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Department 322

1 KAZEROUNI LAW GROUP, APC
Abbas Kazerounian, Esq. (SBN: 249203)
2 ak@kazlg.com
3 Andrei Armas, Esq. (SBN: 299703)
andrei@kazlg.com
4 245 Fischer Avenue, Unit D1
5 Costa Mesa, CA 92626
6 Telephone: (800) 400-6808
Facsimile: (800) 520-5523

FILED
Superior Court of California
County of Los Angeles

JAN 23 2017

Sherri R. Carter, Executive Officer/Clerk
By Aldwin Lim, Deputy

7 [ADDITIONAL PLAINTIFF'S COUNSEL
8 ON SIGNATURE PAGE]

9 Attorneys for Plaintiff,
10 Marcus Giffin.

11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF LOS ANGELES - CENTRAL WEST DISTRICT

13 **MARCUS GIFFIN,**
14 **INDIVIDUALLY AND ON**
15 **BEHALF OF ALL OTHERS**
16 **SIMILARLY SITUATED,**

17 Plaintiff,

18 v.

19 **UNIVERSAL PROTEIN**
20 **SUPPLEMENTS**
21 **CORPORATION d/b/a/**
22 **UNIVERSAL NUTRITION,**
23 **UNIVERSAL USA, AND/OR**
24 **ANIMAL PAK,**

25 Defendant.

Case No: BC613414

By Fax

JOINT STIPULATION TO
CONTINUE CLASS SETTLEMENT
DEADLINES AND THE FINAL
APPROVAL HEARING;
~~PROPOSED~~ ORDER

Judge: William F. Highberger
Dept: 322

Action Filed: May 21, 2016

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245 FISCHER AVENUE, SUITE D1
COSTA MESA, CA 92626

7 10 20 17

28 JOINT STIPULATION TO CONTINUE DEADLINES

RECEIPT #: CW526522021
DRIVE PAID: 01/19/17 04:14 PM
PAYMENT: \$20.00 310
RECEIVED:
CHECK: \$20.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00
CIT/CASE: BC613414
LEA/DEF#: 310

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245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 **IT IS HEREBY STIUPLATED** by and between Plaintiff MARCUS
2 GIFFIN (“Plaintiff”) and Defendant UNIVERSAL PROTEIN SUPPLEMENTS
3 CORPORATION (“Defendant”) (Plaintiff and Defendant collectively referred to
4 as the “Parties”) as follows;

5 WHEREAS, pursuant to this Court’s December 28, 2016 Order Re:
6 Preliminary Approval Of Proposed Class Action Settlement (“Preliminary
7 Approval Order”), the Final Approval Hearing regarding the Class Action
8 Settlement Agreement is currently scheduled for June 7, 2017 at 9 a.m.;

9 WHEREAS, based on the Court’s Preliminary Approval Order, the Final
10 Approval Hearing, and the terms of the Settlement Agreement, the following
11 deadlines exist, among others:

- 12 • **January 27, 2017** - Commencement of Class Notice, including Direct
13 Notice, Internet Notice, and Publication Notice (i.e., 30 days after the
14 Court’s Preliminary Approval Order, as contemplated by the
15 Settlement Agreement – see Settlement Agreement § 4.1.)
- 16 • **May 8, 2017** – Notice Response Deadline to file a claim (i.e., 30 days
17 before the Final Approval Hearing, as contemplated by the Settlement
18 Agreement - see Settlement Agreement § 2.24.)
- 19 • **May 15, 2017** – Deadline to file Final Approval Brief and Application
20 for Attorneys’ Fess, Costs and Incentive Award¹
- 21 • **May 17, 2017** – Deadline for Class Members to File Objection or
22 Exclusions (i.e., 21 days before the Final Approval Hearing, as
23 contemplated by the Settlement Agreement – see Settlement
24 Agreement §§ 2.27 and 5.2.)

25
26 ¹ This deadline was set by the Court in the Preliminary Approval Order. The
27 suggested deadlines in the Parties Settlement Agreement are as follows: (1) the
28 Application for Attorneys’ Fess, Costs and Incentive Award shall be filed 30 days
before the Final Approval Hearing; and, (2) the Final Approval Brief shall be filed
7 days before the Final Approval Hearing.

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1 • June 7, 2017 – Final Approval Hearing;

2 WHEREAS, Publication Notice cannot commence until March 1, 2017, as
3 opposed to the January 27, 2017 date contemplated by the terms of the Settlement
4 Agreement, because of a 60 day waiting period requirement to publish articles in
5 Flex Magazine, the proposed publisher;²

6 WHEREAS, the issues with the Publication Notice affect the Class Notice
7 commencement deadline and consequently the period to submit claims, objections
8 exclusions for Class Members that rely on the Publication Notice;

9 WHEREAS, the Class Members' deadlines to Object and Exclude
10 themselves from the Settlement Agreement (i.e., May 17, 2017) is 2 days after the
11 deadline for Plaintiff to file the Final Approval Brief and the Application for
12 Attorneys' Fess, Costs and Incentive Award (i.e., May 15, 2017);

