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**ORDER GRANTING PRELIMINARY APPROVAL OF
SETTLEMENT AND FINAL JUDGMENT filed.**



NEW FILE

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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN BERNARDINO

11 MASTANE SHALIKAR, individually, and on
behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 SKEETER SNACKS, LLC

15 Defendant.

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO

JUN 12 2017

BY 
NADYA AVAKIAN, DEPUTY

Case No. CIVDS1702247

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT AND FINAL JUDGMENT**

Date: May 24, 2017

Time: 8:30am

Dept.: S26

Judge: Hon. David Cohn

Action Filed: February 8, 2017

1 WHEREAS, Plaintiff, Mastane Shalikaar (“Plaintiff”), and Defendant, Skeeter Snacks,
2 LLC (“Defendant”), (collectively, the “Parties”) have reached a proposed settlement and
3 compromise of the disputes between them (the “Settlement”); in the above captioned action
4 (“Action”);

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

7 AND NOW, the Court, having read and considered the Settlement and accompanying
8 documents and the Motion For Preliminary Settlement Approval and supporting papers, and the
9 Parties to the Settlement having consented to the entry of this Order, and all capitalized terms used
10 herein having the meaning defined in the Settlement,

11 IT IS HEREBY ORDERED AS FOLLOWS:

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

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

18 3. Based upon the submissions of the Parties, and for purposes of this Settlement only,
19 the Court conditionally makes the following findings:

- 20 a. The members of the Settlement Class are so numerous as to make joinder
21 impracticable.
- 22 b. There are questions of law and fact common to the Settlement Class, and such
23 questions predominate over any questions affecting only individual Settlement
24 Class Members for purposes of the Settlement.
- 25 c. Plaintiff’s claims and the defenses thereto are typical of the claims of the
26 Settlement Class Members and the defenses thereto for purposes of the
27 Settlement.

1 d. Plaintiff and her counsel have fairly and adequately protected, and will continue
2 to fairly and adequately protect, the interests of the Settlement Class Members
3 with respect to the Settlement.

4 e. The proposed Settlement is superior to all other available methods for fairly and
5 efficiently resolving this Action.

6 f. Accordingly, for settlement purposes only, the Court certifies a Settlement Class
7 comprised of:

8 All Persons who purchased the Covered Products in the United States,
9 its territories, or at any United States military facility or exchange
10 during the Class Period. Excluded from the Settlement Class are all
11 persons who validly opt out of the Settlement Class in a timely manner,
12 counsel of record (and their respective law firms) for the Parties,
13 Defendant and any of its parents, affiliates, subsidiaries, independent
14 service providers and all of their respective employees, officers, and
15 directors; the presiding judge in the Action, and all of his or her
16 relatives within the third degree of consanguinity; any natural person or
17 entity that entered into a release with Defendant prior to the Effective
18 Date concerning any of the Covered Products.

19 4. This matter is preliminarily certified as a class action for settlement purposes only,
20 pursuant to Cal. Code Civ. Pro. § 382, Cal Civ. Code § 1781 and Rule 3.769(c) and (d) of the
21 California Rules of Court. If the Court does not finally approve the Settlement, Defendant retains
22 the right to assert that this Action may not be certified as a class action for liability purposes, and
23 no Party shall rely on this preliminary approval as support for the certification of a class in this or
24 any other action.

25 5. The Court hereby appoints Plaintiff Mastane Shalihar as Class Representative.

26 6. The Court hereby appoints Barbara A. Rohr and Benjamin Heikali of Faruqi &
27 Faruqi, LLP as Class Counsel.

28 7. The Court hereby appoints Rust Consulting, Inc. as Settlement Administrator.

8. The Settlement shall be used for settlement purposes only. The fact of, or any
provision contained in, the Settlement or any action taken pursuant to it shall not constitute an
admission of the validity of any claim or any factual allegation that was or could have been made
by Plaintiff and members of the Settlement Class in the present action or of any wrongdoing or

1 liability of any kind on the part of Defendant. The Settlement shall not be offered or be admissible
2 in evidence by or against Defendant (or any of the Released Parties as defined in the Settlement) or
3 cited or referred to in any other action or proceeding, except (a) in any action or proceeding
4 brought by or against the Parties to enforce or otherwise implement the terms of the Settlement, or
5 (b) in any action involving Plaintiff, or members of Settlement Class, in which the allegations are
6 based on the same factual bases and allegations set forth in this case, to support a defense of res
7 judicata, collateral estoppel, release, waiver or other theory of claim preclusion, issue preclusion,
8 or similar defense.

