

FILED

KERN COUNTY SUPERIOR COURT

04/08/2022

BY Delgado, Erika

DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

JOSE PABLO JIMENEZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

NESTLE WATERS NORTH AMERICA,
INC., a Delaware corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No.: BCV-20-102561

**~~[PROPOSED]~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT**

Date: April 8, 2022
~~ED April 6, 2022~~

Time: 8:30 a.m.

Division: J

1 Plaintiff's application for an Order Granting Preliminary Approval of Class Action
2 Settlement was filed with the Court on February 28, 2022, and a hearing was held before this
3 Court on April 6, 2022.

4 The Court has considered the Stipulation of Class Action Settlement and Release
5 ("Settlement Agreement") and all other papers filed in this action.

6 NOW THEREFORE, IT IS HEREBY ORDERED:

7 1. This Court grants preliminary approval of the Settlement Agreement between
8 Plaintiff and Defendant filed herewith. The Stipulation of Class Action Settlement and Release
9 ("Settlement Agreement") appears to be fair, adequate, and reasonable to the Class;

10 2. The Class Representative and Defendant (hereafter, "Settling Parties"), through
11 their counsel of record in the Litigation, have reached an agreement to settle all claims in the
12 Litigation on behalf of the Class (as defined below and in the Settlement Agreement) as a whole;

13 3. The Court hereby conditionally certifies the following Class for settlement
14 purposes only:

15 all current and former non-exempt employees of Defendant Nestle Waters North
16 America, Inc., now known as Blue Triton Brands, Inc. ("Defendant"), who
17 worked in the State of California at any time during the period of May 6, 2016
18 through January 10, 2022.¹

19 Should for whatever reason the Settlement Agreement not become Final, the fact that the
20 Parties were willing to stipulate to certification of a class as part of the Settlement Agreement
21 shall have no bearing on, or be admissible in connection with, the Litigation or the issue of
22 whether a class should be certified in a non-settlement context.

23 4. The Court appoints and designates: (a) Plaintiff Jose Pablo Jimenez as the Class
24

25
26 ¹ Excluding (a) those Class Members who participated in the *Ortega et al. v. Nestle Waters North*
27 *America, Inc.* (Los Angeles Sup. Ct. Case No. No. BC623610) settlement and separated
28 employment on or before May 9, 2018, and (b) any pay periods on or before May 9, 2018 for
those in the Class who participated in the Ortega Settlement and remained employed after May 9,
2018.

Representative and (b) Larry W. Lee, Kristen M. Agnew, and Nicholas Rosenthal of Diversity Law Group, P.C. as Class Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents required by, or which may be given, pursuant to the Settlement Agreement, and such other acts reasonably necessary to finalize the Settlement Agreement and its terms. Any Class Member may enter an appearance through his or her own counsel at such Class Member's own expense. Any Class Member who does not enter an appearance or appear on his or her own behalf will be represented by Class Counsel.

5. The Court hereby approves the terms and conditions provided for in the Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement falls within the range of reasonableness of a settlement, including the amount of the PAGA penalties, and appears to be presumptively valid, subject only to any objections that may be raised at the final fairness hearing and final approval by the Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when balanced against the probable outcome of further litigation relating to liability and damages issues. It also appears that investigation, research, and court proceedings have been conducted so that counsel for the Settling Parties are able to reasonably evaluate their respective positions. It appears to the Court that settlement at this time will avoid substantial additional costs by all Settling Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Litigation. It also appears that settlement has been reached as a result of intensive, serious, and non-collusive arm's-length negotiations.

6. A final fairness hearing on the question of whether the proposed Settlement Agreement, the allocation of payments to Participating Class Members, attorneys' fees and costs to Class Counsel, payment of PAGA penalties to the Labor Workforce & Development Agency, and the Class Representative Enhancement Payment should be finally approved as fair, reasonable, and adequate as to the members of the Class is hereby set for _____ at _____ in this Court.

7. The Court hereby approves, as to form and content, the Notice of Class Action

1 Settlement (“Notice Packet”) to be sent to Class Members, which is attached as **Exhibit A** to the
2 Settlement Agreement. The Court finds that distribution of the Notice Packet substantially in the
3 manner and form set forth in the Settlement Agreement and this Order meets the requirements of
4 due process and shall constitute due and sufficient notice to all parties entitled thereto.

5 8. The Court appoints and designates Phoenix Settlement Administrators as the
6 Settlement Administrator. The Court hereby directs the Settlement Administrator to provide the
7 approved Notice Packet to Class Members using the procedures set forth in the Settlement
8 Agreement.

9 9. Any Class Member may choose to opt out of and be excluded from the settlement
10 as provided in the Settlement Agreement and Notice Packet and by following the instructions for
11 requesting exclusion. Any person who timely and properly opts out of the settlement will not be
12 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon.
13 Any Opt Out request must be in writing and signed by each such Class Member opting out and
14 must otherwise comply with the requirements delineated in the Notice Packet. Class Members
15 who have not requested exclusion by submitting a valid and timely Opt Out request, by the Opt
16 Out deadline, shall be bound by all determinations of the Court, the Settlement Agreement, and
17 Judgment.
18

19 10. Any Class Member may object to the Settlement Agreement or express his or her
20 views regarding the Settlement Agreement and may present evidence and file briefs or other
21 papers that may be proper and relevant to the issues to be heard and determined by the Court as
22 provided in the Class Notice.

23 11. The Motion for Final Approval shall be filed by the Class Representative no later
24 than sixteen (16) court days before the Settlement Fairness Hearing.

25 12. The Court reserves the right to adjourn or continue the date of the Settlement
26 Fairness Hearing and all dates provided for in the Settlement Agreement without further notice to
27 the Class, and retains jurisdiction to consider all further applications arising out of or connected
28 with the Settlement Agreement.

1 IT IS SO ORDERED.

2 DATED: Signed: 4/8/2022 11:28 AM



HON. J. ERIC BRADSHAW
SUPERIOR COURT OF CALIFORNIA