13 WHEREAS, Plaintiff cannot file his Final Approval Brief and the
14 Application for Attorneys' Fess, Costs and Incentive Award without the
15 information addressing the potential Class Members exclusions and objections;

16 WHEREAS, the parties have meet and conferred and have been working
17 diligently on resolving the deadline issues, and have therefore agreed that it is in
18 the best interests of the parties and the putative Class Members to agree to continue

19 _____
20 ² Based on the current deadlines, which actually allows Class members longer
21 periods of time to submit claims, objections or op-out requests than contemplated
22 by the terms of the Settlement Agreement (i.e., 60 days to make claims, and 80
23 days to object or opt-out from the date that Notice is sent - see Settlement
24 Agreement at §§ 2.27 and 5.2), Class Members would currently have 101 days to
25 submit a claim and 110 days to objection or exclude themselves from the date
26 Class Notice commences, which would including Publication Notice. However,
27 since the Publication Notice cannot commence until March 1, 2017, the currently
28 anticipated 101 days to submit a claim, and the 110 days to object or exclude
oneself from the Settlement are shorten by 33 days for those receiving only
Publication Notice. Although this is still longer than contemplated by the
Settlement Agreement to submit a claim, it is 3 days shorter than the time required
to make an objection or op-out.

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1 the following deadlines, as described below:

- 2 • January 27, 2017 - Commencement of Direct Notice and Internet
3 Notice, as scheduled.
- 4 • March 1, 2017 - Commencement of Publication Notice - (i.e., the
5 date Publication Notice is available in Flex Magazine);
- 6 • June 10, 2017 - Notice Response Deadline to submit a claim - (i.e.,
7 101 days from date of the Publication Notice, identical to the period
8 currently contemplated by the Court's Preliminary Approval Order
9 and terms of the Settlement Agreement, and 134 days from the date of
10 Direct and Internet Notice);
- 11 • June 19, 2017 - Deadline for Class Members to File Objection or
12 Exclusions - (i.e., 110 days from date of Publication Notice, identical
13 to the period currently contemplated by the Court's Preliminary
14 Approval Order and terms of the Settlement Agreement, and 144 days
15 from the date of Direct and Internet Notice);
- 16 • July 3, 2017 - Deadline to file Final Approval Brief and Application
17 for Attorneys' Fess, Costs and Incentive Award (i.e., 14 days after the
18 deadline to objection or submit exclusions form the Settlement);
- 19 • July 17, 2017 [or as soon as possible thereafter] - Final Approval
20 Hearing (i.e., 14 days [or more] after the deadline to file Final
21 Approval Brief and Application for Attorneys' Fess, Costs and
22 Incentive Award); and,
- 23 • All other date remain as contemplated by the terms of the Settlement
24 Agreement in conjunction with the commencement of the Class
25 Notice and the Final Approval Hearing.

26 This stipulation is not entered into for the purposes of delay.

27 **IT IS SO STIPULATED.**

28 //

~~PROPOSED~~ ORDER

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Having consider the parties stipulation, good cause appearing, it is ORDRED that the following deadlines be continued as follows:

- January 27, 2017 - Commencement of Direct Notice and Internet Notice, as scheduled;
- March 1, 2017 - Commencement of Publication Notice;
- June 10, 2017 – Notice Response Deadline to file a claim;
- June 19, 2017 – Deadline for Class Members to File Objection or Exclusions;
- July 3, 2017 - Deadline to file Final Approval Brief and Application for Attorneys’ Fess, Costs and Incentive Award;
- ~~July 17, 2017~~ [July 26, 2017] – Final Approval Hearing; and, *2 at 10 am-*
- All other date remain as contemplated by the terms of the Settlement Agreement in conjunction with the newly approved dates for the Class Notice and the Final Approval Hearing.

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE D1
COSTA MESA, CA 92626

Dated:

1/23/17

W.F. Highberger

Hon. William F. Highberger
Judge Of Superior Court

01232017

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE D1
COSTA MESA, CA 92626

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Dated: January 19, 2017

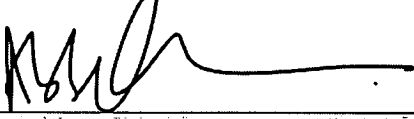
HYDE & SWIGART

Joshua B. Swigart, Esq. (SBN: 225557)
josh@westcoastlitigation.com
2221 Camino Del Rio South, Suite 101
San Diego, CA 92108-3551
Telephone: (619) 233-7770
Facsimile: (619) 297-1022

Dated: January 19, 2017

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: 

ABBAS KAZEROUNIAN, ESQ.
ANDREI ARMAS, ESQ.
ATTORNEYS FOR PLAINTIFF

Respectfully submitted,

CARLSON & MESSER, LLP

By: 

DAVID KAMINSKI, ESQ.
STEPHEN A. WATKINS, ESQ.
ATTORNEYS FOR DEFENDANT

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