9 9. A final hearing (the "Final Approval Hearing") shall be held before this Court on
10 11/27/17 at 8:30AM .m., to determine whether (a) this Action meets each of the prerequisites
11 for class certification set forth in Cal. Code Civ. Pro. § 382 and Cal Civ. Code § 1781, and may
12 properly be maintained as a class action on behalf of the Settlement Class; (b) the Settlement
13 should receive final approval as fair, reasonable, adequate, and is in the best interests of the
14 Settlement Class in light of any objections presented by Settlement Class Members and the Parties'
15 responses to any such objections; (c) orders granting final approval of the Settlement, entering
16 final judgment and dismissing the Complaint, as provided in the Settlement, should be entered; and
17 (d) the application of Class Counsel for the payment of attorneys' fees, and costs and expenses,
18 and an incentive award for Plaintiff is reasonable and should be approved. The Final Approval
19 Hearing may be postponed, adjourned or continued by further order of this Court, without further
20 notice to the Parties or the Settlement Class Members.

21 10. Settlement Class Members or their counsel who wish to appear at the Final
22 Approval Hearing must make such request by sending a letter titled "Notice of Intention to Appear
23 in *Shalika v. Skeeter Snacks, LLC*," to the Settlement Administrator and the Court at the following
24 address:

25 **Settlement Administrator**

26 Settlement Administrator
27 c/o Rust Consulting, Inc. - 5635
28 PO Box 2563

1 Faribault, MN 55021-9563

2 **Court Address**

3 Clerk of the Court
4 California Superior Court, County of San Bernardino
5 San Bernardino Justice Center
6 247 W. Third Street
7 San Bernardino, CA 92415-0210

8 Any such request must be filed with the Court and received by the Settlement
9 Administrator no later than AUGUST 31, 2017. The request must contain the name, address
10 telephone number, and signature of the Settlement Class Member, as well as the name, address and
11 telephone number of any person who will appear on his or her behalf. Any request that fails to
12 satisfy the requirements of this paragraph, or that has not been properly or timely submitted, may
13 be deemed ineffective and shall be deemed to constitute a waiver of such Settlement Class
14 Members' rights to appear and to be heard on the Settlement at the Final Approval Hearing.

15 11. Any person included within the Settlement Class who wishes to be excluded from
16 membership in the Settlement Class must do so in writing by mailing a written request for
17 exclusion to the Settlement Administrator no later than AUGUST 31, 2017. The request must: (i)
18 clearly express the Settlement Class Member's desire to be excluded or to "opt out" from the
19 Settlement Class; (ii) include the Settlement Class Member's name, address and telephone number;
20 and (iii) be signed by the Settlement Class Member.

21 a. Any Settlement Class Member who wishes to be excluded from the Settlement
22 Class can only opt out for him or herself, and cannot opt out for anyone else. Nor
23 can any Settlement Class Member authorize anyone to opt out on his or her
24 behalf.

25 b. Any Settlement Class Member who has filed an objection to the fairness,
26 reasonableness or adequacy of the proposed Settlement shall be deemed not to
27 have opted out of the Settlement Class pursuant to this paragraph. However, in
28 the event that a Settlement Class Member makes an exclusion request that appears

1 to assert both an objection to the fairness, reasonableness or adequacy of the
2 proposed Settlement, and a statement of intent to opt out of the Settlement Class,
3 such submission shall be treated as a statement of intent to be excluded from the
4 Settlement Class, but not an objection.

5 12. Any Settlement Class Member who has not timely filed a written request for
6 exclusion from the Settlement Class may object to the fairness, reasonableness or adequacy of the
7 proposed Settlement. Each Settlement Class Member who wishes to object to any term of the
8 Settlement must do so in writing by filing a written objection with the Clerk of the Court, and
9 mailing it to the Settlement Administrator. Any such objection must be filed with the Clerk of the
10 Court, and received by the Settlement Administrator at the addresses set forth in Paragraph 10, no
11 later than AUGUST 31, 2017. Any such objection must state: (i) the name of this action; (ii)
12 the objecting Settlement Class Member's full name, address, telephone number, and signature (an
13 attorney's signature is not sufficient); (iii) a statement that the objector is a Settlement Class
14 Member and an explanation of the basis upon which the objector claims to be a Settlement Class
15 Member; (iv) all grounds for the objection, accompanied by any legal support known to the
16 objector or his or her counsel; (v) the identity of all counsel who represent the objector, including
17 any former or current counsel who may be entitled to compensation for any reason related to the
18 objection, (vi) a statement confirming whether the objector or any counsel representing the
19 objector intends to personally appear and/or testify at the final approval hearing; and, (vii) a list of
20 any persons who may be called to testify at the final approval hearing in support of the objection.

21 a. Any objection that fails to satisfy the requirements stated herein, or that is not
22 properly and timely submitted, will be deemed ineffective, and will be deemed by
23 the Parties to have been waived, and the Parties reserve their right to argue that
24 the Settlement Class Member asserting such objection is not entitled to have his
25 or her objection heard or otherwise considered by the Court.

