 2021, and if approved, to determine what amount of fees and costs should be awarded to class counsel and the class representatives. If you do not exclude yourself, you or your own lawyer may ask to appear and speak at the hearing at your own cost. You may object to the Settlement in advance of the hearing by following the procedure set forth in the Class Notice. Any objection must be received by [REDACTED].

Exhibit D

<p>TONIA ARABIA, DANA KARES, PHILIP NAYLOR, THOMAS YOUNG and BONNIE YOUNG, on behalf of themselves and all others similarly situated,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>INFINITY DIAGNOSTICS LABORATORY, INC.,</p> <p>Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION ATLANTIC COUNTY</p> <p>DOCKET NO.: ATL-L-3962-20</p>
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**ORDER GRANTING PRELIMINARY, NON-BINDING APPROVAL TO PROPOSED
CLASS ACTION SETTLEMENT, APPROVING FORM OF CLASS SETTLEMENT
NOTICE AND NOTICE DISTRIBUTION PLAN, AND
SCHEDULING A DATE FOR THE FORMAL PUBLIC FAIRNESS HEARING**

This matter having come before the Court upon an unopposed motion by Plaintiff under N.J. Court Rule 4:32-1, et seq. for preliminary, non-binding approval of a proposed class action settlement, Court approval of a proposed form of class settlement notice and a plan of notice publication, and setting a hearing date for the formal public fairness hearing on whether to grant final approval to the proposed class settlement, and the Court having considered the unopposed motion papers, and for good cause shown;

IT IS HEREBY ORDERED this ____ day of _____ 2021 as follows:

1. The Court grants preliminary, non-binding approval of the proposed class action Settlement on behalf of a settlement class defined as follows:

**All New Jersey citizens who, between March 1, 2020 and the present,
purchased finger-stick antibody blood tests for COVID-19 which were**

administered and sold in New Jersey by Infinity Diagnostics Laboratory, Inc. (“Infinity”) or Infinity’s employees.

2. The Court preliminarily appoints Plaintiffs Tonia Arabia, Dana Kares, Philip Naylor, Thomas Young, and Bonnie Young as the named Class Representatives, and preliminarily appoints Stephen DeNittis, Esq. of DeNittis Osefchen Prince, P.C. and Colin G. Bell, Esq. of Hankin Sandman Palladino Weintrob & Bell as Class Counsel.

3. It is apparent from the file and presentation of counsel that the proposed Settlement Class meets the requirements of N.J. Court Rule 4:32-1, et seq. such that class notice should be provided.

4. The Court appoints Angeion Group as the Claims Administrator.

5. The Court approves the content of the proposed class settlement notice submitted by counsel and the proposed manner of notice distribution and claim process set forth in the Settlement Agreement. The Court directs the Defendant to provide to the Claims Administrator information and documents reflecting the identity of any and all persons whom Defendant’s records indicate may be class members and their last known postal and email addresses, as set forth in the Settlement Agreement, within 10 days of this Order.¹ The Court further directs that within 30 days of this Order, the class settlement notice shall be sent by first class mail to all

¹ Although the information and documents to be disclosed, pursuant to this paragraph, is (or may be) protected health information, as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its attendant regulations, Defendant is directed by this Order to disclose the information and documents to the Claims Administrator, and the Claims Administrator is authorized to disclose the information and documents to Class Counsel, pursuant to 45 C.F.R. § 164.512(e)(1)(i). Similarly, although communications from Class Members to the Claims Administrator, Class Counsel, or defense counsel concerning the Settlement (including Claim Forms, objections, and requests for exclusion) may contain protected health information, the Claims Administrator is authorized to disclose the information and documents to Class Counsel and defense counsel.

persons whom Defendant's records indicate may be class members, at their last known address. In addition, within 30 days of this Order, the class settlement notice shall be posted on Class Counsel's web site, and the class publication notice shall be published on one date in the Star Ledger, the Courier Post, and the Press of Atlantic City (1/6 of a page Monday through Friday).

6. Pursuant to N.J. Court Rule 4:32-1, et seq., a formal, public fairness hearing ("Fairness Hearing") on whether to grant final, binding approval to the proposed class action settlement shall be held on _____, 2021 (suggested date _____) at the Atlantic County Civil Courts Building, 1201 Bacharach Blvd., Atlantic City, New Jersey 08401, Courtroom ____ at _____.

7. Any Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, shall file a written notice of objection with the Court, with copies to the Claims Administrator, Class Counsel, and Defendant's Counsel, no later than twenty (20) days prior to the Fairness Hearing to be scheduled in this matter. Such objections shall state the name, address and telephone number of the person, whether the person is represented by counsel or has consulted with counsel, and provide proof of membership in the Settlement Class, as well as a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents such person wishes to be considered. Objectors who fail to properly or timely file or serve their objections, with the required information and documentation, shall not be heard during the Final Approval Hearing, nor shall their objections be considered by the Court.

8. Any Settlement Class Member may make a Request for Exclusion by mailing or delivering such request in writing to the Claims Administrator, with copies to Class Counsel and

Defendant's Counsel, at the addresses set forth in the Class Notice. Any Request for Exclusion must be postmarked or delivered no later than twenty (20) days prior to the date of the Final Approval Hearing. Any Request for Exclusion shall state the name, address, and telephone number of the person requesting exclusion, shall include a statement that they are a Class Member, and shall contain a clear statement communicating that such person elects to be excluded from the Settlement Class and from any Judgment entered pursuant to this Settlement. Any Class Member who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under the proposed settlement. The Claims Administrator shall report the names of all individuals who have submitted a Request for Exclusion to the Court no less than ten (10) days prior to the Final Approval Hearing.

9. Any memoranda of law or other documents in support of final approval of the proposed class settlement, copies of any objections that have been submitted to class counsel or defense counsel, and an affidavit attesting that class notice has been distributed in a manner consistent with this Order, must be submitted to the Court no later than ten (10) days prior to the hearing on final approval.

10. In the event that the proposed settlement as provided in the Settlement Agreement is not granted final approval by the Court, then the Settlement Agreement, and all drafts, negotiations, discussions and documentation related thereto and orders entered by the Court in connection therewith shall become null and void. In such event, the Agreement and all negotiations and proceedings related thereto shall be withdrawn without prejudice to the rights of any and all parties thereto, who shall be restored to their respective positions as of the date of the execution of the Agreement.

SO ORDERED:

, J.S.C.