

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: ALL-CLAD METALCRAFTERS,  
LLC, COOKWARE MARKETING AND  
SALES PRACTICES LITIGATION

This Document Relates to All Actions

MDL No. 2988  
Master Case No. 2:21-mc-491-NR

*Electronically Filed*

**PLAINTIFFS' UNOPPOSED MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs Jean Greeff, Carol Egidio, Beira Montalvo, Miranda Murray, and Brandi Milford (“Plaintiffs” or “Class Representatives”), by and through undersigned counsel, respectfully move, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for final approval of a proposed Settlement with All-Clad Metalcrafters, LLC and Groupe SEB USA, Inc. (“Defendants” or “All-Clad”), and affirmation of the certification of the Settlement Class defined in the Settlement Agreement.

This Motion is based on the pleadings, files and records herein, including Plaintiffs’ Memorandum of Law in Support of Final Approval of Class Action Settlement and supporting documents, and Plaintiffs’ Motion and Application for Attorneys’ Fees, Costs and Service Awards to Representative Plaintiffs and supporting documents.

DATED: January 3, 2023,

Respectfully submitted,

/s/ Harper T. Segui

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**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION AND  
MEMORANDUM OF LAW IN SUPPORT OF FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT**

This matter is before the Court on Plaintiffs' unopposed motion for final approval of class action settlement and Plaintiffs' unopposed motion for attorneys' fees, litigation costs and service awards. (ECF Nos. 82 and 89.) On August 25, 2022, the Court granted Plaintiffs' unopposed motion for preliminary approval of the proposed settlement ("Settlement") between Plaintiffs Jean Greeff, Carol Egidio, Beira Montalvo, Miranda Murray, and Brandi Milford ("Plaintiffs" or "Class Representatives") and Defendants All-Clad Metalcrafters LLC and Groupe SEB USA, Inc. ("Defendants" or "All-Clad"). (ECF No. 78.)

On January 26, 2023, the Court held a Final Approval Hearing to determine whether the Settlement should be fully approved as fair, reasonable, and adequate. The Court has considered all the submissions and arguments of the Parties.

**AND NOW**, this \_\_\_ day of \_\_\_\_\_ 2023, upon careful consideration of Plaintiffs' Motion for Final Approval of Class Action Settlement; Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards to Representative Plaintiffs; the two (2) objections filed and the Parties' responses thereto; and having heard from the Parties at the Final Fairness Hearing held before this Court on January 26, 2023, it is hereby ORDERED as follows:

**1. Definitions.**

This Order incorporates by reference the definitions in the Settlement Agreement (ECF No. 75-1), and all terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

**2. Background.**

Plaintiffs, individually and on behalf of all others similarly situated, and Defendants have entered into a class action Settlement Agreement to resolve Plaintiffs' claims that multi-ply cookware within All-Clad's D3, D5, and LTD Stainless Steel Collections (the "Cookware") was misrepresented as "dishwasher safe." Prior to the filing of this action, All-Clad marketed, labeled, and represented the Cookware as being conveniently "dishwasher safe," and distributed it as such throughout the country to thousands of consumers. Contrary to this representation, Plaintiffs alleged the Cookware is not "dishwasher safe." According to Plaintiffs, extensive expert investigation conducted on behalf of Plaintiffs revealed that the Cookware suffers from a defect that, when cleaned in a dishwasher, allows the layers of aluminum in the Cookware to deteriorate, leaving thin and/or sharp stainless-steel edges, particularly along the rim of the Cookware ("Sharp Edges" or "Defect"). Thus, when placed in a dishwasher, the Cookware can allegedly prematurely fail as the edges become thin and/or sharp over time and, ultimately, too sharp to continue safely using (the "Damaged Cookware").

