

**CIRCUIT COURT FOR THE 20TH JUDICIAL CIRCUIT
COUNTY OF ST. CLAIR, STATE OF ILLINOIS**

JORDAN MEISTER, individually and on)
behalf of all others similarly-situated)
in the United States,)

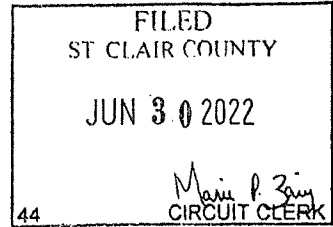
Plaintiff,)

v.)

NUTRIBULLET, LLC; HOMELAND)
HOUSEWARES, LLC; CAPITAL)
BRANDS, LLC; CAPITAL BRANDS)
DISTRIBUTION, LLC; and CAPITAL)
BRANDS HOLDINGS, INC.,)

Defendants.)

No. 22-LA-0024



Final Order and Judgment Approving Class Action Settlement

On April 11, 2022, this Court entered a Preliminary Approval Order that conditionally certified pursuant to 735 ILCS 5/2-807(b), for settlement purposes only, a class consisting of:

All Persons who, between June 1, 2017 and the date of entry of the Preliminary Approval Order purchased any Subject Product in the United States or any of its territories through any in-store or online distributor or retailer, such purchases not made for purposes of resale or commercial use.

This matter coming to be heard on Thursday, June 30, 2022, regarding Plaintiff's Motion for Final Approval of Class Action Settlement (the "Motion"), due and adequate notice having been given to the Settlement Class, the papers being detailed and sufficient to rule on Plaintiff's Motion for Final Approval, the Court reviewing submissions presented by all interested parties and entities with respect to the Settlement and the application of Class counsel's attorneys' fees

and expenses (understanding all capitalized terms used have the meanings set forth and defined in the Settlement Agreement), it is hereby

Ordered, Adjudged, Decreed, and Found that:

1. This case arises out of Plaintiff's allegations that Defendants advertise, market, and sell the Blenders without warning consumers on the exterior label of the Blender packaging that the Blenders cannot be used for more than one minute continuously, nor can they be used to blend hot or warm ingredients, due to safety concerns. Plaintiff contends the Blenders are mislabeled.

2. Deciding whether to grant class certification is soundly within the discretion of the circuit court, and "[i]n exercising its discretion, the court should err in favor of granting class certification." *Bueker v. Madison County*, 2016 Il App (5th) 150282, Par. 22, 61 N.E. 3d 237, 248. In deciding whether to certify a class, the trial court may consider any matters of fact or law properly presented by the record, including the pleadings, depositions, affidavits, answers to interrogatories, and any evidence that may have been adduced at the hearings. *Lee v. Buth-Na-Bodhaige, Inc.*, 2019 Il. App (5th) 180033, Par. 54. This Court made such considerations.

3. This Court reviewed the Manual for Complex Litigation and the description of the three-step process for approving a class action settlement that included the April 11, 2022, preliminary approval hearing and the June 30, 2022, final approval: (1) preliminary approval of the proposed settlement; (2) dissemination of notice of the settlement to class members; and (3) a final approval hearing. *See Manual for Complex Litigation*. Sec. 21.63 (4th edition 2004). As highlighted by this Court, while class action settlements proceed on a case-by-case basis, certain factors have consistently been held as relevant to the determination whether a settlement is fair, reasonable and adequate. *See Manual for Complex Litigation*. Chapter 9.2.5 (2014 Update to the 4th Edition). Factors (enumerated below) oftentimes referred to as the "Korshak factors," are

relevant and important in any such determination and analysis. *City of Chic. V. Korshak*, 206 Ill. App. 3d 968, 971-72 (1st Dist. 1990). This Court considered such factors in April 2022, and now again considers on June 30, 2022.

4. It is this Court's understanding that after extensive arm's-length settlement negotiations, including a formal mediation, the Parties agreed to settle this case.

5. The Settlement Agreement provides substantial and meaningful relief to the Settlement Class, including the injunctive relief specified in Section III of the Settlement Agreement that requires the adherence to certain marketing and labeling practices to ensure that all marketing and labeling claims remain properly substantiated, as well as a monetary benefit to the Settlement Class.

6. The Settlement Agreement provides for a settlement under which Settlement Class Members can make claims to receive monetary benefits for purchasing the Subject Products.

