

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 1:13-CV-21232-UNGARO

BRENDA SINGER, an individual,
on behalf of herself and all others similarly
situated,

Plaintiff,

v.

WWF OPERATING COMPANY
d/b/a WHITEWAVE FOODS,
a Delaware corporation

Defendant.

**ORDER APPROVING CLASS SETTLEMENT, CLASS COUNSEL'S FEES, AND
EXPENSES, AND FOR ENTRY OF FINAL JUDGMENT AND DISMISSAL**

This matter came before the Court for hearing on June 28, 2013 (the "Settlement Hearing") pursuant to the Order of this Court, dated April 19, 2013, on the application of the parties for approval of the settlement set forth in the Settlement Agreement between the parties. Due and adequate notice complying with Federal Rule of Civil Procedure 23 and the requirements of due process having been given to the Class as required in said Order, and the Court having considered all papers filed and proceedings had herein, IT IS **HEREBY ORDERED, ADJUDGED AND DECREED** that:

1. The Court takes notice that the parties hereto have entered into a settlement embodied in the Settlement Agreement. A true and correct copy of the Settlement Agreement, without exhibits, is attached hereto as Exhibit 1. This Judgment incorporates by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this action styled *Singer v. WWF Operating Company*, Case No.: 1:13-CV-21232-UNGARO (S.D. Fla.) (the “Action”) and over all parties to the Action, including the Class Representative, all Members of the Class, and Defendant.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court, by Order dated April 19, 2013 [D.E. 9], certified a settlement class for settlement purposes only consisting of the following:

All persons who, from January 1, 2005 to the present, purchased WWF Products¹ throughout the United States for personal use and not for resale during the Class Period.

Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner; governmental entities; counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, independent service providers and all of its respective employees, officers, and directors; the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff; any natural person or entity that entered into a release with Defendant prior to the Effective Date concerning the WWF Products; and any natural person or entity that received any compensation from Defendant to endorse the WWF Products.

4. The Court finds: (a) that the Notice as provided for in this Court's Order dated April 19, 2013 constituted the best notice practicable under the circumstances of these proceedings and of the matters set forth therein, including the proposed settlement embodied in

¹ “WWF Products” or “WWF Product” are defined as any and all WWF products, including but not limited to Horizon brand products, Silk brand products, International Delight brand products, Land O’Lakes brand products, and any and all products sold under private labels manufactured, sold, or distributed by Defendant during the Class Period that were labeled and/or represented as containing “evaporated cane juice” or any substantially similar derivation thereof, including but not limited to “all natural evaporated cane juice” and “organic evaporated cane juice,” and including but not limited to the following products: Silk Organic Original Soymilk, Silk Organic Vanilla Soymilk, Silk Pure Coconut Original Coconutmilk, Horizon Blueberry Wave Tuberz, Horizon Surfin’ Strawberry Tuberz, Horizon Organic Lowfat Chocolate Milk plus DHA Omega-3, Horizon Fat Free Vanilla Yogurt, Horizon Strawberry Lemonade Squeeze Tuberz, Horizon Lowfat Strawberry Milk Box, Horizon Lowfat Vanilla Milk Box, Horizon Lowfat Chocolate Milk Box, and Horizon Sour Apple Spray Tuberz.

the Settlement Agreement and Class Counsel's right to apply for attorney's fees and reimbursement of expenses associated with the Action, and of the right of Class Members to object thereto; (b) that said Notice fully satisfies the requirements of Federal Rule of Civil Procedure 23 and the requirements of due process; and (c) that a full and fair opportunity was accorded to all Persons who are Class Members to be heard with respect to the foregoing matters.

5. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, this Court approves the Settlement, as embodied in the Settlement Agreement, and finds that the Settlement is, in all respects, fair, reasonable, and adequate. This Court further finds that the Settlement set forth in the Settlement Agreement is the result of arm's-length negotiations between experienced counsel representing the interests of the Class Representative, the Class Members, and Defendants. Accordingly, the settlement embodied in the Settlement Agreement is hereby approved and shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

6. Class Counsel are hereby awarded 31.2% of the \$800,000 in substantial cash and injunctive benefits in fees and expenses, which sum the Court finds to be fair and reasonable. The total awarded for all attorneys' fees, costs, and expenses is \$250,000.00.

7. Plaintiff Brenda Singer is hereby awarded \$2,500.00 as a Class Representative award which shall be paid from the settlement benefits.

8. The case is hereby **DISMISSED** on the merits with prejudice as to all Defendants, without costs to any party as against any other party, except as otherwise provided in the Settlement Agreement. All pending motions are **DENIED AS MOOT**.

9. Neither the Settlement Agreement nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement, the settlement itself, or this Action generally, is or may be deemed to be or may be used as an admission of, or evidence of, (a) the validity of any Released Claim, (b) any wrongdoing or liability of the Defendants, or (c) any fault or omission of any of the Defendants, in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal. Defendants may file the Settlement Agreement and/or this Judgment in any action that may be brought against either or both of them in order to support a claim, defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim or claim.

10. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (a) the implementation of this settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) the disposition of the Settlement Fund; and (c) all parties hereto for the purpose of construing, enforcing, and administering the Settlement Agreement and this Judgment.

11. In accordance with the Settlement Agreement, Plaintiffs and all Settlement Class Members are hereby barred and enjoined from asserting any of the Released Claims, including, but without limitation, during any appeals from the Final Approval Order and this Judgment.


12. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of the Federal Rules of Civil Procedure and the notice provisions of the Class Action Fairness Act of 2005 ("CAFA"). This final order and judgment is being entered, and, subject to Rules 54 and 59 of the Federal Rules of

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Civil Procedure, if any federal or state attorneys general has any comments to this final order, said attorneys general may apprise the Court of same, and the Court, upon review of the submission, may take further action as may be appropriate.

DONE AND ORDERED at Chambers in Miami, Florida this 28 day of June, 2013,

Miami, Florida.



HONORABLE URSULA UNGARO
UNITED STATES DISTRICT JUDGE