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7 Attorneys for Plaintiff
DAVID AMBROSE

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

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11
12 DAVID AMBROSE, on behalf of himself and
all others similarly situated,

13 Plaintiff,

14 v.

15 THE KROGER CO.,

16 Defendants.
17

Case No. 3:20-cv-04009-EMC

POST-DISTRIBUTION ACCOUNTING

1 Plaintiff David Ambrose (“Plaintiff”) and Defendant The Kroger Co. (“Defendant”),
2 (collectively referred to herein as the “Parties”) respectfully submit the below Post-Distribution
3 Accounting pursuant to the Northern District of California’s Procedural Guidance for Class Action
4 Settlements and the Court’s Order Approving Final Settlement and Judgment and Granting
5 Plaintiff’s Motion for Attorneys’ Fees, dated October 1, 2021 (Dkt. No. 59).

6 DISCUSSION

7 This Court granted final approval of the Settlement pursuant to Federal Rule of Civil
8 Procedure 23(b)(2) on October 1, 2021 (Dkt. No. 59). The Settlement includes injunctive relief
9 and payment of attorneys’ fees and costs as well as an incentive award to the plaintiff. The
10 Settlement neither provides for monetary relief for absent class members nor releases their claims
11 for monetary relief. As a result, and because the Settlement Class was certified pursuant to
12 Federal Rule of Procedure 23(b)(2), the only notice required was service of a press release and
13 posting of the Settlement on Plaintiff counsel’s website. (Dkt. No. 50). There were no objections
14 submitted in response to the notice and Plaintiff’s counsel received no contacts from absent class
15 members.

16 The injunctive relief set forth in the Settlement provides benefits to the Class by requiring
17 the removal of all claims by Defendant that its Simple Truth brand plates, bowls and platters (the
18 “Products”) are “compostable.” This fully remedies the alleged false representation at the heart of
19 the case, which alleges that Defendant advertised the Products as compostable, when, in fact, they
20 are not.

21 In addition to the injunctive relief, the Settlement also authorizes the recovery of a portion
22 of Class Counsel’s attorneys’ fees and costs in the amount of \$195,000 and provides an incentive
23 award to Plaintiff in the amount of \$5,000. There were also administrative costs of \$1,200 for the
24 press release alerting the public to the Settlement which was paid by Plaintiff’s counsel.

25 The monetary payments under the Settlement are broken down as follows:
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Administrative Costs	Attorneys' Fees and Costs	Incentive Award to Plaintiff
\$1,200	\$195,000	\$5,000

Dated: November 9, 2021

LEXINGTON LAW GROUP

/s/ Mark N. Todzo

Mark N. Todzo
Attorneys for Plaintiff

Dated: November 9, 2021

BEVERIDGE & DIAMOND PC

/s/ Roy D. Prather III

Roy D. Prather III
Attorneys for Defendants

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ATTESTATION

I, Mark Todzo, am the CM/ECF user whose ID and password are being used to file this Joint Case Management Conference Statement. Pursuant to Local Civil Rule 5-1(i)(3), I hereby attest that Roy D. Prather III, on whose behalf this filing is jointly submitted, has concurred in this filing.

/s/ Mark Todzo
Mark Todzo

CERTIFICATE OF SERVICE

I, Mark Todzo, an attorney, hereby certify that on November 9, 2021, I caused a complete and accurate copy of the foregoing document to be served via this Court's ECM/ECF notification system, which will serve electronically to all participants in this case.

/s/ Mark Todzo