The Settlement is the product of hard-fought litigation and arm's-length negotiations, as well as substantial investigation and litigation over the course of two years including:

- i. The investigation, preparation and filing of multiple actions by Plaintiffs, including in the Northern District of California (*Mears v. All-Clad Metalcrafters, LLC, et al.*, Case No. 3:20-cv-02662-SI) ("*Mears* Action") on April 16, 2020; the District of Massachusetts (*Egidio v. All-Clad Metalcrafters, LLC et al.*, Civil Action No. 1:20-cv-12025) ("*Egidio* Action") on November 11, 2020; the Southern District of Florida (*Montalvo*

- v. All-Clad Metalcrafters, LLC et al.*, Civil Action No. 9:20-cv-82384) (“*Montalvo* Action”) on December 22, 2020; and the Northern District of Georgia (*Murray et al. v. All-Clad Metalcrafters, LLC et al.*, Civil Action No. 1:21-cv-00095) (“*Murray* Action”) on January 7, 2021;
- ii. Participation in multiple case management conferences in the Northern District of California in the *Mears* Action;
  - iii. Fully briefing Defendants’ Motion for Transfer of Actions Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings (“Motion to Transfer”) before the Judicial Panel for Multidistrict Litigation (“JPML”) filed on January 21, 2021, and opposing Defendants’ Motion to transfer before the JPML;
  - iv. Fully briefing Defendants’ Motion to Dismiss in the *Egidio* Action (*Egidio* Action at ECF Nos. 27 and 28) while the Motion to Transfer was pending;
  - v. Fully briefing an omnibus motion to dismiss and strike class allegations in the *Mears*, *Montalvo*, and *Murray* Actions following transfer of this action by the JPML to this Court (*In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practice Litig.*, MDL No. 2988, No. 2:21-mc-491-NR) (“All-Clad MDL”) at ECF Nos. 48-49, 51 and 56;
  - vi. Negotiating and filing a Joint Motion for Protective Order, Proposed Rule 26(f) Discovery Plan, and Joint Motion for Discovery governing hard copy documents, as well as ESI, in order to continue engaging in discovery following transfer to this Court (All-Clad MDL at ECF Nos. 36-37, 40-41, 45-46);
  - vii. Significant fact discovery, which aided the resolution of this action, and included serving and responding to interrogatories and requests for production, obtaining third-party retailer discovery, and reviewing and analyzing important documents and data;
  - viii. Filing multiple joint status reports with the Court (All-Clad MDL at ECF Nos. 25, 44, 50, 52, 57, 58, 60, 63-64, 69);
  - ix. Two days of mediation, on October 13-14, 2021, during which time the Parties were unable to resolve this matter, resulting in continued litigation;
  - x. Further mediation following several additional months of litigation, on February 16, 2022, at which time the Parties were able to successfully resolve the substantive terms of the Settlement Agreement; and
  - xi. Continued negotiation of the finer details of the Settlement Agreement for an additional five months.

**3. Class Certification.**

**A. Settlement Class.**

On August 25, 2022, in its Preliminary Approval Order, pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certified the following Settlement Class:

All persons in the United States, including Puerto Rico and the District of Columbia, who, since January 1, 2015, have purchased All-Clad D3, D5, or LTD Cookware.

Excluded from the Settlement Class are Defendants, as well as Defendants' affiliates, employees, officers, and directors, attorneys, agents, insurers, and the attorneys representing Defendants in this case; the judges and mediators to whom this case is assigned and their immediate family members; all persons who request exclusion from (opt-out of) the Settlement; anyone claiming personal injury, property damage (other than to their Cookware), or subrogation; and all persons who previously released any claims encompassed in this Settlement.

**B. Certification of the Settlement Class Pursuant to Rule 23 of the Federal Rules of Civil Procedure Is Appropriate and Warranted.**

In the Preliminary Approval Order the Court preliminarily found that the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23 of the Federal Rules of Civil Procedure were satisfied. ECF No. 78 at ¶ 7. No material changes have occurred since that Order that would alter this ruling. The Court now finally approves certification of the Settlement Class and the Settlement Agreement, except as to those individuals who timely exercised their right to opt-out of the Settlement.

**4. The Settlement Benefits.**

Settlement Class Members fall into two distinct groups with different options for relief: Settlement Class Members who have experienced the Sharp Edges issue and are currently in possession of the Damaged Cookware, and Settlement Class Members who have either not experienced the Sharp Edges issue or have discarded the Damaged Cookware.

