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FILED
Superior Court of California
County of Los Angeles

07/15/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: A. Lim Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – UNLIMITED CIVIL**

**ROY LO, Individually and On Behalf
of All Others Similarly Situated,**

Plaintiff,

vs.

NUTRIBULLET, LLC,

Defendant.

Case No.: 21STCV12852

~~PROPOSED~~ **ORDER
GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND CERTIFICATION OF
SETTLEMENT CLASS**

JUDGE: Hon. William F. Highberger
DEPT.: 10

Plaintiff Roy Lo (“Mr. Lo” or “Plaintiff”) filed a Motion for Preliminary Approval of Class Action Settlement and Certification of Settlement Class (the “Preliminary Approval Motion”) in the above-captioned action (the “Action”). The Preliminary Approval Motion was unopposed by Defendant NutriBullet, LLC (“NutriBullet” or “Defendant”).

The Court has read and considered the Settlement Agreement (“Agreement”) and the Amendment thereto, the Preliminary Approval Motion, and the record in this case.

1 NOW, THEREFORE IT IS HEREBY ORDERED:

2 I. JURISDICTION: The Court has jurisdiction over the subject matter of the
3 Action and over all settling parties hereto. All capitalized terms used herein
4 have the meanings defined herein and/or in the Agreement.

5 II. PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT: The Court
6 preliminarily finds that the settlement of the Action, on the terms and
7 conditions set forth in the Agreement, is in all respects fundamentally fair,
8 reasonable, adequate and in the best interests of the Settlement Class
9 Members. This takes into consideration the benefits to Settlement Class
10 Members of a change in marketing and advertising practices by NutriBullet
11 as well as the Extended Warranty; the strength and weaknesses of Plaintiff's
12 case; the complexity, expense and probable duration of further litigation; and
13 the risk and delay inherent in possible appeals from any significant decisions.
14 The Court preliminarily approves the Settlement Agreement pursuant to
15 Section IX thereof.

16 III. CLASS CERTIFICATION: The Court preliminarily finds that the Action
17 satisfies the applicable prerequisites for class action treatment under
18 California Code of Civil Procedure § 382, involving numerous consumers
19 within the State of California who purchased one or more of the Covered
20 Products during the Class Period.

21 IV. CLASS MEMBERS: Pursuant to Section 382 of the California Code of Civil
22 Procedure, the Action is hereby preliminarily certified, for settlement
23 purposes only, as a class action on behalf of the following members of the
24 Settlement Class:

25
26 All persons who purchased one of Defendant's warrantied
27 products within California between August of 2019 and
28 the date of entry of a preliminary approval order.

1 Excluded from the Settlement Class are: (1) NutriBullet and its respective
2 affiliates, employees, officers, directors, agents, and representatives, and their
3 immediate family members; (2) Settlement Class Counsel and partners,
4 attorneys, and employees of their law firms; (3) the Judge(s) who have
5 presided over the Action, the case identified in Paragraph I.E, or the mediator
6 referenced in Paragraph I.H, and their immediate family members; and (4) all
7 individuals or entities who purchased Covered Products for resale.

8 V. CLASS REPRESENTATIVE AND CLASS COUNSEL APPOINTMENT:

9 For purposes of the Court considering preliminary approval, the Court
10 appoints named Plaintiff Roy Lo as the Class Representative. The Court
11 further appoints Abbas Kazerounian and Jason A. Ibey of Kazerouni Law
12 Group, APC, and Adib Assassi of Black Oak Law Firm as Class Counsel for
13 the purposes of considering preliminary approval.

14 VI. SETTLEMENT ADMINISTRATOR APPOINTMENT: For purposes of the
15 proposed Settlement, the Court appoints Simpluris as Settlement
16 Administrator.

17 VII. NOTICE: The Court hereby approves the proposed forms of Class Notice
18 attached as Exhibit C to the Agreement, and Exhibits B-1 and D-1 to the
19 Addendum to the Agreement. Notice will be given to Settlement Class no later
20 than thirty (30) days from the Court's entry of this Preliminary Approval
21 Order (i.e., the "Notice Date"). Notice will be provided by (1) email notice to
22 Settlement Class Members for which NutriBullet has an email address; (2) an
23 internet banner advertisement campaign; and (3) detailed notice on the
24 Settlement Website. Each form of notice is to provide or link to a summary of
25 the important details of the Settlement, including deadlines and instructions
26 on how to opt out or object to the proposed Settlement. Further, to facilitate
27 email notice, NutriBullet is to provide the Settlement Administrator with
28

1 relevant contact information in its possession for the Settlement Class
2 Members, including their last known email address.

