

FILED

NOV 10 2014

KENNETH J. GRISPIN, P.J.Cv.

DENLEA & CARTON LLP
Jeffrey I. Carton
James R. Denlea
Robert J. Berg
Kerry F. Cunningham
One North Broadway, Suite 509
White Plains, New York 10601
(914) 920-7400
Attorneys for Plaintiff

MELISSA LEE, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

CARTER-REED COMPANY, LLC, ET AL.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY
DOCKET NO.: UNN-L-3969-04

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

WHEREAS, Plaintiff in the above-captioned action, Melissa Lee, ("Plaintiff"), and Defendants Carter-Reed Company, L.L.C. a/k/a The Carter Reed Company, Basic Research, L.L.C., DG Enterprises, Inc., Alfagenbio Tech, L.L.C., Body Forum, L.L.C., Body Innoventions, L.L.C., Covarix, L.L.C., Covaxil Laboratories, L.L.C., Bydex Management L.L.C., Western Holdings, L.L.C., Dennis W. Gay and Natalie Chevreau (collectively "Defendants") have reached a proposed settlement and compromise of the disputes between them in the above action, which is embodied in the Settlement Agreement and Release (the "Settlement Agreement") filed with the Court with Plaintiff's Motion for Preliminary Approval of a Class Action Settlement;

WHEREAS, the Parties have applied to the Court for preliminary approval of the proposed Settlement of the Action, the terms and conditions of which are set forth in the Settlement Agreement;

AND NOW, the Court, having read and considered the Settlement Agreement and accompanying documents and the Motion For Preliminary Approval and Supporting Papers, and

the Parties to the Settlement Agreement having consented to the entry of this Order, and all capitalized terms used herein having the meaning defined in the Settlement Agreement, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Court, for purposes of this Order, adopts all defined terms as set forth in the Settlement Agreement.

2. Subject to further consideration by the Court at the time of the Final Approval Hearing, the Court preliminarily approves the Settlement as fair, reasonable and adequate to the Settlement Class, as falling within the range of possible final approval, and as meriting submission to the Settlement Class for its consideration.

3. For purposes of the Settlement only, the Court certifies the Settlement Class, which consists of:

All persons who purchased for personal use, and not for re-sale, any of the Relacore-branded products in the United States from January 1, 2000 until the date of the Final Approval Order, except for the judge presiding over this matter.

4. The Court preliminary finds, solely for purposes of considering this Settlement, that the requirements of New Jersey Rule of Court 4:32-1, et seq. appear to be satisfied, including requirements for the existence of an ascertainable class, a community interest, and manageability of the Settlement Class, that common issues of law and fact predominate, and that a settlement class is superior to alternative means of resolving the claims and disputes at issue in this action.

5. The Court appoints Melissa Lee as Class Representative. The Court also appoints Denlea & Carton LLP as Class Counsel for purposes of this Settlement. The Court preliminarily finds that the Class Representative and Class Counsel fairly and adequately represent and protect the interests of the absent Settlement Class Members in accordance with R. 4:32, et seq.

6. The Court appoints Rust Consulting as Settlement Administrator.

7. A Final Approval Hearing shall be held before this Court at 10:00 a.m. on APRIL 7, 2015 in Courtroom 13, Superior Court of New Jersey, Union County, to address: (a) whether the Settlement should be finally approved as fair, reasonable and

adequate, and whether the Final Approval Order and Judgment should be entered; and (b) whether Class Counsel's application for attorneys' fees, costs, expenses and incentive awards should be approved. Consideration of any application for an award of attorneys' fees, costs, expenses and incentive awards shall be separate from consideration of whether or not the Settlement should be approved, and from each other, and shall be embodied in separate orders.

8. With the exception of such proceedings as are necessary to implement, effectuate and grant final approval to the terms of the Settlement Agreement, all proceedings are stayed in this Action and all Settlement Class Members are enjoined from commencing or continuing any action or proceeding in any court or tribunal asserting any claims encompassed by the Settlement Agreement, unless the Settlement Class Member timely files a valid Request for Exclusion as defined in the Settlement Agreement.