**A. Relief for Settlement Class Members Who Have Experienced the Sharp Edges Issue.**

Settlement Class Members who are in current possession of the Damaged Cookware are entitled to select one of three of the following options:

- i. Option 1. Settlement Class Members electing this Option will submit the Damaged Cookware to All-Clad. In exchange, they will receive replacement Cookware of the same type/style and apply for a \$75.00 refund;
- ii. Option 2. Settlement Class Members electing this Option will submit the Damaged Cookware to All-Clad. In exchange, they will receive either (i) Hard Anodized (HA1) five-piece fry-pan set (SKU 2100122734) or (ii) Essentials Hard Anodized Nonstick thirteen-piece cookware set (SKU 2100120788); or
- iii. Option 3. Settlement Class Members electing this Option will submit the Damaged Cookware to All-Clad. In exchange, they will apply for a future credit of 50% off purchases, up to \$1,200.00, on All-Clad's website.

**B. Relief for Settlement Class Members Whose Cookware Has Not Experienced the "Sharp Edges" Issue or Who Have Discarded the Cookware.**

Settlement Class Members who no longer possess the Damaged Cookware or who have the Cookware but whose Cookware has not yet manifested Sharp Edges are entitled to submit a claims for a future purchase credit of 35% off purchases, up to \$750.00, on any product(s) on All-Clad's website.

**C. Common Fund.**

Defendants will establish a Common Fund of up to \$3,000,000 that will provide for the refunds available to Settlement Class Members who are in possession of the Damaged Cookware and elect to exchange the Damaged Cookware for a \$75.00 refund. If the amount of refund claims totals less than \$3,000,000, All-Clad will create a fund in the actual amount of all such claims. If the amount of refund claims exceeds \$3,000,000, All-Clad will add as much money as needed to

pay such claims, up to an additional \$1,000,000, for a total of \$4,000,000. If the total amount of refund claims exceeds \$4,000,000, the amount paid on each claim will be reduced *pro-rata*.

**D. Packaging and Label Changes.**

In addition, All-Clad has affirmed that it completed packaging changes to remove “dishwasher safe” representations from all of the Cookware packaging and labeling and has also completed removal of the “dishwasher safe” representations on the All-Clad website and any other promotional and marketing materials. All-Clad has notified its authorized retailers of the removal of the “dishwasher safe” representations on the All-Clad website and any other promotional and marketing materials and is actively working to complete re-notification instructing retailers to remove “dishwasher safe” representations from floor models and other marketing materials.

**5. Notice.**

Consistent with the Preliminary Approval Order and the proposed Notice Plan, the settlement administrator, Angeion Group, LLC (“Angeion”), has notified Settlement Class Members of the Settlement by (a) emailing the notices to all members of the Settlement Class for whom valid email addresses are known to All-Clad, (b) mailing postcard notice to class members that did not have valid email addresses, but had mailing information, (c) implementing a digital notice program, and (d) commencing internet banner notice and social media notice. Direct email notice was also accomplished through certain All-Clad third-party retailers, either directly from the third-party or with transfer of email addresses to Angeion. In addition, Angeion created a Settlement Website that includes all necessary and pertinent information for Settlement Class Members, and also established and is maintaining a toll-free number for Settlement Class Members to call and obtain additional information about the Settlement.

The form and methods of notifying the Settlement Class of the terms and conditions of the proposed Settlement Agreement met the requirements of Fed. R. Civ. P. 23, any other applicable law, and due process, and constituted the best notice practicable under the circumstances.

Further, Angeion, on behalf of the Defendants, caused timely notice of the Settlement and related materials to be sent to the Attorney General of the United States and the Attorneys General of all U.S. states, its territories, and the District of Columbia pursuant to the Class Action Fairness Act of 2005 (“CAFA”). The Court finds that such notification complies fully with the applicable requirements of CAFA.

