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Superior Court of California
County of Los Angeles

FEB 07 2018

Sherri R. Carter, Executive Officer/Clerk
By: Jan Josef Manrique, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MARCUS GIFFIN,
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

v.

UNIVERSAL PROTEIN
SUPPLEMENTS
CORPORATION D/B/A
UNIVERSAL NUTRITION,
UNIVERSAL USA, AND/OR
ANIMAL PAK,

Defendants.

Case No.: BC613414

PROPOSED ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
ENTERING JUDGMENT

HON. CAROLYN B. KUHL

By Fax

RECEIVED
Central Civil West

JAN 31 2018

By: R. Nazaryan

1 WHEREAS, on December 28, 2016 an Order Re: Preliminary
2 Approval of Proposed Class Action Settlement (“Preliminary Approval
3 Order”) was entered by this Court, preliminary approving the proposed
4 settlement of the Action pursuant to the terms of the Stipulation and
5 Agreement of Settlement (the “Settlement Agreement”) and directing that
6 notice be given to the members of the Settlement Class.

7 WHEREAS, pursuant to the Parties’ plan for providing notice to the
8 Settlement Class (the “Notice”), the Settlement Class were notified of the
9 terms of the proposed Settlement and of a Final Approval Hearing to
10 determine, *inter alia*: (1) whether the terms and conditions of the Settlement
11 are fair, reasonable and adequate for the release of the Released Claims
12 against the Released Parties; and (2) whether judgment should be entered.

13 WHEREAS, a Final Approval Hearing was held on January 17, 2018.
14 Prior to the Final Approval Hearing, proof of completion of the Notice was
15 filed with the Court, along with declarations of compliance as prescribed in
16 the Preliminary Approval Order. Settlement Class Members were therefore
17 notified of their right to appear at the hearing in support of or in opposition to
18 the proposed Settlement, the award of attorneys’ fees and costs to Class
19 Counsel, and the payment of incentive award. No class members appeared.

20 NOW, THEREFORE, the Court, having heard the presentations of
21 Class Counsel and Defendant’s Counsel, having reviewed all of the
22 submissions presented with respect to the proposed Settlement, having
23 carefully considered the requirements for class certification, having
24 determined that the Settlement is fair, adequate, and reasonable, having
25 considered the application of Class Counsel for awards of attorneys’ fees and
26 costs, and having reviewed the materials in support thereof, it is hereby
27

held
an
additional
hearing
2-7/2018

1 ORDERED, ADJUDGED and DECREED that:

2 1. The capitalized terms in this Final Approval Order and Judgment
3 shall have the same meaning as defined in the Settlement Agreement except as
4 may otherwise be ordered.

5 2. The Court has jurisdiction over the subject matter of this Action and
6 over all claims raised therein and all Parties thereto, including the Settlement
7 Class.

8 3. With respect to the Settlement Class, the Court finally finds and
9 concludes, for settlement purposes only, that: (a) the members of the Settlement
10 Class are so numerous as to make joinder of them impracticable; (b) there are
11 questions of law and fact common to the Settlement Class, and such questions
12 predominate over any questions affecting only individual Settlement Class
13 Members; (c) the Class Representative's claims and the defenses thereto are
14 typical of the claims of Settlement Class Members and the defenses thereto; (d)
15 the Class Representative and Class Counsel have fairly and adequately protected
16 the interests of the Settlement Class Members throughout this Action; and (e) a
17 class action is superior to all other available methods for fairly and efficiently
18 resolving this Action and provides substantial benefits to the Parties, the
19 Settlement Class Members and the Court. The Court therefore determines that this
20 Action satisfies the prerequisites for class certification for settlement purposes
21 under California Code of Civil Procedure Section 382, California Civil Code
22 Section 1781, and California Rules of Court, Chapter 6, Rules 3.767 *et seq.*, as
23 applicable, and finally certifies the Settlement Class for settlement purposes.

24 4. The Settlement Class, which will be bound by this Final Approval
25 Order and Judgment, shall include all members of the Settlement Class who did
26 not submit a timely and valid Request for Exclusion.

1 5. For purposes of the Settlement and this Final Approval Order and
2 Judgment, the Settlement Class shall consist of the following: all persons who
3 purchased for personal consumption, and not for re-sale, Defendant's Class
4 Products, which are listed in Exhibit E attached to the Settlement Agreement, in
5 California during the Class Period. Excluded from the Settlement Class are any
6 officers, directors, or employees of Defendant, and the immediate family member
7 of any such person, as well as any individual who received remuneration from
8 Defendant in connection with that individual's use or endorsement of the Class
9 Products. Also excluded is any judge who may preside over this case.

10 6. The court finds that the Notice set forth in the Settlement Agreement,
11 the submissions of the Class Representative in support of Preliminary Approval,
12 and the Declaration of the Class Administrator, effectuated pursuant to the
13 Preliminary Approval Order constitutes the best notice practicable under the
14 circumstances and shall constitute due and sufficient notice to the Settlement
15 Class of the pendency of the Action, certification of the Settlement Class for
16 settlement purposes only, the terms of the Settlement Agreement, and the Final
17 Approval Hearing, and satisfies the requirements of California law and due
18 process of law.

19 7. The Settlement, as set forth in the Settlement Agreement, is in all
20 respects fair, reasonable, adequate and in the best interests of the Settlement Class,
21 and it is approved. The Parties shall effectuate the Settlement Agreement
22 according to its terms. The Settlement Agreement and every term and provision
23 thereof shall be deemed incorporated herein as if explicitly set forth and shall have
24 the full force of an Order of this Court.

