

FILED
10-19-2018
CIRCUIT COURT
DANE COUNTY, WI
2018CV000321

DATE SIGNED: October 19, 2018

Electronically signed by Judge Valerie Bailey-Rihn
Circuit Court Judge

WHEREAS, Plaintiff, on behalf of himself and the proposed Settlement Class, and Spectrum Brands, Inc., as defined in the proposed class settlement agreement (“Settlement” or “Agreement”), all acting by and through their respective counsel, have agreed, subject to Court approval following notice to the Settlement Class, to settle this litigation upon the terms and conditions in the Agreement;

WHEREAS, the Parties have made an application pursuant to Wisconsin Stat. Section 803.08 to certify the Settlement Class, appoint class counsel and a class representative, preliminarily approve the proposed Settlement, and approve the form and content of the proposed notice program, as set forth in the Agreement; and

WHEREAS, the Court has read and considered the Agreement and the exhibits thereto and has read and considered all other papers filed and proceedings had herein, and is otherwise fully informed, and

WHEREAS, the Court conducted a preliminary approval hearing on October 19, 2018, and with good cause appearing,

IT IS HEREBY ORDERED:

ORDERED that the Settlement (including all terms of the Agreement and exhibits thereto) is hereby PRELIMINARILY APPROVED. The Court further finds and orders as follows:

1. This Order incorporates by reference the definitions in the Agreement.
2. The Court has jurisdiction over the subject matter of this action and over all Parties to this action, including all members of the Settlement Class and Spectrum Brands.
3. The Court conditionally certifies the proposed Settlement Class, appoints plaintiff’s counsel as Settlement Class Counsel and plaintiff as Settlement Class Representative,

preliminarily approves the Settlement, and approves the form and content of the proposed notice plan.

4. The findings and rulings contained herein are not to be deemed an admission of liability or fault by defendants or by any other person, or a determination of the validity of any claims asserted in the action or of any wrongdoing or of any violation of law by any defendant. The proposed Settlement is not a concession and shall not be used as an admission of any fault or omission by defendants or any other person. Neither the terms of the Settlement nor any related document shall be offered or received in evidence in any civil, criminal, or administrative action or proceeding, other than such proceedings which may be necessary to consummate or enforce the terms of the Settlement.

5. The Court approves the proposed notices and claim form attached hereto as Exhibit 1 and directs the parties and the Settlement Administrator to fill in the dates and other information based on this Order.

6. The Court finds that the proposed Notice Program, including publication notice in People magazine, Internet notice, the settlement website, and individual notice to all known Settlement Class members constitutes the best notice practicable under the circumstances and constitutes valid and sufficient notice to all persons entitled thereto, complying fully with the requirements of Wisconsin Statute Section 803.08, and the requirements of due process under the Wisconsin and United States Constitutions, and the requirements of any other applicable rules or laws.

7. The Notice Program shall be implemented as set forth below and in the Agreement. Within 15 days after the entry of this Order, Spectrum Brands shall submit to the Settlement Administrator or its designated agent, the name, email address, and mailing address

of each known Settlement Class member. Within 7 days after receipt of this information, the Settlement Administrator and/or its designee shall run a national change of address update on each mailing address. The Settlement Administrator shall then send the Email Notice (or, where no email address is available, the Postcard Notice) to each known Settlement Class member. The Settlement Administrator shall notify Settlement Class Counsel and Defendant as to the number of emails that are undeliverable. The Settlement Administrator shall send the Postcard Notice to Settlement Class members whose Email Notice “bounces back” as undeliverable.

8. All costs and expenses incurred in providing notice to Class Members and in administering the Settlement shall be paid from the Settlement Fund as set forth in the Agreement. Prior to the Final Approval Hearing, the Settlement Administrator shall file with the Court proof by declaration or affidavit that it has complied with the notice requirements described above and in the Agreement.

9. Consistent with the Agreement, the Court conditionally certifies the following Settlement Class: all Persons who purchased one or more Covered Products between February 5, 2014 and the entry of the Preliminary Approval Order. The term “Covered Product” means and refers to small kitchen appliances produced by or for Spectrum Brands pursuant to a license agreement, including Black & Decker brand air fryers, blenders, can openers, coffee grinders, coffee makers, electric knives, food processors, grills, irons, juicers, kettles, mixers, quesadilla makers, rice cookers, skilletts and other surface cookers, slow cookers, steamers and other container cookers, toasters, toaster ovens, and waffle makers and Farberware brand coffee urns and percolators, food processors, and toaster ovens.

10. Excluded from the Settlement Class are: (i) all Persons who properly and timely opt out pursuant to this Agreement; (ii) Spectrum Brands and Defendants, and their respective

employees; (iii) any Person who properly and timely opts out pursuant to this Agreement; (iv) federal, state, and local governments (including all agencies and subdivisions thereof (but employees thereof are not excluded); and (v) the judges to whom this Action is assigned and any member of their immediate family.

11. The Court conditionally certifies the proposed Settlement Class, and finds that the requirements of Section 803.08 are satisfied, for settlement purposes only, as follows:

- (a) Pursuant to Sec. 803.08(1)(a), the members of the Settlement Class are so numerous that joinder of all members is impracticable.
- (b) Pursuant to Sec. 803.08(1)(b), there are questions of law and fact common to the Settlement Class.
- (c) Pursuant to Sec. 803.08(1)(c), the claims of the Class Representative are typical of the claims of the Settlement Class.
- (d) Pursuant to Sec. 803.08(1)(d), the Class Representative will fairly and adequately protect and represent the interests of all members of the Settlement Class. The interests of the Class Representative are not antagonistic to those of the Settlement Class. The Class Representative is represented by counsel who are experienced and competent in the prosecution of complex class action litigation.

