

1 **CLARKSON LAW FIRM, P.C.**
2 Ryan J. Clarkson (SBN 257074)
3 *rclarkson@clarksonlawfirm.com*
4 Shireen M. Clarkson (SBN 237882)
5 *sclarkson@clarksonlawfirm.com*
6 Katherine A. Bruce (SBN 288694)
7 *kbruce@clarksonlawfirm.com*
8 Lauren E. Anderson (SBN 329173)
9 *landerson@clarksonlawfirm.com*
10 22525 Pacific Coast Highway
11 Malibu, CA 90265
12 Tel: (213) 788-4050
13 Fax: (213) 788-4070

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 21 2021

BY *Christian Hernandez*
CHRISTIAN HERNANDEZ, DEPUTY

8 **MOON LAW APC**
9 Christopher D. Moon (SBN 246622)
10 *chris@moonlawapc.com*
11 Kevin O. Moon (SBN 246792)
12 *kevin@moonlawapc.com*
13 600 West Broadway, Suite 700
14 San Diego, CA 92101
15 Tel: (619) 915-9432
16 Fax: (650) 618-0478

*Attorneys for Plaintiffs, Settlement Class
Representatives, and Settlement Class Members*

17 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
18 **COUNTY OF SAN BERNADINO**

17 CHRISTOPHER O'BRIEN and TIFFANY
18 KIPKASHA, individually and on behalf of all
19 others similarly situated,

19 Plaintiffs,

20 vs.

21 SUNSHINE MAKERS, INC., a California
22 Corporation,

23 Defendant.

Case No.: CIV-SB-2027994
Case Filed: December 18, 2020
Assigned to the Hon. David Cohn

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, ENTRY OF FINAL
JUDGMENT, PAYMENT OF
ATTORNEYS' FEES AND COSTS, AND
PAYMENT OF SERVICE AWARDS TO
SETTLEMENT CLASS
REPRESENTATIVES**

Hearing Information

Date: September 21, 2021
Time: 10:00 a.m.
Dept.: S-26

1 WHEREAS, Plaintiffs’ Motion for Final Approval of Class Action Settlement came on for
2 hearing before this Court on September 21, 2021 with Clarkson Law Firm, P.C. and Moon Law
3 APC appearing on behalf of Plaintiffs and Settlement Class Representatives Christopher O’Brien,
4 Tiffany Kipikasha, and Michelle Moran (“Class Representatives” or “Plaintiffs”), and
5 Diepenbrock Elkin Dauer McCandless LLP appearing on behalf of Sunshine Makers, Inc.
6 (“Defendant or “Sunshine Makers”) (collectively, the “Parties”).

7 WHEREAS, the Parties have submitted their Settlement, which this Court preliminarily
8 approved by its Order entered on May 17, 2021. In accordance with the Preliminary Approval
9 Order, Class Members have been given notice of the terms of the Settlement and the opportunity
10 to object to or exclude themselves from its provisions.

11 WHEREAS, having received and considered the Settlement, all papers filed in connection
12 therewith, including Plaintiffs’ Motion for Final Approval, Plaintiffs’ Motion for Attorneys’ fees
13 and Costs, Plaintiffs’ Motion for Service Awards to Settlement Class Representatives, and the
14 evidence and argument received by the Court at the hearing before it entered the Preliminary
15 Approval Order and at the final approval hearing on September 21, 2021, the Court HEREBY
16 ORDERS and MAKES DETERMINATIONS as follows:

- 17 1. The Settlement Agreement is hereby finally approved.
- 18 2. The Court finds that the proposed Settlement is “fair, reasonable, and adequate” based on
19 the value of the Settlement, and the relative risks and benefits of further litigation. The
20 Settlement was arrived at after sufficient investigation and discovery and was based on
21 arms-length negotiations and a mediation overseen by a neutral and experienced mediator.
- 22 3. The Court finds that the approved Notice Plan has been satisfactorily and substantially
23 implemented. Pursuant to the Court’s Order Granting Plaintiff’s Motion for Preliminary
24 Approval of Class Action Settlement (hereinafter referred to as the “Preliminary Approval
25 Order”), Notices of Class Action Settlement (hereinafter referred to the “Notice”) were
26 published as follows:
 - 27 a. A Settlement Website (www.simplegreennontoxicsettlement.com), e-mail address
28 (info@simplegreennontoxicsettlement.com), telephone number (877-426-0034), and

1 mailing address (PO Box 301, Valparaiso, IN 46384) were set up on or before June
2 16, 2021.¹ The contact information was also provided on the Settlement Website
3 and in the print-media notices.

