

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**SKYE ASTIANA on behalf of herself and all
others similarly situated,**

CASE NO.: 3:11-cv-02910-EMC

Plaintiff,

v.

DREYER'S GRAND ICE CREAM, INC.,

Defendant.

**PAMELA RUTLEDGE-MUHS and JAY
WOOLWINE, on behalf of themselves and
all others similarly situated,**

CASE NO.: 4:11-cv-03164-EMC

Plaintiffs,

~~PROPOSED~~ PRETRIAL ORDER NO. 1

v.

DREYER'S GRAND ICE CREAM, INC.,

Defendants.

WHEREAS, Plaintiffs in the above-referenced actions allege violations of California law under California's Unfair Competition Law, Bus. & Prof. Code. §§ 17200, *et seq.*, California's False Advertising Law, Bus. & Prof. Code §§ 17500, *et seq.*, California's Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*, and for fraud and restitution based on quasi-contract / unjust enrichment theories for Defendant Dreyer's Grand Ice Cream, Inc.'s allegedly unlawful labeling of its products as "All Natural" despite containing non-natural ingredients; and

WHEREAS, the Court has determined that any substantially similar future actions should be consolidated with the above-captioned actions and that the appointment of interim counsel is appropriate and consistent with Fed.R.Civ.P. 23(g) and the recommendations of the Manual for Complex Litigation (4th ed. 2004);

1 **NOW THEREFORE**, the Court Orders as follows:

2 **I. CONSOLIDATION OF RELATED ACTIONS**

3 *Astiana v. Dreyer's Grand Ice Cream, Inc.*, Case No. 3:11-cv-02910-EMC and *Rutledge-Muhs,*
4 *et al. v. Dreyer's Grand Ice Cream, Inc.*, Case No. 4:11-cv-03164-EMC and any action arising out of
5 the same operative facts against Defendant that is filed and pending in this Court, or hereafter filed or
6 transferred to this Court (collectively "The Actions"), are hereby consolidated pursuant to Fed.R.Civ.P.
7 42(a) for ^{all} ~~pretrial~~ purposes. Each case shall remain distinct and maintain its own identity and case
8 number pending determination of class certification and unless otherwise ordered by the Court.
9 However, the operative complaint for The Actions consolidated hereunder is the complaint (or any
10 amended complaint) filed in *Astiana v. Dreyer's Grand Ice Cream, Inc.*, Case No. 3:11-cv-02910-
11 EMC. Defendant shall not have an obligation to respond to any complaint in any other of The Actions
12 consolidated hereunder unless otherwise ordered by the Court. Notwithstanding the designation of the
13 *Astiana* complaint as the operative pleading, Pamela Rutledge-Muhs and Jay Woolwine shall also be
14 considered operative plaintiffs and eligible to be appointed as class representatives.

15 **II. NEWLY FILED ACTIONS**

16 A. When a case which relates to any claim or cause of action which is embraced within the
17 scope of the pleadings in The Actions is filed in this Court against Defendant, Plaintiffs' Interim Co-
18 Lead Counsel shall:

- 19 1. File a copy of this Order in the separate file for such action;
20 2. Notify counsel for Defendant of the filing of such action;
21 3. Mail a copy of this Order to counsel for the Plaintiff(s) in the newly filed case; and
22 4. Upon the first appearance of any new defendant(s), mail a copy of this Order to
23 counsel for the defendant(s) in the newly filed case.

24 B. Each case which relates to any claim or cause of action that is embraced within the
25 scope of The Actions which is subsequently filed in this Court against Defendant shall be consolidated
26 and Pretrial Order No. 1 shall apply thereto unless a party objecting to the consolidation of such case or
27 to any provision of this Order shall, within twenty (20) days after the date upon which a copy of this
28

1 Order is mailed to counsel for such party, file an application for relief from this Order or any provisions
2 herein.

3 C. The Court requests the assistance of counsel in calling to the attention of the Clerk of
4 this Court the filing of any case that might properly be consolidated with The Actions.

5 **III. SERVICE OF PLEADINGS AND OTHER PAPERS**

6 Except when otherwise agreed, Defendant's counsel shall serve all Plaintiffs' counsel listed on
7 Exhibit A hereto, and any Plaintiff's counsel shall serve all of Defendant's counsel with pleadings,
8 motions, memoranda, briefs, oppositions and other papers filed in any of The Actions consolidated
9 hereunder.

10 **IV. PRELIMINARY ORGANIZATION OF PLAINTIFFS' COUNSEL**

11 A. Prior to any determination of class certification and to facilitate the orderly coordination
12 and progress of The Actions, prosecution of this litigation on behalf of any putative Class or Classes in
13 The Actions and all other related actions pending or hereafter filed in or transferred to this County shall
14 be managed and directed by Plaintiffs' Interim Co-Lead Counsel, who shall be:

15 Joseph N. Kravec, Jr.
16 STEMBER FEINSTEIN DOYLE
& PAYNE, LLC
17 429 Forbes Avenue, 17th Floor
Pittsburgh, PA 15219
18 Phone: (412) 281-8400
19 Fax: (412) 281-1007
E-Mail: jkravec@stemberfeinstein.com

20 Michael D. Braun
21 BRAUN LAW GROUP, P.C.
10680 W. Pico Blvd., Suite 280
22 Los Angeles, CA 90064
23 Phone: (310) 836-6000
24 Fax: (310) 836-6010
E-Mail: service@braunlawgroup.com