12. The Court further finds that the requirements of Rule 803.08(2)(c) are satisfied, for settlement purposes only, as follows:

- (a) In this settlement context, questions of law and fact common to the members of the Settlement Class predominate over questions that may affect only individual members; and

(b) A class action settlement is superior to all other available methods for the fair and efficient adjudication of this controversy.

13. If final approval of the proposed Settlement is not obtained, this certification order, including the above description of the Settlement Class, shall be vacated and be of no further force or effect.

14. The Court hereby appoints Steven Liptai as a Class Representative, and Shpetim Ademi, Ademi & O'Reilly, LLP, 3620 East Layton Avenue, Cudahy, Wisconsin, 53110, (414) 482-8000 and Antonio Vozzolo, Vozzolo LLC, 345 Route 17 South, Upper Saddle River, New Jersey 07458, (201) 630-8820, as Class Counsel.

15. The Court appoints Digital Settlement Group to administer and oversee, among other things, the notice program and the processing, handling, reviewing, and approving of claims made by claimants; communicating with claimants; and distributing payments to approved claimants.

16. Class members who wish to object to or exclude themselves from the Settlement must do so in accordance with the Agreement and the instructions contained in the class notice. All persons who properly submit requests for exclusion shall not be members of the Class and shall have no rights with respect to the Settlement. All Settlement Class members who do not validly request exclusion shall be bound by any final judgment and shall be barred and enjoined, now and in the future, from any and all of the Released Claims, as defined in the Agreement, against the Released Persons, as defined in the Agreement, and any such Settlement Class member shall be conclusively deemed to have released any and all such Released Claims.

17. Potential Settlement Class members who wish to exclude themselves from the Settlement Class must prepare a written request for exclusion, postmarked not later than the end

of the Opt-Out Period, which shall be sent to the Settlement Administrator. Written requests for exclusion must be signed and include the potential Class member's name, address, and telephone number, and expressly state the desire to be excluded from the Settlement Class.

18. Any Class Member who has not requested to be excluded from the Class may object and appear and endeavor to show cause, if any, why the Court should or should not: (a) approve the proposed settlement as set forth in the Agreement as fair, reasonable and adequate; (b) approve the requested class representative award; (c) approve the requested fee and cost awards to Class Counsel; and (d) enter an order approving the Settlement; provided, however, that no person shall be heard with respect to, or shall be entitled to contest the foregoing matters by objection unless, no later than thirty (30) days prior to the Final Approval Hearing, that person has properly filed with the Clerk of the Court, and served, in writing, to the Settlement Administrator, the following information: (i) the name of this Action; (ii) the objector's full name, address, and telephone number (and, if applicable, the objector's lawyer's full name, address, and telephone number; (iii) a statement of his or her membership in the Settlement Class, including a verification under oath of Product(s) purchased and, to the extent known, the location, approximate date, and approximate price paid; (iv) a written statement of all grounds for the objection, including any legal support for the objection; (v) copies of any papers, briefs, or other documents upon which the objection is based; (vi) a list of any and all Persons who will be called to testify in support of the objection; (vii) a statement of whether the objector or the objector's attorney intends to appear at the Final Approval Hearing; (viii) a list and copies of any and all exhibits that the objector or the objector's lawyer intends to offer at the Final Approval Hearing; (ix) the identify of any current or former lawyer who may be entitled to compensation for any reason related to the objection; (x) a list of any other objections submitted by the

Settlement Class member and/or his attorney(s) to any proposed class settlement in any state or federal court within the previous 5 years. If the Class member is represented by an attorney or law firm, he/she or it must comply with all applicable Wisconsin laws and rules for filing pleadings and documents in Wisconsin courts. Unless otherwise ordered by the Court, any Class member who does not make his, her, or its objection in the manner provided for herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the foregoing matters.

19. A hearing shall be held on March 22, 2019 , at 8:30 a.m. (or as soon thereafter as the Court is available), before the Honorable Valerie L. Bailey-Rihn, at the Dane County Circuit Court, 215 S. Hamilton Street, Madison, WI 53703, for the purpose of determining (a) whether the proposed settlement as set forth in the Agreement is fair, reasonable and adequate and should be finally approved by the Court; (b) whether a Final Approval Order approving the Settlement should be entered; (c) whether the named plaintiff should receive a class representative award and in what amount; (d) whether Class Counsel should receive a fees and costs award and in what amount; and (e) such other matters as the Agreement contemplates and as the Court may deem just and proper.

20. The Court may adjourn the Final Approval Hearing from time to time and without further notice. The Court reserves the right to approve the Settlement at or after the Final Approval Hearing with such modifications as may be consented to by the Parties and without further notice.

21. This Action shall be stayed pending further proceedings in connection with the effectuation of the Settlement.

22. Pending final determination as to whether the Settlement should be approved, no Class Member shall commence, prosecute, pursue, or litigate any Released Claims against Spectrum Brands, Inc. or Defendants, whether directly, representatively, or in any capacity, and regardless of whether any such Class member has appeared in the action.

IT IS SO ORDERED

DATED: _____, 2018

Honorable Valerie L. Bailey-Rihn
Dane County Circuit Court Judge