**6. The Settlement is Fair, Reasonable, and Adequate.**

“[C]ourts apply an initial presumption of fairness in reviewing a class settlement when: (1) the negotiations occurred at arm’s length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected.” *Rossini v. PNC Fin. Servs. Grp., Inc.*, 2020 WL 3481458, at \*11 (W.D. Pa. June 26, 2020) (Ranjan, J.) (citing *In re NFL Players’ Concussion Injury Litig.*, 961 F. Supp. 2d 708, 436 (3d Cir. 2016)). In addition, in assessing the fairness of a class action settlement, courts in the Third Circuit are required to assess the nine factors outlined in *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975). “Those factors are (1) the complexity, expense, and likely duration of litigation; (2) the reaction of the class to the settlement; (3) the stage of proceedings and amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risk of maintaining the class through trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light

of the attendant risks of litigation.” *Id.* at 157. The Court finds that these factors support final approval of the Settlement.

**A. The Presumption of Fairness Applies.**

At the outset, the Settlement Agreement should be considered presumptively fair for purposes of final approval for the following reasons.

**i. Arm’s-length negotiations.**

As the Court found in the Preliminary Approval Order, “[i]t further appears that the Settlement has been reached as a result of intensive, arm’s-length negotiations using experienced third-party neutrals.” ECF No. 78 at 3. At all times, the Parties negotiated the Settlement at arm’s-length. Over the course of nearly two years of negotiating, the Parties engaged in two separate rounds of formal negotiations, with two separate experienced neutrals, during three full days, followed by an additional five months of negotiating the finer details of the Settlement Agreement. As this Court has recognized several times, “negotiation of a settlement through mediation suggests reasonableness and neutrality, not incompetence or self-dealing.” *Rossini*, 2020 WL 3481458, at \*12 (citing *Tamasy v. Young Sch. Dist.*, 2019 WL 5864893, at \*2 (W.D. Pa. Nov. 8, 2019) (Ranjan, J.)); *see also Kapolka v. Anchor Drilling Fluids USA, LLC, et al.*, 2019 WL 5394751, at \*6 (W.D. Pa. Oct. 22, 2019) (Ranjan, J.) (same). Two highly respected mediators, Judge Kramer and then Judge Andersen, facilitated the Parties’ negotiations, which were extensive in advance of, during, and after mediation while the unresolved litigation proceeded, as the Court previously recognized.

**ii. Sufficient discovery.**

As the Court found in the Preliminary Approval Order, “[i]t further appears that extensive and costly investigation, research, and discovery have been conducted such that the attorneys for

the Parties are reasonably able to evaluate the benefits of settlement[.]” ECF No. 78 at 3. Prior to instituting this litigation, Class Counsel consulted with experts to investigate the alleged Defect, which assisted with Plaintiffs’ discovery requests after the litigation commenced. Through the production of documents, targeted Requests for Admission, and third-party discovery, Plaintiffs conducted sufficient discovery to evaluate the strengths and weaknesses of the claims and defenses and make informed negotiation decisions to arrive at the Settlement before the Court. Additional discovery would have provided marginal value in further assessing the merits of the claims and defenses here.

**iii. Experienced counsel.**

In the Preliminary Approval Order, the Court preliminarily appointed Martha Geer, Harper Segui, and Rachel Soffin as Settlement Class Counsel. Ms. Geer, Ms. Segui, and Ms. Soffin have extensive experience as class action litigators as well as in product defect litigation and they are well-equipped to evaluate the merits of the case, the value of Settlement, and the risks of continued litigation.

**iv. Small fraction of objections.**

As described in further detail below, there are currently two objections to the Settlement, and twenty-seven requests for exclusion. With a class of hundreds of thousands of consumers, that there are only two objections to the Settlement weighs in favor of the fairness and reasonableness of the Settlement.