9. The Court approves, as to form and content, the Class Notice, substantially in the form attached as Exhibit B to the Settlement Agreement.

10. The Class Notice will be emailed or mailed to all Settlement Class members whose names and addresses are in possession of Defendants no later than DECEMBER 26, 2014 and will be available on the settlement website set up by the Settlement Administrator. No later than 10 days prior to the Final Approval Hearing, the Settlement Administrator shall file with the Court declarations attesting to compliance with this section of this Order.

11. The Court finds that the Parties' plan for providing notice to the Settlement Class described in Article IV of the Settlement Agreement constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the terms of the Settlement Agreement, and the Final Approval Hearing, and complies fully with the requirements of the New Jersey Court Rules, the United States Constitution, and any other applicable state or federal law.

12. The Court further finds that the Notice Plan described in Article IV of the Settlement Agreement will adequately inform members of the Settlement Class of their right to

object to the proposed settlement or exclude themselves from the Settlement Class so as not to be bound by the terms of the Settlement Agreement.

13. Any member of the Settlement Class who desires to be excluded from the Settlement Class, and therefore not bound by the terms of the Settlement Agreement, must submit to the Settlement Administrator, pursuant to the instructions set forth in the Notice, a timely and valid written Request for Exclusion, postmarked no later than FEBRUARY 19, 2015. Not later than seven (7) days before the Final Approval Hearing, the Settlement Administrator shall prepare and deliver to Class Counsel, who shall file it with the Court, a report stating the total number of Persons who have submitted timely and valid Requests for Exclusion from the Settlement Class, and the names of such Persons.

14. Any member of the Settlement Class who elects to be excluded shall not be entitled to receive any of the benefits of the Settlement Agreement, shall not be bound by the release of any claims pursuant to the Settlement Agreement, and shall not be entitled to object to the Settlement Agreement or appear at the Final Approval Hearing. The names of all Persons timely submitting valid Requests for Exclusion shall be provided to the Court.

15. Any member of the Settlement Class who desires to object to the Settlement must file with the Court, and serve on all counsel of record, a Notice of Objection and Intention to Appear, setting for the ground for objection, no later than FEBRUARY 19, 2015. Only Settlement Class Members who have filed and served valid and timely notices of objection together with supporting papers, shall be entitled to be heard at the Final Approval Hearing.

16. Any Settlement Class Member who does not make an objection in the time and manner provided shall be deemed to have waived such objection and forever shall be foreclosed from making any objection to the fairness or adequacy of the Settlement as incorporated in the Settlement Agreement, the payment of attorneys' fees and costs, or the Final Approval Order and Judgment.

17. Service of all papers on counsel for the Parties shall be made as follows: for Class Counsel, to Jeffrey I. Carton, Esq., Denlea & Carton LLP, One North Broadway, Suite 509, White Plains, New York 10601; and for Defendants' Counsel, to Christopher Sullivan, Esq. and David Parkinson, Esq., Price, Parkenson & Kerr, Esqs., 5742 West Harold Gatty Drive, Salt Lake City, Utah 84116.

18. In the event that the Settlement is not approved by the Court, or in the event that the Settlement Agreement becomes null and void pursuant to its terms, this Order and all orders entered in connection therewith shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever in this civil action or in any other case or controversy; in such event the Settlement Agreement and all negotiations and proceedings directly related thereto shall be deemed to be without prejudice to the rights of any and all of the Parties, who shall be restored to their respective positions as of the date and time immediately preceding the execution of the Settlement Agreement.

19. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Settlement Class Members. The Final Approval Hearing may, from time to time and without further notice to the Settlement Class, be continued by order of the Court.

IT IS SO ORDERED.

Dated: *November 10, 2014*



Hon. Kenneth J. Gispin, P.J. Cv.