4 b. The Settlement Website sets forth, in large text, the deadlines for claims, objections,
5 and requests for exclusion from the Settlement Classes as well as the date of the
6 Final Fairness Hearing. It also contains easily accessible links to the short form and
7 long form notices (in both English and Spanish), Preliminary Approval Order,
8 Settlement Agreement, Preliminary Approval Motion (including all related
9 paperwork), and the Notice of Change of Address for Clarkson Law Firm, P.C. In
10 addition, the papers filed by Plaintiffs and Settlement Class Representatives in
11 connection with the Motion for Final Approval of Class Action Settlement, Motion
12 for Attorneys' Fees and Costs, and Motion for Service Awards to Settlement Class
13 Representatives were likewise made available on the Settlement Website.

14 c. A national press release was distributed on June 16, 2021, through PR Newswire.
15 PR Newswire is the industry's largest content distribution network reaching more
16 than 4,000 United States websites, nearly 3,000 media outlets, and more than 550
17 news content systems. The network also includes PR Newswire for Journalists, an
18 exclusive, media-only community with over 20,000 daily unique visitors.

19 d. Two print publications ran in the July 5, 2021, issues of *Star* and *National Enquirer*,
20 using the short-form notice approved by the Court. These publications reached
21 approximately 9.16 million adults in the United States.

22 e. The online advertisements regarding this settlement began on June 16, 2021, and
23 continued for a period of 30 days until July 16, 2021. This campaign achieved
24 approximately 76,988,756 digital impressions (i.e., views) on top-tier internet
25 networks, including Google, Facebook, and Yahoo.

26 f. All online advertisements directed potential Settlement Class Members to the
27 Settlement Website, where they could download all important documents, review
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¹ Pursuant to this Court's order preliminarily approving the settlement, notice commenced on June 16, 2021.

- 1 frequently asked questions, review the long form and short form notices (in both
2 English and Spanish), and file a claim.
- 3 g. A toll-free number with an Interactive Voice Response (“IVR”) system has been
4 available since initiation of the Notice Plan.
- 5 h. Weekly reports regarding submission of claims, objections, and requests for
6 exclusion were provided to counsel for all parties, including Settlement Class
7 Counsel, throughout the notice campaign. Additional reporting will continue after
8 Final Approval to ensure proper oversight of the claims processes.
- 9 4. The Court finds that distribution of the Notice in the manner set forth in the Court’s
10 Preliminary Approval Order and the Settlement Agreement constituted the best notice
11 practicable under the circumstances, reached a minimum of 70% of the Settlement Class,
12 and constituted valid, due, and sufficient notice to all members of the Class. The Court finds
13 that such notice complies fully with the requirements of California Code of Civil Procedure
14 Section 382, Civil Code Section 1781(b) and California Rule of Court 3.765, the
15 Constitutions of the State of California and the United States, and all other applicable laws.
- 16 5. The Notice set forth herein and in the Settlement Agreement provides a means of notice
17 reasonably calculated to apprise the Settlement Class, and thereby meets the requirements
18 of California Code of Civil Procedure Section 382, as well as due process under the United
19 States and California Constitutions and all other applicable law, and shall constitute due and
20 sufficient notice to the Settlement Class entitled thereto. The Notice informed the
21 Settlement Class of: (1) the terms of the Settlement; (2) their right to submit objections, if
22 any, and to appear in person or by counsel at the final approval hearing and to be heard
23 regarding approval of the Settlement; (3) their right to request exclusion from the Class and
24 the Settlement; and (4) the date set for the final approval hearing. Adequate periods of time
25 were provided by each of these procedures.
- 26 6. The Court finds and determines that this notice procedure carried out by Digital Settlement
27 Group, LLC (“DSG”), and approved by this Court’s Order Granting Preliminary Approval,
28 afforded adequate protections to Class Members and provides the basis for the Court to

1 make an informed decision regarding approval of the Settlement based on the responses of
2 Class Members. The Court finds and determines that the Notice was the best notice
3 practicable, and has satisfied the requirements of law and due process.

