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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CURTIS HANSON, on behalf of himself, all others
similarly situated, and the general public,

Plaintiff,

v.

WELCH FOODS INC.,

Defendant.

Case No. 3:20-cv-02011-JCS

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT**

Judge: Hon. Joseph C. Spero

1 WHEREAS, the above-entitled action is pending before this Court (the “Action”);

2 WHEREAS, Plaintiff Curtis Hanson has moved, pursuant to Federal Rule of Civil Procedure 23(e),
3 for an order approving the Settlement of this Action in accordance with the December 3, 2021 Class Action
4 Settlement Agreement (“Agreement” or “Settlement Agreement”) attached as Exhibit A to the Supplemental
5 Declaration of Jack Fitzgerald in Support of Plaintiff’s October 1, 2021 Motion for Preliminary Approval
6 of Class Settlement (the “Motion”), which Settlement Agreement sets forth the terms and conditions for a
7 proposed classwide settlement of the Action;

8 WHEREAS, the Court, has read and considered the Settlement Agreement, Plaintiff’s Motion, and
9 the arguments of counsel;

10 **NOW, THEREFORE, THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:**

11 1. Settlement Terms. All capitalized terms herein have the same meanings ascribed to them in
12 the Settlement Agreement.

13 2. Jurisdiction. The Court has jurisdiction over the subject matter of the action and over all
14 parties to the action, including all members of the Settlement Class.

15 3. Preliminary Approval of Proposed Settlement Agreement. The Court finds that, subject to
16 the Final Approval Hearing, the proposed Settlement Agreement is fair, reasonable, adequate, and within
17 the range of possible approval considering the possible damages at issue and defenses to overcome. The
18 Court also finds that the Settlement Agreement: (a) is the result of serious, informed, non-collusive, arms-
19 length negotiations, involving experienced counsel familiar with the legal and factual issues of this case;
20 and (b) meets all applicable requirements of law, including Federal Rule of Civil Procedure 23, and the
21 Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715. Therefore, the Court grants preliminary approval
22 of the Settlement.

23 4. Class Certification for Settlement Purposes Only. The Court conditionally certifies, for
24 settlement purposes only, a Settlement Class defined as all persons in the United States who, between March
25 23, 2016 and October 1, 2021 (the “Class Period”), purchased in the United States, for household use and
26 not for resale or distribution, any of the Class Products which consist of the following:

- 27 (a) Welch’s 100% Grape Juice Concord Grape
- 28 (b) Welch’s 100% Juice Red Sangria

1 (c) Welch's 100% Black Cherry Concord Grape Juice

2 5. The Court finds, for settlement purposes only, that class certification under Federal Rule of
3 Civil Procedure 23(b)(3) is appropriate in the settlement context because (a) the Settlement Class Members
4 are so numerous that joinder of all Settlement Class Members is impracticable; (b) there are questions of
5 law and fact common to the Settlement Class which predominate over any individual questions; (c) the
6 claims of the Plaintiff and proposed Class Representative are typical of the claims of the Settlement Class;
7 (d) the Plaintiff and proposed Class Representative and his counsel will fairly and adequately represent and
8 protect the interests of the Settlement Class Members; (e) questions of law or fact common to the Settlement
9 Class Members predominate over any questions affecting only individual Settlement Class Members; and
10 (f) a class action is superior to other available methods for the fair and efficient adjudication of the
11 controversy.

12 6. Class Representative. The Court appoints Plaintiff Curtis Hanson as Class Representative.

13 7. Class Counsel. The Court appoints Jack Fitzgerald, of Fitzgerald Joseph LLP, as Class
14 Counsel.

15 8. Settlement Class Administrator. The Court hereby approves Postlethwaite & Netterville,
16 APAC ("P&N") to act as Class Administrator. P&N shall be required to perform all the duties of the Class
17 Administrator as set forth in the Agreement and this Order.

