

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Scotts EZ Seed Litigation

Civil Action No. 12-cv-4727 (VB)

**DECLARATION OF MICHAEL ARCURI IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS, EXPENSES, AND INCENTIVE AWARDS**

I, Michael Arcuri, declare as follows:

1. I am an adult over the age of 18 and a resident of the State of New York. I am a Class Representative in this lawsuit, which is currently pending in the United States District Court for the Southern District of New York. I make this Declaration in support of (i) the Motion for Final Approval of Class Action Settlement, and (ii) the Motion for Attorneys' Fees, Costs, Expenses, And Incentive Awards. The statements made in this Declaration are based on my personal knowledge and, if called as a witness, I could and would testify thereto.

2. In 2012, I purchased one 3.75 lb. jug of Scotts EZ Seed from a Home Depot store located in Cicero, New York. The jug that I bought was labeled with the "50% Thicker With Half The Water" claim.

3. I retained qualified legal counsel to work on this case on my behalf, and on behalf of other Class Members. I assisted with the litigation of this case by assisting with the pre-suit investigation. Specifically, I described to my lawyers the details of my purchase and use of Scotts EZ Seed. I stated that I relied on the "50% Thicker With Half The Water" claim when deciding to purchase the product. I also described how I used Scotts EZ Seed according to the directions for use on the packaging, but that it did not work as advertised.

4. I worked with my attorneys to prepare the complaints in this case, and I carefully reviewed the complaints for accuracy and approved them before they were filed.

5. During the course of this litigation, I kept in regular contact with my lawyers. Specifically, I conferred with them regularly by phone and e-mail to discuss the status of the case. We also discussed case strategy, motions that were currently pending, document and deposition discovery, mediations, and the prospects of settlement. Furthermore, when appropriate, I informed my attorneys of additional facts for their research and consideration.

6. I also coordinated with my lawyers to search for documents that Defendants requested in formal discovery, such as copies of my purchase receipt for Scotts EZ Seed and certain photographs that I took of my lawn.

7. In addition, I prepared for my depositions, and I was deposed twice in this case. The first deposition lasted approximately 6.5 hours, and the second deposition lasted approximately 2 hours.

8. My lawyers have kept me well informed regarding the numerous efforts to resolve this matter. I discussed the Settlement Agreement with them and gave my approval prior to its execution.

9. Based on my interactions with my attorneys, I believe they have fairly and adequately represented me and the other Class Members and will continue to do so.

10. Throughout this litigation, I understood that, as a Class Representative, I have an obligation to protect the interests of other Class Members and not act just for my own personal benefit. I do not have any conflicts with other Class Members. With my counsel's assistance, I have done my best to protect the interests of other Class Members and will continue to fairly and adequately represent the Settlement Class to the best of my ability. Indeed, I previously testified

at one of my depositions that I was prepared to see this case through to its conclusion, even if that meant going to trial.

11. I estimate that I spent approximately 60 hours working with my lawyers on this case.

12. I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct. Executed on September 20, 2018 at Clay, New York.



Michael Arcuri