- 4 7. The Court finds and determines that the Class, as conditionally certified by the Preliminary
5 Approval Order, meets all of the legal requirements for class certification for settlement
6 purposes under California Code of Civil Procedure Section 382, and it is hereby ordered
7 that the Class is finally certified for settlement purposes. As such, the Court certifies the
8 Settlement Class, as described below:

9 All persons in the United States who purchased one or more of Defendant's
10 products labeled "Non-Toxic," including the following: (1) Simple Green
11 All-Purpose Cleaner; (2) Simple Green All-Purpose Cleaner (Fresh); (3)
12 Simple Green All-Purpose Cleaner (Lemon); (4) Simple Green All-Purpose
13 Cleaner (Lavender); (5) Simple Green Oxy Solve Total Outdoor Cleaner;
14 (6) Simple Green Oxy Solve House and Siding Cleaner; (7) Simple Green
15 Oxy Solve Concrete and Driveway Cleaner; (8) Simple Green Oxy Solve
16 Deck and Fence Cleaner; (9) Simple Green Wash & Wax; (10) Simple
17 Green All-Purpose Wipes; (11) Simple Green All-Purpose Wipes (Lemon);
18 (12) Simple Green Multi-Purpose Foaming Cleaner; (13) Simple Green
19 Carpet Cleaner; (14) Simple Green Marine All-Purpose Boat Cleaner; (15)
20 Simple Green Heavy Duty BBQ & Grill Cleaner; (16) Simple Green Heavy
21 Duty BBQ & Grill Cleaner (Aerosol); (17) Simple Green Oxy Dog Stain &
22 Odor Oxidizer; (18) Simple Green Bio Dog; (19) Simple Green Advanced
23 Dog Bio Boost Stain & Odor Remover; (20) Simple Green Cat Pet Stain &
24 Odor Remover; and (21) Simple Green Outdoor Odor Eliminator, and all
25 sizes and packaging types of those products, at any time between May 12,
26 2016 and May 17, 2021.

27 Excluded from the Settlement Class are: (1) Defendant's officers, directors,
28 or employees and their immediate family members; (2) any judge who has
presided of this case; and (3) any persons who timely opt-out of the
settlement.

- 21 8. The Court orders that Plaintiffs Christopher O'Brien, Tiffany Kipikasha, and Michelle
22 Moran are appointed as the Settlement Class Representatives. The Court also orders that
23 Clarkson Law Firm, P.C. and Moon Law APC are appointed Settlement Class Counsel. The
24 Court finds that the Settlement Class Representatives and Settlement Class Counsel have
25 fairly and adequately represented and protected the interests of the absent Settlement Class
26 Members in accordance with California Code of Civil Procedure Section 382.
- 27 9. The Court further finds that this action shall be certified as a class action for purposes of
28 settlement:

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- a. The Settlement Class is so numerous that joinder of all members is impracticable;
- b. There are questions of law or fact common to the Settlement Class that predominate over the questions affecting only individual members;
- c. The claims of the Settlement Class Representatives are typical of the claims of the Settlement Class;
- d. The Settlement Class Representatives have fairly and adequately protected the interests of the Settlement Class and are, therefore, appointed as Settlement Class Representatives;
- e. Settlement Class Counsel, Clarkson Law Firm, P.C., and Moon Law APC have fairly and adequately protected the interests of the Settlement Class and are qualified to represent the Settlement Class and are, therefore, appointed as Settlement Class Counsel; and
- f. Certification of the Settlement Class is superior to other available methods for fair and efficient adjudication of the controversy.

10. The Court finds that the Settlement is fair when compared to the strength of Plaintiffs' case, Defendant's defenses, the risks involved in further litigation and maintaining class status throughout the litigation, and the amount offered in settlement.

11. The Court finds that the Parties conducted extensive investigation, research, and discovery, and that their attorneys were able to reasonably evaluate their respective positions.

12. The Court finds that Settlement Class Counsel have extensive experience acting as counsel in complex class action cases and their view on the reasonableness of the settlement was given its due weight.

13. The Court further finds that the Settlement Class' reaction to the settlement – with zero objections and one invalid request for exclusion – weighs in favor of granting Final Approval of the Settlement and further demonstrates a substantial benefit was conferred to the class so as to justify the attorneys' fees and costs, and the Settlement Class Representative's service awards granted herein. Further, the claims rate as of the date of this order is consistent with claims rates for similar settlements, which weighs in favor of granting Final Approval of the Settlement.

1 14. The Settlement Agreement is not an admission by Defendant, nor is this Order a
2 finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order,
3 the Settlement, nor any document referred to herein, nor any action taken to carry out the
4 Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or
5 wrongdoing on the part of Defendant.