18 9. Qualified Settlement Fund. P&N is authorized to establish the Settlement Fund under 26
19 C.F.R. §§ 1.468B-1(c) and (e)(1), to act as the "administrator" of the Settlement Fund pursuant to 26 C.F.R.
20 § 1.468B-2(k)(3), and to undertake all duties as administrator in accordance with the Treasury Regulations
21 promulgated under § 1.468B of the Internal Revenue Code of 1986. All costs incurred by P&N operating
22 as Class Administrator of the Settlement Fund shall be construed as costs of Claims Administration and
23 shall be borne solely by the Settlement Fund. Any interest proceeds and/or income earned by the Settlement
24 Fund shall remain in the Settlement Fund and be used to pay Settlement expenses.

25 10. Class Notice. The Court approves the form and content of the Class Notice in the long form
26 attached to the Settlement Agreement as Exhibit 1, the short form attached to the Settlement Agreement as
27 Exhibit 2, and the other forms of notice submitted with Plaintiff's Motion for Preliminary Approval. The
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1 Court finds that dissemination of the Class Notice as proposed in the Settlement Agreement and in P&N's
2 Notice Plan as set forth in the October 1, 2021 Declaration of Brandon Schwartz meets the requirements of
3 Federal Rule of Civil Procedure 23(c)(2), and due process, and further constitutes the best notice practicable
4 under the circumstances. Accordingly, the Court hereby approves the Notice Plan.

5 11. Objection and Exclusion Deadline. Settlement Class Members who wish to object to the
6 Settlement must do so by the Objection Deadline of March 7, 2022, ~~2021~~. Settlement Class Members
7 who wish to exclude themselves from the Settlement must do so by the Opt-Out Deadline of
8 March 7, 2022, ~~2021~~. Settlement Class Members may not both object to and exclude themselves from the
9 Settlement. If a Settlement Class Member submits both a Request for Exclusion and an Objection, the
10 Request for Exclusion will be controlling.

11 12. Exclusion from the Settlement Class. To submit a Request for Exclusion, Settlement Class
12 Members must follow the directions in the Notice and submit online at the Settlement Website by the Opt-
13 Out Deadline, or send a compliant request to the Class Administrator at the address designated in the Class
14 Notice, postmarked by the Opt-Out Deadline. No Request for Exclusion may be made on behalf of a group
15 of Settlement Class Members.

16 13. All Settlement Class Members who submit a timely, valid Request for Exclusion will be
17 excluded from the Settlement and will not be bound by the terms of the Settlement Agreement and any
18 determinations and judgments concerning it. All Settlement Class Members who do not submit a valid
19 Request for Exclusion by the Opt-Out Deadline, in accordance with the terms set forth in the Agreement,
20 will be bound by all determinations and judgments concerning the Agreement.

21 14. Objections to the Settlement. To object to the Settlement, Settlement Class Members should
22 follow the directions in the Notice and file with the Court or send to the Class Administrator a written
23 Objection by the Objection Deadline. In the written Objection, the Settlement Class Member should include
24 (i) a caption or title that clearly identifies the Action and that the document is an objection, (ii) the Settlement
25 Class Member's name, current address, email and telephone number, or—if objecting through counsel—his
26 or her lawyer's name, address, email and telephone number, (iii) a statement of the Class Product(s) the
27 Settlement Class Member bought during the Class Period, (iv) a statement of the Settlement Class Member's
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1 objection and the grounds supporting the objection, including any facts and/or law supporting the objection,
 2 (v) copies of any papers, briefs, or other documents upon which the objection is based, (vi) the name and
 3 case number for all actions in which the Settlement Class Member has objected to a class action settlement
 4 in the past five (5) years, (vii) a statement indicating whether the Settlement Class Member intends to appear
 5 at the Final Approval Hearing, either in person or through counsel, and (viii) the Settlement Class Member's
 6 signature. Upon the Court's Order at the Parties' request, the Parties will have the right to obtain document
 7 discovery from and take depositions of any objecting Settlement Class Member on topics relevant to the
 8 Objection.

9 15. Objecting Settlement Class Members may appear at the Final Approval Hearing and be
 10 heard. Class Members who have not made a written objection may also appear and be heard at the Final
 11 Approval Hearing, whether in support of or against the Settlement.

12 16. All members of the Settlement Class, except those who submit timely, valid Requests for
 13 Exclusion, will be bound by all determinations and judgments regarding the Settlement, whether favorable
 14 or unfavorable to the Settlement Class.

