UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

JAMI KANDEL, MOCHA GUNARATNA, and
RENEE CAMENFORTE, individually and on behalf
of all others similarly situated,

                Plaintiffs,

       v.

DR. DENNIS GROS SKINCARE, LLC, a New
York Limited Liability Company,

                Defendant.

Case No. 1:23-cv-01967-ER

Honorable Edgardo Ramos

**[*REDACTED*] DECLARATION OF BRYAN HELLER IN SUPPORT OF PLAINTIFFS'
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT
REGARDING CLAIM VALIDATION AND FRAUD DETECTION USING
CLAIMSCORE**

DECLARATION OF BRYAN HELLER

I, Bryan Heller, do hereby declare and state as follows:

1.   I am a Co-Founding partner and the Chief Operating Officer of ClaimScore, LLC ("**ClaimScore**"), a technology company that assists with claims administration. The following statements are based on my personal knowledge and information provided by other ClaimScore principals and employees working under my supervision, and if called upon to do so, I could and would testify competently about these issues.

2.   I graduated from the Pennsylvania State University with a Bachelor of Science degree. Prior to ClaimScore, I spent the first 13+ years of my career at a Consulting Engineering firm, in the Environmental Services Group, with a primary focus on contaminated site remediation, landfill post-closure compliance and landfill gas to energy projects. Each of the three focus areas required the review of 100s of thousands of data points to drive federal and state compliance, as well as maximize renewable energy generation. In addition to complex data analysis, I also was required to develop custom tools to deploy complex Expert System Artificial Intelligence algorithms (which automated the data review processes), produce state and federally compliant data sets, and drive energy production optimization decisions. Both federal and state compliance required that the data be scrutinized for quality assurance and multiple lines of evidence was required to prove the data was of "known quality".

3.   In 2020, I started a technology company focused on athletic training and nutrition, and, using complex data analysis and algorithms, led the development of an Artificial Intelligence/Machine Learning training application for athletes. As part of that company, my team was also responsible for the collection and analysis of marketing data to drive campaign decisions and optimize campaign performance.

4.   In early 2022, I co-founded ClaimScore with a group of partners who had significant experience in consumer class actions and the administration of them.   Since ClaimScore's inception, I have managed a development team and been primarily responsible for

engineering the AI algorithms, scoring criteria and overseeing the development of our proprietary cloud-architecture infrastructure.

5.   ClaimScore was retained by the court appointed Administrator EAG Gulf Coast, LLC, to review data related to the claims made in this case. EAG Gulf Coast, LLC transferred the claims data to ClaimScore via a secure download portal.

6.   ClaimScore analyzed the 4,216,525 online claims filed between July 22, 2024, and September 27, 2024. According to ClaimScore's analysis 50,183 claims made online for 101,793 eligible units of the product scored 700 or greater and were therefore preliminarily recommended to be approved or required further review if they were submitted with a proof of purchase. Additionally, 4,166,342 claims made online for 8,796,934 units of the product scored below 700 and were therefore preliminarily recommended to be rejected. However, after the court appointed administrator conducted their final analysis, the court appointed administrator determined that 62,212 claims made online[1] for 123,566 units of the product were eligible for payout and 4,254,313 claims made online for 8,770,800 units of the product were ineligible for payout. Of the 62,212 online claims identified to fulfill the requirements of the settlement agreement, 60,423 were submitted without proof of purchase and therefore were capped at 2 eligible units of the product, while 1,789 claims were submitted with proof of purchase and therefore were capped at 10 eligible units of the product.

7.   A description of ClaimScore's methodology and detailed findings is set forth below. Please note, ClaimScore requested portions of this declaration be redacted to protect the integrity of ClaimScore's proprietary Intellectual Property and prevent our system from being reverse engineered by individuals responsible for submitting fraudulent claims.

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[1] 6,638 Hard Copy Claims were eligible for the payout for 11,943 units of the product; however, ClaimScore's Scope of work was limited to online claim submissions.

ABOUT CLAIMSCORE AND ITS SCORING METHODOLOGY

8.   As noted, ClaimScore is a technology company that assists with the administration of class actions and, in particular, with the review and assessment of claims made in the settlement of class actions. The ClaimScore team has over 40 years of class action case experience, and includes both class action attorneys, individuals with class action claim administration experience, data analysts, and a full software development team. Our founders have represented litigants on both sides of consumer (and other) class actions and have administered numerous cases in state and federal courts throughout the United States.

