

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHELLE ANN CICCARELLA and
TANASHA RIETDYK, *individually on
behalf of all others similarly situated,*

Plaintiffs,

– against –

CALIFIA FARMS, LLC,

Defendant.

No. 7:19-cv-08785-CS

FINAL ORDER AND JUDGMENT

On March 20, 2020, this Court granted the motion of Plaintiff Michelle Ann Cicciarella, Tanasha Rietdyk, Daniel Mitchell, Adriana Pena, Kayla Villanueva, and Kristen Landeros (“Plaintiffs”) for preliminary approval of the Settlement Agreement¹ and certification of the Settlement Class as defined below. *See* ECF No. 22.

Commencing on April 13, 2020, pursuant to the notice requirements in the Settlement Agreement and the Preliminary Approval Order, KCC, LLC. (the “Settlement Administrator”) began providing notice to Settlement Class Members in compliance with the Settlement Agreement and the Notice Plan, due process, and Rule 23 of the Federal Rules of Civil Procedure. *See* Declaration of Carla A. Peak re: Notice Procedures filed on May 28, 2020 (ECF No. 23-6).

¹ Capitalized terms used in this Final Approval Order shall have the same meaning as defined in the Settlement Agreement unless otherwise expressly stated.

The notice:

- (a) fully informed Settlement Class Members about the above captioned-action (“Action”) and the existence and terms of the Settlement Agreement;
- (b) advised Settlement Class Members of their right to request exclusion from the Settlement and provided sufficient information so that Settlement Class Members were able to decide whether to accept the settlement, opt-out and pursue their own remedies, or object to the proposed settlement;
- (c) provided procedures for Settlement Class Members to file written objections to the proposed settlement, to appear at the Final Approval Hearing, and to state objections to the proposed settlement; and
- (d) provided the time, date, and place of the Final Approval hearing.

On July 9, 2020, the Court held a Final Approval hearing to determine whether the proposed settlement is fair, reasonable and adequate and whether judgment should be entered dismissing this Action with prejudice. The Court reviewed (a) the Motion for Final Approval (ECF No. 23)(the “Motion”) and all supporting materials, including but not limited to the Settlement Agreement; (b) objections and other correspondence from class members filed with the Court; and (c) the Parties’ responses to the objections and other correspondence from class members. The Court also considered the oral argument of counsel and any objectors who appeared. Based on this review and the findings below, as well as those stated on the record at the Final Approval hearing held on July 9, 2020, the Court finds good cause to grant the Motion.

IT IS HEREBY ORDERED:

1. The Court has jurisdiction over the subject matter of this Action, all claims raised therein, and all Parties thereto, including the Settlement Class.
2. The Settlement Agreement is fair, reasonable, adequate and in the best interests of Settlement Class Members. The Settlement Agreement was negotiated at arm’s length, in good faith and without collusion, by capable and experienced counsel, with full knowledge of the facts,

the law, and the risks inherent in litigating the Action, and with the active involvement of the Parties. Moreover, the Settlement Agreement confers substantial benefits on the Settlement Class Members, is not contrary to the public interest, and will provide the Parties with repose from litigation. The Parties faced significant risks, expense, and uncertainty from continued litigation of this matter, which further supports the Court's conclusion that the settlement is fair, reasonable, adequate and in the best interests of the Settlement Class Members.

3. The Court grants final approval of the Settlement Agreement in full, including but not limited to the releases therein and the procedures for distribution of the Settlement Fund. All Settlement Class Members are bound by this Final Approval Order and Judgment.

4. The Parties shall carry out their respective obligations under the Settlement Agreement in accordance with its terms. The relief provided for in the Settlement Agreement shall be made available to the various Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions in the Settlement Agreement. The Settlement Agreement is incorporated herein in its entirety as if fully set forth herein and shall have the same force and effect of an order of this Court.

REQUESTS FOR EXCLUSION AND OBJECTIONS

5. No Class Members requested exclusion from the Settlement. *See* Supplemental Declaration of Carla A. Peak Re: Notice Procedures filed July 2, 2020 (ECF No. 25-1) at ¶ 7.

6. The Court has considered all objections and for the reasons stated on the record at the July 9, 2020 Final Approval hearing finds that they do not warrant or support rejection or non-approval of the Settlement. All objections are hereby overruled in all respects. All persons who did not object to the Settlement in the manner set forth in the Settlement Agreement are deemed to have waived any objections, including but not limited to by appeal, collateral attack, or otherwise.

CERTIFICATION OF THE SETTLEMENT CLASS

7. Solely for purposes of the Settlement Agreement and this Final Approval Order and Judgment, the Court hereby certifies the following Settlement Class:

All purchasers nationwide of all Califia Products listed in Exhibit A to the Settlement Agreement from August 7, 2014 through March 5, 2020.

The Settlement Class specifically excludes: (a) any claims for personal injury; (b) Defendant's officers, directors, employees and attorneys; (c) governmental entities; (c) and the Court, the Court's immediate family, and the Court's staff.

8. The Court incorporates its preliminary conclusions in the Preliminary Approval Order (ECF No. 22) regarding the satisfaction of Federal Rules of Civil Procedure 23(a) and 23(b). Because the Settlement Class is certified solely for purposes of settlement, the Court need not address any issues of manageability for litigation purposes.

9. The Court grants final approval to the appointment of Plaintiffs as the Class Representatives and concludes that they have fairly and adequately represented the Settlement Class and shall continue to do so.

10. The Court grants final approval to the appointment of Michael R. Reese of Reese LLP and Spencer Sheehan of Sheehan & Associates, P.C. as counsel for the Settlement Class. Class Counsel have fairly and adequately represented the Settlement Class and shall continue to do so.

11. The Settlement Class described above is certified solely for the purpose of the settlement described in the Settlement Agreement. The Court finds and orders that Defendant has not conceded that this Action or any similar case is amenable to class certification for purposes of litigation, and orders that nothing in this Final Order or in the Settlement Agreement shall prevent Defendant or Plaintiffs from opposing or supporting class certification, or seeking decertification, if this Final Order approving the Settlement Agreement is reversed or invalidated, on appeal or otherwise, for any reason.

NOTICE TO THE CLASS

12. The Court finds that the Notice Plan, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable under the circumstances; (ii) was reasonably calculated to provide, and did provide, due and sufficient notice to the Settlement Class regarding the existence and nature of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and the rights of Settlement Class members to exclude themselves from the Settlement Agreement, to object and appear at the Final Approval Hearing, and to receive benefits under the Settlement Agreement; and (iii) satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and all other applicable law.

13. The Court finds that Defendant has satisfied the notice requirements of the Class Action Fairness Act, 28 U.S.C. § 1715.

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