26 13. The Court approves, as to form and content, the Claim Form, Long Form Notice
27 and Publication Notice Form attached hereto as Exhibits A, B, and C.

28

1 14. The Court finds that the Parties' plan for providing notice (the "Notice Plan") will
2 provide the best notice practicable to the Settlement Class under the circumstances and constitute
3 valid, due, and sufficient notice to all Settlement Class Members, fully complying with Cal. Code
4 of Civ. Pro. § 382, Cal. Civ. Code § 1781, the Constitution of the State of California, the
5 Constitution of the United States, and other applicable law. All costs incurred in connection with
6 the preparation and dissemination of any notices to the Settlement Class shall be borne by
7 Defendant.

8 15. The Court further finds that the Notice Plan adequately informs members of the
9 Settlement Class of their right to object to the Settlement or to exclude themselves from the
10 Settlement Class so as not to be bound by the terms of the Settlement.

11 16. Not later than 20 calendar days after the entry of this Order, Defendant shall cause
12 notice to be disseminated as follows:

- 13 i. dissemination of the Publication Notice in *USA Today*; and
- 14 ii. establishment and publishing of a Settlement website by the Claims
15 Administrator (www.skeetersnacksettlemnt.com)

16 17. The Claims Administrator shall post the Settlement on the Settlement website. The
17 Settlement shall include the approved class definition set forth in Paragraph 3 above and the Claim
18 Form, Long Form Notice and Publication Notice Form attached hereto as Exhibits A, B, and C.

19 18. The Parties shall file and serve papers in support of final approval of the Settlement
20 by NOVEMBER 6, 2017.

21 19. Class Counsel shall file any application for an award of attorneys' fees, costs and
22 litigation expenses, and an incentive award for Plaintiff by NOVEMBER 6, 2017.

23 20. Class Counsel shall file a single memorandum of law that addresses: (i) arguments
24 in support of final approval of the Settlement; and (ii) Class Counsel's application for an award of
25 attorneys' fees, costs and litigation expenses, and incentive award for Plaintiff's efforts and
26 expenses. Such memorandum of law shall not exceed 50 pages in length.

1 21. The Parties shall file and serve reply papers in further support of final approval of
 2 the Settlement; and/or Class Counsel’s application for an award of attorneys’ fees, costs and
 3 litigation expenses, and reimbursement awards for Plaintiffs’ expenses by no later than
 4 NOVEMBER 20, 2017.

5 22. The Final Approval Hearing shall be held at 8:30AM on 11/27, 2017 in
 6 Department S26.

7 23. The following chart lists the important dates in chronological order:

Event	Proposed Date
Preliminary Approval Order	<u>JUNE 12</u> , 2017
Publication of notice in <i>USA Today</i> and establishment of Settlement website (including Long Form Notice).	Within 20 days after entry of Preliminary Approval Order <u>JULY 2</u> , 2017
Claims/Objection/Opt-out Deadline	Within 60 days after publication of notice and Settlement website <u>AUGUST 31</u> , 2017
Class Counsel briefs in support of Final Approval, Award of Attorneys’ Fees & Costs Due	No later than 21 days prior to Final Approval Hearing <u>NOVEMBER 6</u> , 2017
Reply Papers Due	<u>NOVEMBER 20</u> , 2017
Responses to Any Objections Due	No later than 2 days prior to the Final Approval Hearing <u>NOVEMBER 20</u> , 2017
Final Approval Hearing	No earlier than 30 days after Objection/Opt-out Deadline <u>NOVEMBER 27</u> , 2017

23 24. The Court may, for good cause, extend any of the deadlines set forth in this Order
 24 without further notice to the Settlement Class Members.

25 25. Pending further orders by this Court, all proceedings in this Action– other than
 26 proceedings pursuant to this Order – shall be stayed and all members of the Settlement Class who
 27 do not request exclusion from the Settlement Class in the manner required by this Order shall be
 28

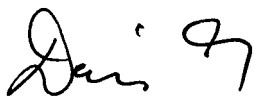
1 enjoined from commencing or prosecuting any action, suit, proceeding, claim, or cause of action
2 (except those based on or relating to personal injury or wrongful death), in any jurisdiction or court
3 against Defendant relating to or arising out of the subject matter of this action.

4 26. If the proposed Settlement is finally approved, the Court shall enter a separate order
5 finally approving the Settlement, entering judgment and dismissing the Complaint. Such order and
6 judgment shall be fully binding with respect to all members of the Settlement Class.

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

15
16 **IT IS SO ORDERED.**

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18 Dated: 6/10, 2017

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The Hon. David Cohn