**B. The *Girsh* Factors Support Final Approval.**

**i. Complexity, expense, and likely duration.**

This factor supports approval of the Settlement because continued litigation involved serious risks. While Plaintiffs may have prevailed on certain issues in their motions to dismiss (an

outcome which was uncertain as there had not yet been a ruling), with continued litigation, Defendants undoubtedly would challenge Plaintiffs' liability and damages experts, contest class certification, and move for summary judgment on any potentially remaining claims in each of the actions. Further, even with an aggressive trial schedule, it is unlikely that the case could be tried until at least the end of this year. As the Court previously noted in the Preliminary Approval Order, this Settlement "will avoid substantial additional costs to the parties and reduce delay and risks associated with this action" given the number of outstanding stages that remain prior to trial of this case. ECF No. 78 at 3.

**ii. Reaction of Class to Settlement.**

With a class size including hundreds of thousands of consumers, that there are only two objections to the Settlement and twenty-seven requests for exclusion weighs substantially in favor of the fairness and reasonableness of the Settlement. The two objections were made by (1) John M. Andren, an attorney at the Hamilton Lincoln Law Institute and the Center for Class Action Fairness (collectively referred to herein as "CCAF"), who is represented by Adam Schulman, also an attorney at CCAF, and (2) Gregg Kapuscinski, on behalf of himself. For the reasons detailed in Plaintiffs' Motion for Final Approval of the Settlement and in Plaintiffs' response to the objection from John Andren, the Court rejects Mr. Andren's objection. For the reasons detailed in Plaintiffs' Motion for Final Approval of the Settlement, it appears that Mr. Kapuscinski's objection has been addressed and the Court also rejects Mr. Kapuscinski's objection.

**iii. Stage of proceedings and amount of discovery.**

This factor supports approval of the Settlement because discovery had progressed sufficiently for Settlement Class Counsel to assess the risks and value of Plaintiffs' claims. Settlement Class Counsel performed significant investigation on the front end of the case with a

consulting expert which subsequently informed Plaintiffs' strategy at each step in this case. Because Settlement Class Counsel worked extensively with their experts, they were able to tailor the theory of liability—as well as their document requests, requests for admission, and third-party discovery—to seek critical documents that would advance the case. Discovery then spanned over a year in this litigation, including before and after consolidation of each case into the MDL. Settlement Class Counsel had collected sufficient information, through formal and informal discovery and their own investigation, to have an adequate understanding of the merits of the case before negotiating the Settlement, which took place before two experienced JAMS neutrals who are retired judges, during two separate mediation sessions over the course of three full days and continued thereafter for another five months while the Parties negotiated the final details of the Settlement.

**iv. Risks of establishing liability and damages.**

This factor supports approval of the Settlement because Plaintiffs faced material risks in this case, including dismissal, *Daubert* challenges to Plaintiffs damages and liability experts, and the possibility of losing on summary judgment before reaching trial or failing to certify a class. Although calculating the precise risk of losing at these stages is difficult, a loss at any of them would preclude Plaintiffs from achieving the relief outlined in the Settlement. Dismissal or summary judgment may be dispositive for one or potentially every Plaintiff, and losing on class certification or *Daubert* would preclude Plaintiffs from receiving the nation-wide relief the Settlement provides.

**v. Risks of obtaining and maintaining class-action status through trial.**

This factor supports final approval because, as discussed above, Defendants would have undoubtedly filed *Daubert* motions challenging Plaintiffs' experts and opposed class certification.

Even if a class was certified, maintaining class certification comes with independent risks as Defendants would likely seek decertification when appropriate, and also potentially appeal any adverse rulings. In addition, Defendants may have moved for summary judgment. Thus, certifying and then maintaining a class is far from certain in this case and, if Plaintiffs were to fail at any stage, there would be no relief to the Settlement Class regardless of the strength of Plaintiffs' theory of liability and damages.

**vi. Defendants' ability to withstand a greater judgment.**

Defendants' ability to pay was not a relevant factor in the Parties' negotiations. However, given the significant recovery here, as well as All-Clad's removal of the "dishwasher safe" representations from its marketing, the Settlement accomplishes the goal of providing the Settlement Class substantial remuneration. *Rossini*, 2020 WL 3481458, at \*15 ("Moreover, to the extent PNC engaged in 'misconduct' for a judgment to deter (which PNC disputes), that aim appears to have been accomplished—as part of the settlement, PNC represents that it has changed its background-check policies to provide the pre-adverse action notice Plaintiffs sought."). Thus, this factor favors settlement.

