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Henkel To Shell Out \$1.5M To End 'Natural' Detergent Suit

By **Mike Curley**

Law360 (March 11, 2019, 5:51 PM EDT) -- A New York federal court gave preliminary approval to a \$1.5 million settlement intended to put to rest a proposed class suit claiming Henkel Consumer Goods Inc. misled customers with the labeling on its Purex "Natural Elements" laundry detergents.

In the proposed settlement, submitted to the court last week by named plaintiff Tony Luib, Henkel would create a \$1.5 million fund for cash payouts to class members, a \$7,500 incentive award to Luib and up to \$500,000 for class counsel.

Class members are eligible for between \$2 and \$4 for each container of the detergent they bought, according to the settlement. Those class members with proof of purchase are eligible for an unlimited number of packages, while those without can redeem up to 10.

In addition, Henkel must add language to its products to qualify its "Natural Elements" label, add a USDA certification label and stop making and selling any products that don't conform to those changes.

In the suit, filed in May 2017, Luib alleged that the labeling was misleading because "Natural Elements" is not qualified and the products contain synthetic ingredients. The settlement does not constitute an admission of fault by Henkel, according to the preliminary approval order.

The proposed settlement defines class members as any U.S. residents who bought the detergents between May 19, 2013, and March 8, 2019, and directs the settlement administrator, Epiq Class Action and Claims Solutions Inc., to establish a website within 35 days to inform potential class members of the settlement agreement and deadlines.

Judge Cogan scheduled a fairness hearing for Aug. 19 to determine whether to certify the class and whether the settlement is fair and adequate. Any class members who wish to opt out or otherwise object to the settlement terms must notify the court by July 22.

The preliminary approval also puts a stay on any and all other actions in the country concerning the "Natural Elements" product labeling until the fairness hearing and final order on Luib's suit.

"While Henkel maintains that the labels on Purex Natural Elements products have been appropriate, the settlement allows us to avoid the distraction and expense of further litigation and to focus on growing Purex as a high quality laundry detergent at a great value," Henkel said in a statement Monday.

In February last year, U.S. District Judge Brian Cogan declined summary judgment motions from both Luib and Henkel, saying that the question of whether water counts as a natural ingredient — which could decide the case — was one for a fact finder in court.

Representatives for the proposed class could not immediately be reached for comment Monday.

The proposed class is represented by Michael R. Reese of Reese LLP, Jason P. Sultzer of The Sultzer Law Group PC and Christopher J. Moreland of Halunen Law.

Henkel is represented by Edward P. Boyle of Venable LLP.

The case is Luib v. Henkel Consumer Goods Inc., case number 17-cv-03021, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Emily Field. Editing by Alyssa Miller.