3 VIII. RIGHT TO OPT-OUT OR OBJECT: Settlement Class members shall be
4 given forty-five (45) days from the Notice Date to request exclusion from
5 (Opt-Out) of the Settlement or to object to its terms.

6 A. Opt-Out Process: Settlement Class Members who wish to be excluded
7 from the Settlement may do so by completing and mailing an exclusion
8 request (opt-out request) to the Settlement Administrator. An Opt-Out request
9 must: (1) be personally signed by the Person in the Settlement Class
10 requesting exclusion; (2) contain a statement indicating that Person's desire
11 to be excluded from the Settlement Class in the matter of *Lo v. Nutribullet,*
12 *LLC*, Case No. 21STCV12852, Superior Court of the State of California,
13 County of Los Angeles (or sufficient words to indicate this matter); and (3)
14 include a statement that the Person is otherwise a member of the Settlement
15 Class and purchased a Covered Product.

16 B. Objection Process: Settlement Class Members who intend to object
17 must include in an objection mailed to the Settlement Administrator and
18 served on the Parties' Counsel: (1) the name, address, telephone number of
19 the Person objecting, and his or her counsel (if any); (2) a signed declaration
20 stating that he or she is a Person in the Settlement Class and purchased a
21 Covered Product; (3) a statement of all objections to the Settlement
22 Agreement and any supporting documentations; and (4) a statement of
23 whether he or she intends to appear at the Final Approval Hearing, either with
24 or without counsel, and if with counsel, the name of said counsel. Any
25 Settlement Class Member who fails to submit and timely serve a written
26 objection and notice of his or her intent to appear at the Final Approval
27 Hearing pursuant to Section VII, Paragraph C of the Agreement, and as
28 detailed in the Class Notice, shall not be permitted to object to the approval

1 of the Settlement Agreement at the Final Approval Hearing and shall be
2 foreclosed from seeking any review of the Settlement Agreement by appeal
3 or other means.

4 IX. FINAL APPROVAL HEARING: The Court shall conduct a final approval
5 hearing (“Final Approval Hearing”) on Nov. 3, 2022, 2022, at 1:00 a.m.,
6 at the Superior Court of California, County of Los Angeles, Spring Street
7 Courthouse, Department 10, 312 North Spring Street, Los Angeles, CA
8 90012. The Final Approval Hearing may be rescheduled or continued by the
9 Court. At such hearing, the Court will consider:

10 A. Whether this action satisfies the applicable prerequisites for class action
11 treatment for settlement purposes under California Code of Civil Procedure §
12 382;

13 B. Whether the relief proposed by the Settlement is fundamentally fair,
14 reasonable, adequate, and in the best interest of the Settlement Class Members
15 and should be approved by the Court;

16 C. Whether the Final Judgment, as provided under the Agreement, should
17 be entered, dismissing the Action with prejudice and releasing the Released
18 Claims against the Released Parties; and

19 D. Such other issues as the Court deems appropriate.

20 X. Attendance at the Final Approval Hearing is not necessary. Settlement Class
21 Members need not appear at the hearing or take any other action with regard
22 to the proposed class action settlement.

23 XI. If the Agreement is not finally approved for any reason, then this order shall
24 be vacated, the Agreement shall have no force and effect, and the Parties’
25 rights and defenses shall be restored, without prejudice, to their respective
26 positions as if the Agreement had never been executed and this order never
27 entered.
28

1 XII. Plaintiff shall file and serve Plaintiff's motion for Attorneys' Fees, Costs and
2 Service Award, as well as a Motion for Final Approval of Class Action
3 Settlement, at least thirty (30) days prior to the Final Approval Hearing.

4 XIII. The Court has continuing and exclusive jurisdiction over the action and the
5 parties to the Agreement to consider all further matters arising out of or
6 connected with the settlement, including the administration and enforcement
7 of the Agreement, pursuant to California Rules of Court, rule 3.769(h).

8 **IT IS SO ORDERED.**

9
10 Dated: 07/15/2022



11 HON. WILLIAM F. HIGHBERGER
12 SUPERIOR COURT JUDGE