15 17. Submission of Claims. To receive a Settlement Payment, Settlement Class Members must
 16 follow the directions in the Class Notice and file a claim with the Class Administrator by the Claims
 17 Deadline of March 7, 2022, ~~2021~~. Settlement Class Members who do not submit a timely, valid claim
 18 will not receive a Settlement Payment, but will be bound by the Settlement.

19 18. Schedule of Future Events. The Court adopts the schedule proposed by Plaintiff, as follows
 20 (with Day "0" the date of this Order):

Event	Day	Approximate Weeks After Preliminary Approval
Date of Preliminary Approval Order	0	-
Deadline to commence 63-day notice period	21	3 weeks
Deadline for Plaintiff to file Motion for Attorneys' Fees, Costs, and Service Award	49	7 weeks
Notice completion date, and deadline to make a claim, opt out, and object	84	12 weeks
Deadline for Plaintiff to file Motion for Final Approval	98	14 weeks

Event	Day	Approximate Weeks After Preliminary Approval
Final Approval Hearing	119	17 weeks

19. Final Approval Hearing. A Final Approval Hearing is scheduled for April 15, 2022-2021, at 9:30 AM Pacific Time, for the Court to determine whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Settlement Class and should be finally approved by the Court; whether a Judgment should be entered; and to determine the amount of fees, costs, and expenses that should be awarded to Class Counsel and the amount of any service award to Plaintiff. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the members of the Settlement Class and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the settling Parties, if appropriate, without further notice to the Settlement Class.

20. Stay of Proceedings. All proceedings in this action are stayed until further order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement.

21. Pending the final determination of whether the Settlement should be approved, the Class Representative, all Settlement Class Members, and any Persons representing or purporting to represent or to pursue claims on behalf of the Class Representative and/or Settlement Class Members are hereby stayed and enjoined from commencing, pursuing, maintaining, enforcing, prosecuting, intervening in, or participating in, either directly or indirectly, any claims or causes of action relating to the Action or the Released Claims in any judicial, administrative, arbitral, or other forum, against any of the Released Parties. Such injunction will remain in force until a Final Approval Order is entered or until such time as the Parties notify the Court that the Settlement has been terminated. This injunction is necessary to protect and effectuate the Agreement, this Preliminary Approval Order, and the Court's flexibility and authority to effectuate the Agreement and to enter Judgment when appropriate and is ordered in aid of this Court's

1 jurisdiction and to protect its judgments. This injunction does not apply to any person who submits a timely,
2 valid Request for Exclusion.


3 22. If the Settlement is not approved or consummated for any reason whatsoever, the Settlement
4 and all proceedings in connection with the Settlement will be without prejudice to the right of Defendant or
5 the Plaintiff to assert any right or position that could have been asserted if the Agreement had never been
6 reached or proposed to the Court, except insofar as the Agreement expressly provides to the contrary. In
7 such an event, the certification of the Settlement Class will be deemed vacated. The certification of the
8 Settlement Classes for settlement purposes will not be considered as a factor in connection with any
9 subsequent class certification issues.

10 23. No Admission of Liability. By entering this Order, the Court does not make any
11 determination as to the merits of this case. Preliminary approval of the Settlement Agreement is not a finding
12 or admission of liability by Defendant. Furthermore, the Agreement and any negotiations, documents, and
13 discussions associated with it will not be deemed or construed to be an admission or evidence of any
14 violation of any statute, law, rule, regulation, or principle of common law or equity, or of any liability or
15 wrongdoing by Defendant, or the truth of any of the claims. Evidence relating to the Agreement will not be
16 discoverable or used, directly or indirectly, in any way, whether in this Action or in any other action or
17 proceeding, except for purposes of demonstrating, describing, implementing, or enforcing the terms and
18 conditions of the Agreement, this Order, the Final Approval Order, and the Judgment.

19 24. Retention of Jurisdiction. The Court retains jurisdiction over the Action to consider all further
20 matters arising out of or connected with the Settlement Agreement and the settlement described therein.

21
22 **IT IS SO ORDERED.**

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24 Dated: December 13, 2021



Hon. Joseph C. Spero
United States Magistrate Judge