9.   ClaimScore was developed, specifically based on its founders' education and expertise, to review and validate claims in class action settlements, individually and in real-time or in bulk, based on objective criteria that is applied consistently and uniformly to all people making claims in these settlements. ClaimScore's technology combines a 65+ point expert-system artificial intelligence algorithm with a neural-network machine learning system to ensure an accurate, objective, and transparent review of each individual claim made in the settlement of consumer class actions. The platform is stacked on a complex cloud-architecture that is capable of providing real-time review of hundreds of thousands of claims per hour.

10.   ClaimScore's validation system reviews each claim individually against each of the 65+ criteria. Additionally, all case-specific validation requirements are integrated into ClaimScore's algorithm, thus ensuring each claim is accurately evaluated against the requirements set forth in the Settlement Agreement. Each claim begins with a ClaimScore of 1,000 and is reduced each time it fails a criterion. Claims with scores above 700 are marked as "approved"; however, if the claim was submitted with a proof of purchase which must be reviewed by a human prior to final determination and receives a score equal to or greater than 700 ClaimScore marks the claim as "pending". If a claim's score drops below 700, ClaimScore marks it as rejected.

11.   ClaimScore developed a proprietary neutral-network machine learning model to determine the weight of each step of each criterion based on the prevalence of valid and invalid claims failing the pertinent criteria step. Once the score weights were established, they were

applied to ClaimScore's expert system AI algorithm that evaluates each claim against the 65+ points.

12.   ClaimScore has previously conducted a control study using 20,000 known legitimate claims and 20,000 known invalid claims. The known legitimate claims consisted of known class members of specific cases who submitted a claim, and for whom the defendant had some contact information (mailing address or e-mail). Each of those claims were validated as legitimate based on defendant records and claim data. The 20,000 invalid claims were all part of known programmatic submissions (i.e. known fraud) and therefore were invalidated as such.

13.   The control study was conducted to determine if ClaimScore could accurately identify the known valid claims and known invalid claims. And it can. ClaimScore correctly identified 99.5% of known legitimate claims by scoring them 700 or above and correctly identified 98% of known invalid claims by scoring them less than 700. The 0.5% discrepancy in the legitimate claim analysis was attributable to class members incorrectly entering some information into the claim form (i.e. invalid email address, street address, or phone number). But those claims were ultimately not flagged as fraudulent in the analysis. The 2% discrepancy in the invalid claim analysis was attributable to the invalid claims being submitted with minimal evidence of fraud.

14.   [REDACTED]

15.   Claims are not rejected for single criterion unless they are specified in the Settlement Agreement. If any of the other criteria fail, the claim will lose points, but multiple failures are required before ClaimScore recommends the claim be rejected.

16.   Once a claimant fails a certain number of criteria, and the ClaimScore drops below 700, ClaimScore recommends that the claim be rejected as non-compliant with the specific terms of a Settlement Agreement, including an analysis that the claim contains "indicia of fraud". When developing ClaimScore, the score of 700 was selected as the threshold for rejection, in part because most people are familiar with how the credit score system works, and the 700-metric aligns with that system. A 700-passing score was also selected because a 300-point deduction would allow claims to fail certain criteria, yet still be approved. In other words, potential claimants are provided with a certain "cushion" to ensure that they are not simply selected for exclusion based on a single criterion; the claim needs to fail multiple criteria before the score is reduced to below 700.

17.   The 700 score was established as the breakpoint for valid and invalid claims prior to developing the weights for each criterion. Said differently, when building the neural-network machine learning model to evaluate the effectiveness of the criteria at predicting fraud, that analysis was based on the score of 700. If the combination of criteria was weighted too heavily and legitimate claims were pushed below 700, the model lessened the weights to ensure absolute fairness to the proposed claimant. When the combination of criteria was weighted too lightly and not effectively pushing illegitimate claims below 700, the model more heavily weighted the criteria.

18.   To maximize transparency, each claim is tagged with deduction codes associated with the criteria it fails, thus ensuring that the parties, the administrator and the Court definitively know all specific reasons why each claim was rejected. This coding approach creates complete transparency for each claimant.