1 8. Unless otherwise directed by the Court, within five (5) days of the
2 Effective Date, Defendant shall deposit the amount of the Class Settlement
3 Payment, as set forth in the Settlement Agreement, and the funds in the Class
4 Settlement Payment shall be distributed to the Settlement Class pursuant to the
5 terms of the Settlement Agreement.

6 9. Upon the Effective Date, the Class Representative and all Settlement
7 Class Members shall have, by operation of this Order and Final Judgment, fully,
8 finally and forever released, relinquished, and discharged all Released Parties
9 from all Class Released Claims pursuant to the Settlement Agreement.

10 10. Settlement Class Members, including the Class Representative, and
11 the successors, assigns, parents, subsidiaries, affiliates or agents of any of them,
12 are hereby permanently barred and enjoined from instituting, commencing or
13 prosecuting, either directly or in any other capacity, any Class Released Claim
14 against any of the Released Parties.

15 11. Upon the Effective Date, the Class Representative shall have, by
16 operation of this Order and Final Judgment, fully, finally and forever released,
17 relinquished, and discharged all Released Parties from all Individual Released
18 Claims pursuant to the Settlement Agreement.

19 12. The Class Representative, and his successors, assigns, parents,
20 subsidiaries, affiliates or agents, are hereby permanently barred and enjoined from
21 instituting, commencing or prosecuting, either directly or in any other capacity
22 any Individual Released Claim against any of the Released Parties.

1 13. This Final Approval Order and Judgment, the Settlement Agreement,
2 the Settlement which it reflects, and any and all acts, statements, documents or
3 proceedings relating to the Settlement are not, and shall not be construed as, or
4 used as an admission by or against Defendant of any fault, wrongdoing, or
5 liability on their part, or of the validity of any Class Released Claim or Individual
6 Released Claim or of the existence or amount of damages.

7 14. Pursuant to the Settlement Agreement, Defendant shall refrain from
8 utilizing the "Made Proudly in the USA" language or mark, or language similar to
9 a derivative thereof, on Defendant's labels unless such inclusion is necessary to
10 comply with governmental or regulatory requirements and/or is in compliance
11 with applicable law.

12 15. The payments ordered herein shall be made in the manner and at the
13 times set forth in the Settlement Agreement.

14 16. Each of the 10,765 Class Members that submitted a valid claim shall
15 receive a check in the amount of \$20.00.

16 17. In addition, Giffin shall receive \$5,000 for Giffin's incentive award.

17 18. Class Counsel shall receive \$137,500.00 for Class Counsel's
18 attorneys' fees and costs. *This amount is justified based on the time expended
by counsel, the value provided to the class and the remedial injunctive relief obtained.*

19 19. The Claims Administrator shall receive \$142,292.60 for the costs of
20 administration of this Class. *The Court finds these costs reasonable in
light of the complexity of class administration and costs of notice.*

21 20. Except as otherwise provided in this Order, and the Court's award of
22 costs and attorneys' fees pursuant to the Fee and Cost Application, the Parties
23 shall bear their own costs and attorneys' fees. Without affecting the finality of the
24 Judgment hereby entered, the Court reserves jurisdiction over the implementation
25 of the Settlement, including enforcement and administration of the Settlement
26 Agreement, including any releases in connection therewith, and any other matters

1 related or ancillary to the foregoing.

2 21. Without affecting the finality of this Final Judgment, the Court
3 retains continuing jurisdiction over (a) implementation of the Agreement,
4 distribution of the settlement payments, Service Award, and attorneys' fees and
5 costs contemplated by the Agreement, and processing of the claims permitted by
6 the Agreement, until each and every act agreed to be performed pursuant to the
7 Agreement has been performed, and (b) all parties to this Action and members of
8 the Settlement Class for the purpose of enforcing and administering the
9 Agreement.

10 22. The Administrator shall provide a final report
11 re fund distribution by March 19, 2018.

12 **IT IS SO ORDERED.**

13 DATED: Feb. 7, 2018

14 By: ^{15/} CAROLYN B. KUHL
15 ASSISTANT SUPERVISING JUDGE
16 COMPLEX CIVIL LITIGATION

17 HON. CAROLYN B. KUHL
18 SUPERIOR COURT JUDGE
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Kazerouni Law Group, APC, 1303 East Grand Avenue, Suite 101, Arroyo Grande, CA 93420. On January 31, 2018, I served the within document(s):

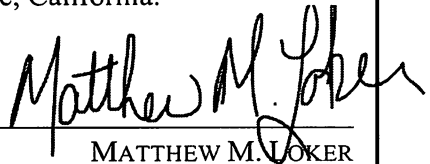
[PROPOSED] ORDER RE PLAINTIFF'S MOTION FOR FINAL APPROVAL

- E-MAIL - by transmitting via e-mail the document(s) listed above to the e-mail address(es) listed below on this date before 11:59 p.m.
- MAIL - by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Arroyo Grande, California addressed as set forth below.
- PERSONAL SERVICE - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- OVERNIGHT COURIER - by placing the document(s) listed above in a sealed envelope with shipping prepaid, and depositing in a collection box for next day delivery to the person(s) at the address(es) set forth below via.
- CM/ECF - by transmitting electronically the document(s) listed above to the electronic case filing system on this date before 11:59 p.m. The Court's CM/ECF system sends an e-mail notification of the filing to the parties and counsel of record who are registered with the Court's CM/ECF system.

David J. Kaminski, Esq.
CARLSON & MESSER LLP
9841 Airport Blvd., 1200
Los Angeles, CA 90045
e-mail: kaminskd@cmtlaw.com

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 31, 2018, at Arroyo Grande, California.


MATTHEW M. LOKER