7. The Settlement Class as provided in the Preliminary Approval Order is unconditionally certified pursuant to 735 ILCS 5/2-805. The prerequisites for a class action pursuant to 735 ILCS 5/2-801 *et seq.* have been satisfied in that (i) the members of the Settlement Class are so numerous that joinder of all members thereof is impracticable; (ii) there are questions of law or fact common to the Settlement Class and the common questions predominate over any questions affecting only individual members; (iii) the claims of Plaintiff are typical of the claims of the Settlement Class they seek to represent; (iv) Plaintiff has and will fairly and adequately represent the interests of the Settlement Class; and (v) a class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

8. For purposes of the injunctive relief specified in Section III of the Settlement Agreement, the prerequisites for a class action under 735 ILCS 5/2-801 *et seq.* have been satisfied

in that (i) the members of the Settlement Class are so numerous that joinder of all member thereof is impracticable; (ii) there are questions of law or fact common to the Settlement Class, and the common questions predominate over any questions affecting only individual members; (iii) the claims of Plaintiff are typical of the claims of the Settlement Class they seek to represent; (iv) Plaintiff has and will fairly and adequately represent the interests of the Settlement Class; and (v) Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive or declaratory relief with respect to the class as a whole.

9. Jordan Meister is appointed Class Representatives of the Settlement Class.

10. The Court confirms the following as Class Counsel: Stuart L. Cochran, Cochran Law PLLC; David C. Nelson, Nelson & Nelson, Attorneys at Law, P.C.; and Matthew Armstrong, Armstrong Law Firm LLC.

11. The Settlement, as set forth in the Settlement Agreement, is in all respects, fair, reasonable, adequate, equitable, is in the best interests of the Settlement Class Members and is approved in all respects in accordance with 735 ILCS 5/2-805.

12. The Settlement was negotiated at arm's-length by experienced counsel who were fully informed of the facts and circumstances of the Action and of the strengths and weaknesses of their respective positions. The Settlement was reached after the Parties engaged in extensive negotiations and formal mediation. Class Counsel and Defendants' Counsel are therefore well positioned to evaluate the benefits of the Settlement, fully cognizant of all the expenses, risks, and uncertainties regarding protracted litigation involving numerous questions of fact and law.

13. Notice to the members of the Settlement Class required by 735 ILCS 5/2-803 has been provided as directed by this Court in the Preliminary Approval Order, and such notice having constituted the best notice practicable, including, but not limited to, the forms of notice and

methods of identifying and providing notice to the members of the Settlement Class, has satisfied the requirements of the Illinois Rules of Civil Procedure, and all other applicable laws.

14. The Court orders that Defendants follow the injunctive relief specified for these household kitchen appliance products in Section III of the Settlement Agreement.

15. Plaintiff and Defendants are directed to promptly consummate the Settlement in accordance with the Settlement Agreement and all of its terms.

16. The Settlement shall not be deemed to constitute an admission or finding of liability or wrongdoing on the part of Defendants, Plaintiff, any of the Settlement Class Members, or the Released Parties.

17. The Action is hereby dismissed, with prejudice, on the merits, as against the Defendants, on the terms and conditions set forth in the Settlement Agreement, and without costs to any party except as provided herein and in the Settlement Agreement.

18. Plaintiff, each Settlement Class Member, and each Releasing Party shall be deemed to have, and by operation of this Final Approval Order and Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties in the manner(s) set forth in Section IX of the Settlement Agreement.

19. Plaintiff, each Settlement Class Member, and each Releasing Party are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims.

20. A Class Service Award is hereby awarded to Jordan Meister in the amount of \$5,000.00, paid pursuant to the terms of the Settlement Agreement, as compensation for his efforts in bringing the Action and achieving the benefits of the Settlement on behalf of the Settlement Class.

21. Class Counsel are hereby awarded (i) attorneys' fees and (ii) reimbursement of their reasonable expenses in the amount of nine hundred thousand dollars (\$900,000.00). Class Counsel shall provide to Defendants in a timely manner all information necessary to enable Defendants to make the payment pursuant to the terms of the Settlement Agreement.