6 15. Pursuant to the Settlement Agreement, Defendant is required to pay \$4.35 million
7 into a common fund, with no right to reversion, that will be exhausted to pay: (1) valid class
8 member claims; (2) notice and claims administration costs up to \$530,000, plus overages; (3)
9 incentive or service awards up to \$5,000 for each Settlement Class Representative (totaling
10 \$15,000); (4) attorneys' fees and costs up to one-third of the common fund (\$1,450,000), plus
11 costs; and (5) a *cy pres* award for any uncashed checks to charitable organizations.

12 16. The Court finds and determines that the Total Monetary Settlement Amount of
13 \$4.35 million is fair and reasonable. The Court hereby gives final approval to and orders
14 Defendant to pay that amount into a common fund, with no right to reversion, that will be
15 exhausted as described herein.

16 17. The Court finds and determines that the Settlement Payments to be paid to each
17 Settlement Class Member as provided for by the Settlement Agreement are fair and reasonable.
18 The Court hereby gives final approval to and orders the payment of those amounts be made to the
19 Settlement Class Members in accordance with the terms of the Settlement Agreement.

20 18. Settlement Class Counsel have conferred both a monetary benefit, and an injunctive
21 benefit in the form of cessation of the challenged advertising claims, on the Settlement Class
22 Members, and having expended resources and effort to secure a benefit to the Settlement Class,
23 with no guarantee of payment due to the contingent nature of the representation, are entitled to a
24 reasonable fee and, accordingly, the Court approves Plaintiffs' Motion for Attorneys' Fees and
25 Costs for \$1,475,389.95.

1 19. The Court finds that the attorney fee award is fair, adequate, and reasonable based
2 upon the following factors: (1) the results obtained are excellent and benefit the Settlement Class;
3 (2) the fee award represents one-third of the \$4.35 million common fund with a multiplier of 1.43,
4 which is within the range of reasonable attorneys' fees awarded in other similar settlements; (3) in
5 comparison to the combined monetary value of the Settlement and the valued received as a result
6 of the injunctive relief, the fee award represents a negative multiplier, which constitutes a fee
7 award of less than 10% of the total monetary value of the Settlement; (4) no Settlement Class
8 Member objected to the fee award after receiving notice of the preliminarily approved settlement
9 contemplating a one-third fee award, plus costs, to Settlement Class Counsel; (5) the considerable
10 risk that Settlement Class Counsel would recover nothing; and (6) the financial burden taken on
11 by Settlement Class Counsel in litigating the case on a contingent basis.

12 20. The Settlement Class Representatives' dedication and efforts have conferred a
13 significant benefit on millions of consumers across the United States and the general public, and
14 accordingly, the Court finds that the proposed service awards are fair, reasonable, and adequate
15 and orders awards of **\$5,000 each** to be paid out of the Settlement Fund to Settlement Class
16 Representatives Christopher O'Brien, Tiffany Kipikasha, and Michelle Moran. This amount is
17 consistent with the risks and efforts they undertook to achieve the Settlement. It is also consistent
18 with awards in similar cases.

19 21. The Court approves the Settlement Administrator Digital Settlement Group, LLC
20 settlement notice and administration expenses in the amount of **\$530,000, plus overages** for
21 estimated check and digital payment transaction costs as described in the Declaration of Mark
22 Schey.

23 22. Defendant shall have no further liability for costs, expenses, interest, attorneys' fees,
24 or for any other charge, expense, or liability in this action, except as provided for in the Settlement
25 Agreement.

26 23. Without affecting the finality of this Order in any way, the Court retains jurisdiction
27 of all matters relating to the interpretation, administration, implementation, effectuation, and
28 enforcement of this order and the Settlement.

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24. Nothing in this Order shall preclude any action to enforce the Parties' obligations pursuant to the Settlement Agreement or pursuant to this Order, including the requirement that Defendant makes payments or the requirement that Defendant change its practices, in accordance with the Settlement Agreement.

25. The Parties and the Settlement Administrator will comply with all obligations under the Settlement Agreement until the Settlement is fully and finally administered.

26. This Order shall constitute a final judgment.

27. The Parties shall bear their own costs and attorneys' fees except as otherwise provided by the Settlement Agreement and this Court.

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Court hereby GRANTS the Motion for Final Approval of Class Action Settlement.
2. The Court hereby GRANTS the Motion for Approval of Award of Attorneys' Fees and Cost reimbursements.
3. The Court hereby GRANTS the Motion for Approval of Service Awards to Settlement Class Representatives.
4. The Court hereby ENTERS FINAL JUDGMENT in this case in accordance with the terms of the Settlement Agreement and this Order.

IT IS SO ORDERED.

Dated: SEP 21 2021



Honorable David C. Quinn **DAVID QUINN**