19.   To be clear, ClaimScore does not reject claimants based on "one-off" criteria, nor does EAG (which may be approach utilized by many settlement administrators). ClaimScore refers to this as "group and slash". In contrast, the ClaimScore methodology applies the criteria agreed to in the settlement agreement, and measures "other indicia of fraud" against a full set of criteria to provide each claimant with a score. That score then determines, up front, whether a claimant actually meets the definition of "class member" pursuant to the settlement agreement. Under the

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ClaimScore system, all claims are assessed against all of the 65+ criteria uniformly, and no single claim fails simply because it fails to meet a single criterion.

20.   ClaimScore is currently being utilized for Real-Time Claims Management services in numerous state and federal court class actions.   Those services use the same technology deployed in this current case (however, the claim review process happens in real-time in each of those other cases).

21.   A sample of currently active or recently finalized class action settlements where ClaimScore has been Court-appointed to provide Real-Time Claims Management services are listed below:

> a. *Nixon v. Grande Cosmetics, LLC,* Case No. 1:22-cv-06639 (United States District Court for the District of New Jersey) (Nationwide class of purchasers who were subject to allegedly deceptive and misleading business practices regarding cosmetic products contents and the potential side effects associated with the products).
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> b. *Danielle Skarpnes v. Elixir Cosmetics OPCO, LLC,* Case No. CU23-04638 (Superior Court of California, County of Solano) (Nationwide class of purchasers who were subject to allegedly deceptive and misleading business practices regarding cosmetic products contents and the potential side effects associated with the products).
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> c. *Ignacio Perez v. Rash Curtis & Associates,* Case No. 4:16-cv-03396-YGR (N.D. Cal.) (Direct Notice Class of the largest Telephone Consumer Protection Act (TCPA) settlement in history with a recovery $75.6 million for individuals who allegedly received unwanted calls from a debt collection company);
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> d. *Lipsky, et al. v. American Behavioral Research Institute, LLC, d/b/a Relaxium,* Case No. 50-2023-CA-011526-XXXX-MB (Palm Beach County Cir. Court Florida) (Nationwide class of purchasers who were

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subject to allegedly deceptive and misleading business practices regarding the efficacy and automatic billing practices of Relaxium® - a line of supplements to promote sleep, relaxation, focus, and immune defense);

e. *Wyland v. Woopla, Inc.,* Case No. 2023-CI-00356 (Commonwealth of Kentucky Henderson County Cir. Court) (Kentucky class of purchasers of online gambling products);

f. *Whiting v. Yellow Social Interactive, Ltd., Case No. 2023-CI-00358* (Commonwealth of Kentucky Henderson County Cir. Court) (Kentucky class of purchasers of online gambling products);

g. *Rosenfeld et al. v. AC2T, Inc.,* Case No. 506882/2023 (Supreme Court of New York, County of Kings) (Nationwide class of purchasers of mosquito repellant);

h. *O'Malley, et al. v. FloSports, Inc.*, Case No. 3:22-cv-04920-JSC (N.D. Cal.) (Direct Notice class of purchasers who were subject to allegedly deceptive and misleading business practices regarding the efficacy and automatic billing practices of an online subscription to the FloSports platform.)

i. *Jimenez v. Artsana USA, Inc.,* Case No. 7:21-cv-07933-VB (United States District Court, Southern District of New York) (Nationwide class of purchasers who were subject to allegedly deceptive and misleading business practices regarding child safety seats and the potential harm of moving a child into a safety seat designated for older children prematurely).

22.   In analyzing ClaimScore's proprietary anti-fraud software, the United States District Court for the District of New Jersey stated that the ClaimScore's data-driven, analytical

scoring system provides "adequate safeguards to mitigate the risk of fraudulent claims". *Nixon v. Grande Cosmetics, LLC*, Case No. 1:22-cv-06639.

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CLAIMSCORE'S FINDINGS

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ClaimScore's Review

23.   Due to the increased prevenance of fraud in open class settlements, ClaimScore was retained prior to the commencement of the claims period to conduct claim validation and fraud detection. ClaimScore was directed to assess the online claims using ClaimScore's proprietary technology solution, to ensure that each claimant was universally evaluated in the same manner, and to provide comprehensive backup data showing why claimants were being rejected from participating in the settlement.