22. The Class representative and the Class counsel have fairly and adequately protected and will continue to fairly and adequately protect the interests of the Settlement Class. Under 735 ILCS 5/2-801(3), it is apparent the purpose of the adequate representation requirement is to ensure that all class members receive proper, efficient, and appropriate protection of their interests in the litigation. *Gordon v. Boden*, 224 Ill. App. 3d 195, 203 (1st Dist. 1991). Critical to such a finding of fair and adequate representation is a determination that the representative parties are not seeking relief that is potentially antagonistic to the members of the class, for that situation, due process prohibits a judgment from being binding on class members. *Client Follow-Up v. Hynes*, 105 Ill. App. 619, 625 (1st Dist. 1982). Here, the adequacy of representation is met as it relates to both the class representative and the attorneys for the class.

23. The award of attorneys' fees to Class Counsel shall be allocated among Class Counsel in a manner that, consistent with the assertions of Class Counsel, fairly compensates them for their respective contributions in the prosecution of the Action. In making its award of attorneys' fees and reimbursement of expenses, in the amounts described in paragraph 19 above, the Court has considered and finds as follows:

- a. The Settlement has provided significant relief to the Settlement Class.
- b. Defendants' agreement to adhere to the marketing and labeling practices related to the Blenders was a negotiated, material term of the Settlement.

- c. The Class Notice constituted the best notice practicable to Settlement Class Members consistent with the requirements of due process.
- d. The Settlement provides a fair opportunity for all members of the Class to file a claim and be compensated. The Notice Plan combined with the length of the Claim Period provides a more than ample opportunity for any Settlement Class Member who wishes to file a claim to do so. It is this opportunity to file a claim and be compensated that is the fairest measure of whether the Settlement is indeed fair, reasonable, and adequate.
- e. By providing this opportunity for compensation Class Counsel have demonstrated that they have and will continue to represent the Class well. Class Counsel have conducted the litigation and achieved the Settlement with skill, perseverance, and diligent advocacy on behalf of Plaintiff and the Settlement Class as a whole.
- f. The Action involves complex factual and legal issues and, in the absence of the Settlement, would involve further lengthy proceedings and uncertain resolution of such issues.
- g. Had the Settlement not been achieved, there would remain a significant risk that the Settlement Class may have recovered less or nothing from Defendants, and that any recovery would have been significantly delayed, which would have resulted in the continued exposure of Settlement Class Members to the challenged representations.
- h. The amount of attorneys' fees and reimbursable expenses awarded to Class Counsel is fair and reasonable. The relief provided by the Settlement

provides a claims process whereby Class Members have the opportunity to recover a fair benefit weighing the strengths and weakness of the claims. Given the skills required to prosecute this case, the experience, reputation, and ability of Class Counsel, the fact that the fees were always contingent, the fee is not disproportionately excessive in light of the benefits conferred on the members of the Settlement Class and the risk taken by prosecuting this case. Moreover, the amount awarded is within the norms in class actions in the state of Illinois.

24. Defendants and the Released Parties shall not be liable for any additional fees or expenses for Class Counsel or counsel of any Plaintiff or Settlement Class Members in connection with the Action, beyond those expressly provided in the Settlement Agreement.

25. By reason of the Settlement, and approval hereof, there is no just reason for delay and this Final Order and Judgment shall be deemed a final judgment pursuant to the Illinois Rules of Civil Procedure.

26. Jurisdiction is reserved, without affecting the finality of this Final Approval Order and Judgment, over:

- a. Effectuating the Settlement and the terms of the Settlement Agreement, including the payment of Plaintiff's counsel's attorneys' fees and reimbursement of expenses, including any interest accrued thereon;
- b. Supervising all aspects of the administration of the Settlement;
- c. Determining whether, in the event an appeal is taken from any aspect of this Final Approval Order and Judgment, notice should be given at the

appellant's expense to some or all Settlement Class Members apprising of the pendency of the appeal and such other matters as the Court may order;


- d. Enforcing and administering the Settlement Agreement and the Settlement, including any releases executed in connection therewith, and the provisions of this Final Approval Order and Judgment;
- e. Adjudicating any disputes that arise under the Settlement Agreement; and
- f. Any other matters related or ancillary to the foregoing.

27. The Parties, without further approval from the Court, are hereby permitted to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with this Final order and in no way limits any rights of the Settlement Class Members.

28. The above-captioned matter is hereby **dismissed in its entirety with prejudice.**

Approved and so Ordered.

Dated: Thursday, June 30, 2022



Circuit Judge Heinz Rudolf