25 Janet Lindner Spielberg
26 LAW OFFICE OF JANET LINDNER SPIELBERG
12400 Wilshire Blvd., Suite 400
27 Los Angeles, CA 90025
28 Phone: (310) 392-8801
Fax: (310) 278-5938
E-Mail: jlspielberg@jlsplp.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Nabil Majed Nachawati, II
FEARS | NACHAWATI LAW FIRM
4925 Greenville Avenue, Suite 715
Dallas, TX 75206
Phone: 214-890-0711
Fax: 214-890-0712
Email: mn@fnlawfirm.com

B. Plaintiffs' Interim Co-Lead Counsel are vested by the Court with the following responsibilities and duties relating to The Actions and all other related actions pending or hereafter filed in or transferred to this Court, in order to prevent duplication of effort or duplicative pleadings on behalf of Plaintiffs and the class:

1. To brief and argue motions, including any motion to certify a proposed Class;
2. to initiate and conduct written discovery proceedings;
3. to examine witnesses in depositions;
4. to act as a spokesperson at pretrial conferences;
5. to call meetings of Plaintiffs' counsel as they deem necessary and appropriate from time to time;
6. to conduct all settlement negotiations with counsel for Defendant;
7. to provide general coordination of activities of Plaintiffs' counsel and to delegate work responsibilities to selected counsel as may be required;
8. to coordinate and direct the preparation and trial of this matter and to delegate work responsibilities to selected counsel as may be required; and
9. to coordinate this matter with any other related litigation not otherwise referred to herein.

C. No pleadings or other papers shall be filed or discovery conducted on behalf of the alleged Class(es) or any individual action consolidated hereunder without the advance approval of Plaintiffs' Interim Co-Lead Counsel so that there will be no duplicative pleadings or discovery by Plaintiffs.

1 D. Plaintiffs' Co-Lead Counsel shall make any work assignments in such a manner as to
2 conduct an orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive
3 work.

4 E. All Plaintiffs' counsel shall submit to Plaintiffs' Interim Co-Lead Counsel a record of
5 time expended and expenses incurred in the manner, form and frequency directed by Plaintiffs' Co-Lead

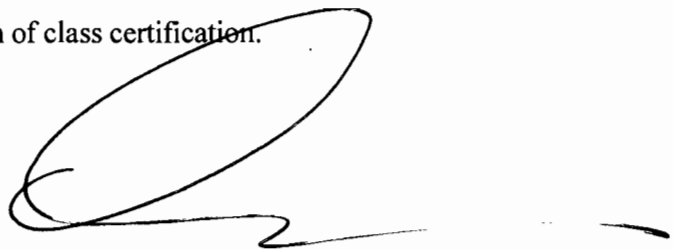
6 Counsel. *The Court expects counsel to minimize duplication and exercise billing judgment.*

7 F. Counsel in any related action that is coordinated with The Actions shall be bound by this
8 Order and organizational structure of the Plaintiffs' counsel.

9 G. This appointment of Interim Co-Lead Counsel is interim. A final determination on the
10 appropriateness of appointing class counsel will be made, as appropriate and if necessary, in connection
11 with proceedings relating to the determination of class certification.

12
13 **IT IS SO ORDERED.**

14 DATED: 9/30/11



15 _____
16 The Honorable Edward M. Chen
17 United States District Court Judge

18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Joseph N. Kravec, Jr.
Maureen Davidson-Welling
Wyatt A. Lison
STEMBER FEINSTEIN DOYLE
& PAYNE, LLC
429 Forbes Avenue, 17th Floor
Pittsburgh, PA 15219
Phone: (412) 281-8400
Fax: (412) 281-1007
Email: jkravec@stemberfeinstein.com
mdavidsonwelling@stemberfeinstein.com
wlison@stemberfeinstein.com

Janet Lindner Spielberg
LAW OFFICE OF JANET LINDNER
SPIELBERG
12400 Wilshire Blvd., Suite 400
Los Angeles, CA 90025
Phone: (310) 392-8801
Fax: (310) 278-5938
Email: jlspielberg@jlspl.com

Michael D. Braun
BRAUN LAW GROUP, P.C.
10680 W. Pico Blvd., Suite 280
Los Angeles, CA 90064
Phone: (310) 836-6000
Fax: (310) 836-6010
Email: service@braunlawgroup.com

Nabil Majed Nachawati, II
FEARS NACHAWATI LAW FIRM
4925 Greenville Avenue, Suite 715
Dallas, TX 75206
Phone: 214-890-0711
Fax: 214-890-0712
Email: mn@fnlawfirm.com

Ronald Dean Gresham
Jennifer Weber Johnson
GRESHAM PC
Suite 200
2311 Cedar Springs Rd.
Dallas, TX 75201
Phone: (214)420-9995
Fax: (214)526-5525
Email: dgresham@greshampc.com
Email: jjohnson@greshampc.com

Roger L. Mandel
LACKEY HERSHMAN, LLP
3102 Oak Lawn Avenue, Ste. 777
Dallas, TX 75219
Phone: (214) 560-2201
Email: rlm@lhllaw.net

Daniel Roman Tamez
GNAU AND TAMEZ LAW GROUP LLP
1010 2nd Avenue
Site 1750
San Diego, CA 92101
619-446-6736
619-793-5215 (fax)
Email: danieltamez@sдинjuryattorney.com