24.   EAG Gulf Coast, LLC facilitated the transfer of claim submission data for 4,216,525 claims to ClaimScore via multiple CSV files. Once ClaimScore received all of the data, it consolidated it using the unique IDs provided within each file. Before ClaimScore began reviewing the data, it was provided with the Settlement Agreement and other publicly available documents from the settlement website (https://www.cpluscollagenlawsuit.com/).

25.   The claims were reviewed using ClaimScore's Retroactive review system and the results were exported to CSV files for Quality Assurance (QA) review. During QA Review, ClaimScore confirmed that fraudulent claims were submitted both by bad actors manually filling out the claim form multiple times as well as programmatically.

26.   Programmatic submissions are defined as a person (or organization), who reverse engineers the online submission process, and the use of that information to write a computer code that will automatically submit claims. The claims website cannot tell the difference between a claim submitted programmatically and a claim submitted by a class member manually entering the information into the online claim form. A person submitting claims programmatically uses code to submit large numbers of claims at once, sequence the timing of the claim submissions, create fake inputs for which website the claim was referred from (the referrer URL), command multiple devices to submit claims from their own individual IP or submit several claims from the same IP,

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and input all the claim information. Although there are systems like CAPTCHA[2] and Web Application Firewalls (WAFs), which were developed specifically to detect these programmatic submissions, they can be bypassed with the proper resources.

27.   During the QA Review, ClaimScore also confirmed the following fraud categories were observed: Duplication Fraud, Fake Identity Fraud, and Synthetic Identity Fraud. Duplication Fraud is defined by an individual submitting multiple claims using various combinations of their real information (i.e. submitting using a variety of email accounts, phone numbers or addresses they have access to). Fake Identity Fraud is defined as claims being created using fake information (i.e. fake names, addresses, phone numbers, and email addresses), Synthetic Identity Fraud is defined as claims being created using stollen or publicly available personal information for real people in combination with a piece of information (usually associated with the payment method) that is not associated with the identity it is paired with.

28.   While programmatic submissions are not detectable by the receiving system, the three fraud types can be detected using algorithmic evaluations of the submission data. ClaimScore specifically developed a set of criteria which uses multiple lines of evidence and a proprietary weighted scoring system to accurately invalidate claims that were submitted fraudulently. However, it is important to note that not all claims that exhibit the individual signs of fraud are fraudulent, and patterns of programmatic fraud cannot be accurately detectable through a single criterion. This is the precise reason why ClaimScore's algorithm requires several lines of evidence before rejecting a claim.

29.   The Settlement Agreement specified the procedures for putative class members to submit claims. Claimants with proof of purchase (such as a receipt) are eligible to receive up to a $50 benefit per unit of the eligible product they purchased, capped at 10 units for a maximum benefit of $500 and Class Members without proof of purchase are eligible to receive up to a $50

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[2] CAPTCHA is an acronym that stands for Completely Automated Public Turing test to tell Computers and Humans Apart. There are several CAPTCHA services providers with a variety of solutions available.

benefit per unit of the eligible product the purchased, capped at 2 units for a maximum benefit of $100; however, the actual amounts paid to each eligible class member will be calculated on a pro-rata basis.

ClaimScore's Criteria Overview

30.   Each of ClaimScore's criteria has been carefully crafted and weighted specifically to distinguish between valid and invalid claimants. Although, both valid and invalid claims may pass or fail each individual criterion, it is the millions of combinations of the criteria that ultimately lead to a claimant being identified as valid or invalid. For visibility, ClaimScore tags each claim with Deduction Codes that provide insight into which criteria a claim has failed; however, please note, deduction codes may cover several criteria within similar categories. A definition of each deduction code is provided below:

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Criteria Examples & Results

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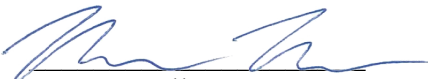
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Summary of Results

37.   Of the 4,154,313 claims which had a ClaimScore below 700 or were determined to be ineligible by the court appointed administrator, our analysis indicated that 4,115,434, or 99.06%, had at least three of the above indicators, and 3,777,426, or 90.93%, had at least four or more.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: October 17, 2024

By: _____
           Bryan Heller