

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____ CLAIRE HARLAM,)	
)	
Plaintiff,)	
)	
v.)	Case No. 15-CV-00877 (MKB) (RML)
)	
BLUE DIAMOND GROWERS,)	JOINT MOTION TO STAY ACTION PENDING
)	APPROVAL OF NATIONWIDE SETTLEMENT
Defendant.)	
_____)	

Plaintiff Claire Harlam and Defendant Blue Diamond Growers respectfully submit this joint motion to stay this action in light of the nationwide settlement agreement and its approval that is pending in a parallel action.

As the Court is aware from previous submissions, Plaintiff's counsel has filed similar cases against Blue Diamond Growers regarding the labeling statements on its Almond Breeze products in the following jurisdictions: United States District Court for the District of Massachusetts, Los Angeles County Superior Court, United States District Court for the Eastern District of New York (this litigation), and the Circuit Court of Washington County, Arkansas. A nationwide settlement agreement was signed last year by all parties and counsel to these actions, including this action. The nationwide settlement resolves labeling claims concerning Blue Diamond Growers' Almond Breeze products, and would result in the dismissal of this action, following final approval of the settlement in the Arkansas case and upon the Effective Date of the settlement agreement.

On November 17, 2016, the plaintiffs in one of the parallel actions, *Townsend v. Blue Diamond Growers*, No. 14-958-4 (Circuit Court of Washington County, Arkansas), moved for preliminary approval of the nationwide settlement agreement. On November 18, the court in the

Townsend action granted preliminary approval of the settlement agreement. That court has also scheduled a hearing on final approval for March 29, 2017, to follow notice to the settlement class. If approved, the nationwide settlement would encompass the claims in this action.

In light of the preliminary approval of the nationwide settlement, and the upcoming hearing on final approval, a stay of this action would serve the interests of judicial economy and efficiency. Federal courts routinely stay actions in such situations, pending approval of a nationwide settlement that would impact claims before those courts. *See, e.g., Ali v. Wells Fargo Bank, N.A.*, No. 13-876-D, 2014 WL 819385, at *3 (W.D. Okla. Mar. 3, 2014); *In re JPMorgan Chase LPI Hazard Litig.*, No. 11-03058 JCS, 2013 WL 3829271, at *2-5 (N.D. Cal. July 23, 2013); *Advanced Internet Techs., Inc. v. Google, Inc.*, No. 05-02579 RMW, 2006 WL 889477, at *2 (N.D. Cal. Apr. 5, 2006); *Nesbit v. Fornaro*, No. 11-00092-PMP-GWF, 2011 WL 1869917, at *2 (D. Nev. Mar. 31, 2011); *Packer v. Power Balance, LLC*, No. 11-802 (WJM), 2011 WL 1099001, at *1-2 (D.N.J. Mar. 22, 2011); *Meints v. Regis Corp.*, No. 09-2061 WQH (CAB), 2010 WL 3058300, at *3 (S.D. Cal. Aug. 2, 2010); *Lindley v. Life Investors Ins. Co.*, Nos. 08-CV-0379 (CVE)(PJC), 09-0429, 2009 WL 3296498, at *3 (N.D. Okla. Oct. 9, 2009); *Annunziato v. eMachines, Inc.*, No. 05-610-JVS (MLGx), 2006 WL 5014567, at *5 (C.D. Cal. July 24, 2006); *In re RC2 Corp. Toy Lead Paint Prods. Liab.y Litig.*, No. 7184, 2008 WL 548772, at *5 (N.D. Ill. Feb. 20, 2008); *Chartener v. Provident Mutual Life Ins. Co.*, No. 02-8045, 2003 WL 22518526, at *3 (E.D. Pa. Oct. 22, 2003); *Schwarz v. Prudential-Bache Secs., Inc.*, No. 90-6704, 1991 WL 137157, at *1-2 (E.D. Pa. July 19, 1991).

WHEREFORE, the parties respectfully request that the Court enter an order staying this action pending a ruling in the *Townsend* action.

February 6, 2017

Respectfully submitted,

PLAINTIFF CLAIRE HARLAM

DEFENDANT BLUE DIAMOND
GROWERS

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