**vii. The range of reasonableness of Settlement in light of the best possible recovery and all of the attendant risks of litigation.**

These factors support approval because the Settlement is reasonable in amount and structure. The Settlement provides a multi-tiered approach to relief for Settlement Class Members. First, Settlement Class Members can choose a one-to-one replacement for the same Cookware (knowing that the Cookware is not "dishwasher safe"), and in choosing this option, are also entitled to a \$75.00 reimbursement (Option 1). Settlement Class Members also have the option to replace their damaged Cookware with alternative dishwasher-safe cookware (Option 2), or to receive a future credit of 50% of all purchases up to \$1,200.00, which is a \$600.00 value (Option 3). If their

Cookware has not exhibited Sharp Edges or did but was discarded, Settlement Class Members can claim a future credit of 35% off of a purchase up to \$750.00. Defendants will initially create a common fund up to \$3,000,000 dedicated solely to payment of the \$75 reimbursement claims and should claims exceed this amount (which appears likely as described herein), Defendants will enlarge the common fund to \$4,000,000. Accordingly, the proposed Settlement provides the exact relief to consumers that this action was filed to achieve – benefits specific to the alleged Defect, allowing consumers to select replacement Cookware of the same type/style with a cash refund, a different type/style of cookware, or a future credit toward the purchase of All-Clad cookware of Settlement Class Members’ choice from All-Clad’s website. When balanced against the risks of litigation, the Settlement is a significant achievement for Settlement Class Members that avoids years of litigation with pitfalls that may preclude any relief for the Class and preserves the resources of the Judiciary and the Parties. The Settlement was the culmination of years-long litigation and negotiation, and the resounding success of the Settlement has already been borne out by its positive reception by Settlement Class Members.

#### **7. Class Representative Service Awards.**

The Settlement Agreement provides \$2,500 to each Class Representative as a Service Award for their dedication to his litigation. Plaintiffs devoted time in the oversight of, and participation in, the litigation on behalf of the Class. The Court finds that these awards are reasonable and should be approved, as the amounts are well within the range of awards customarily approved by Courts in the Third Circuit.

#### **8. Attorneys’ Fees and Costs.**

Settlement Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs and expenses incurred. Plaintiffs have requested \$2,000,000 for attorneys’ fees and

costs, and class representative Service Awards. After deducting litigation costs of \$59,805.56, and Service Awards of \$2,500 for each Settlement Class Representative (for a total of \$12,500), Settlement Class Counsel sought approval of \$1,927,694.04 in fees. As detailed in Plaintiffs' Motion for Attorneys' Fees, Costs and Service Awards to Representative Plaintiffs, and in Plaintiffs Motion for Final Approval of Class Action Settlement, this represents 29.6% of the \$6,500,000 value of the Settlement, and a 1.59 lodestar multiplier.

Given the facts of this case, the Court concludes that under either a percentage-of-recovery analysis, or the lodestar analysis, the requested fee award is reasonable and should be approved. Plaintiffs' Motion for Plaintiffs' Motion for Attorneys' Fees and Costs is hereby GRANTED and the requested award of \$59,805.56 in costs and \$1,927,694.04 in attorneys' fees is approved.

**9. Objections are Overruled.**

All objections to the Settlement are hereby overruled.

**10. Final Approval.**

For the reasons discussed above, the Court certifies the proposed Settlement Class and grants Plaintiffs' motions. The Court finds that the Settlement Class satisfies the requirements of Fed. R. Civ. P. 23(a) and 23(b), that the Parties' Settlement Agreement is fair, reasonable, and adequate, the requested Service Awards to Class Representatives are appropriate, and that the requested award of attorneys' fees and costs is reasonable based on a both the percentage-of-recovery and lodestar analyses.

Date: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE J. NICHOLAS RANJAN  
United States District Judge