UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No.	**EDCV 16-00189 JGB (SPx)**	Date	April 23, 2019
Title	***Veda Woodard, et al. v. Lee Labrada, et al.***		

Present: The Honorable	JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE

MAYNOR GALVEZ	Not Reported
Deputy Clerk	Court Reporter

Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: **Order (1) GRANTING Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (Dkt. No. 283); and (2) GRANTING Media Defendants' Motion for Good Faith Settlement Determination (Dkt. No. 284) (IN CHAMBERS)**

Two motions are before the Court. On February 15, 2019, Plaintiffs Veda Woodard, Teresa Rizzo-Marino, and Diane Morrison (collectively, "Plaintiffs") filed a Motion for Preliminary Approval of Class Action Settlement between Plaintiffs and Naturex, Inc. ("Naturex") (collectively, "Settling Parties"). ("MPA," Dkt. No. 283.) On the same day, Naturex also filed a Motion for Determination of Good Faith Settlement. ("MDGF," Dkt. No. 284.) The Court held a hearing on this matter on March 18, 2019. Upon consideration of the papers filed in support of these motions, as well as oral argument, the Court GRANTS both Motions.

I. BACKGROUND

On February 2, 2016, Plaintiff Woodard filed a complaint against Defendants Lee Labrada, Labrada Bodybuilding Nutrition, Inc., Labrada Nutritional Systems, Inc., Dr. Mehmet C. Oz, Entertainment Media Ventures, Inc. doing business as Oz Media, Zoco Productions, LLC; Harpo Productions, Inc., Sony Pictures Television, Inc., Naturex, Inc., and Interhealth Nutraceuticals, Inc. ("Complaint," Dkt. No. 1.) On June 2, 2016, Plaintiffs Woodard, Rizzo-Marino, and Morrison filed a First Amended Complaint, which contains eleven causes of action: (1) fraud, deceit, and suppression of facts (Cal. Civ. Code §§ 1709-1811 and the common law of all states); (2) negligent misrepresentation (Cal. Civ. Code § 1710(2) and the common law of all states); (3) violations of the Unfair Competition Law ("UCL") (Cal. Bus. & Prof. Code §§

17200, et seq.); (4) violation of the Consumer Legal Remedies Act ("CLRA") (Cal. Civ. Code §§ 1700, et seq.); (5) violation of the False Advertising Law ("FAL") (Cal. Bus & Prof. Code §§ 17500, et seq.); (6) breach of express warranty (Cal. Comm. Code § 2313); (7) breach of implied warranty of merchantability (Cal. Comm. Code § 2314); (8) breach of express warranty (N.Y. U.C.C. § 2-313); (9) breach of implied warranty (N.Y. U.C.C. § 2-314); (10) breach of express warranties to intended third party beneficiaries; (11) violation of the Magnuson-Moss Warranty Act (15 U.S.C. §§ 2301, et seq.); (12) unfair trade practices (N.Y. Bus. Law § 349); and (13) false advertising (N.Y. Bus. Law § 350). ("FAC," Dkt. No. 88.) Of these, the first through fifth and tenth through thirteenth are brought against Naturex. (Id.)

According to the FAC, Plaintiffs purchased Labrada Garcinia Cambogia Dual Action Fat Buster and Labrada Green Coffee Bean Extract Fat Loss Optimizer (collectively, the "Labrada Products"), the latter of which contains Svetol Green Coffee Bean Extract, which is manufactured by Naturex.[1] (Id. ¶¶ 11–12.) Plaintiffs purchased the Labrada Products after watching episodes of *The Dr. Oz Show*, a television show, which referenced garcinia cambogia and green coffee bean extract or reading a fact sheet posted on Doctoroz.com which referenced green coffee bean extract. (Id. ¶¶ 111–25.) Plaintiffs believed the Labrada Products were safe and effective for weight and fat loss as advertised. (Id. ¶¶ 30–35.) Plaintiffs group Defendants into three categories: (1) Defendant Lee Labrada, Defendant Labrada Body Building Nutrition, Inc., Defendant Labrada Nutritional Systems, Inc., and the Labrada Joint Enterprise (collectively, the "Labrada Defendants"); (2) Defendant Dr. Mehmet Oz, M.D. ("Dr. Oz"), Defendant Entertainment Media Ventures, Inc. doing business as Oz Media, Defendant Zoco Productions, LLC, Defendant Harpo Productions, Inc., and Defendant Sony Pictures Television (collectively, "Media Defendants"); and (3) Defendant Naturex, Inc. and Defendant Interhealth Nutraceuticals, Inc. ("Supplier Defendants"). (Id. ¶¶ 36–66.) Plaintiffs allege all competent scientific studies conclude the active ingredients in the Labrada Products do not provide the touted weight loss benefits. (Id. ¶ 87.) Plaintiffs claim Defendants have misled consumers by stating or implying that the Labrada Products are backed by clinical studies; however, these studies are either irrelevant, unreliable, or conducted by Defendants themselves. (Id.) Plaintiffs allege Defendants made false claims and misrepresented the quality of the Labrada Products. (Id. ¶¶ 87–105.)

On June 15, 2018, Plaintiffs sought preliminary approval of a settlement with the Media Defendants. ("Media Defs MPA," Dkt. No. 241.) On September 26, 2019, the Court denied approval of the settlement with the Media Defendants because the named Plaintiffs had failed to demonstrate that they were typical of the settlement class members. ("Media Defs MPA Order," Dkt. No. 273 at 7–8.) Plaintiffs filed a notice of settlement with Naturex on January 23, 2019. (Dkt. No. 281.)

On February 2, 2016, Plaintiffs filed the MPA, and Naturex filed the MDGF. Plaintiffs attached the following documents to their MPA:

[1] Only products containing the green coffee bean extract made or sold by Naturex here ("Products") are at issue here. (See Settlement Agreement at 8–9, ¶ 2.1(T), (DD).)

- Memorandum ("MPA Memo," Dkt. No. 284-1);
- Declaration of Ronald A. Marron ("Marron Decl.," Dkt. No. 284-2);
- Exhibit 1: Joint Stipulation of Settlement ("Settlement Agreement," Dkt. No. 284-3 at 2–41[2]) and accompanying exhibits:
    - Exhibit A: Claim Form ("Claim Form" Dkt. No. 284-3 at 44–45);
    - Exhibit B: Long Form Notice (Dkt. No. 284-3 at 47–71);
    - Exhibit C: Short Form Notice (Dkt. No. 284-3 at 63–65);
    - Exhibit D: Proposed Preliminary Approval Order (Dkt. No. 284-3 at 67–75); and
    - Exhibit E: Notice Plan (Dkt. No. 284-3 at 77–85).
- Exhibit 2: Resumé of Retired Judge and Mediator Leo Papas ("Papas Resumé," Dkt. No. 284-4);
- Exhibit 3: Firm Resumé of Law Offices of Ronald A. Marron, APLC ("Marron Firm Resumé," Dkt. No. 284-5);
- Declaration of Timothy D. Cohelan ("Cohelan Decl.," Dkt. No. 284-6);
- Exhibit A: Firm Resumé of Cohelan Khoury & Singer ("Cohelan Firm Resumé," Dkt. No. 284-7); and
- Proposed Order (Dkt. No. 284-8).

Naturex attached the following documents to its MDGF:

- Memorandum ("MDGF Memo," Dkt. No. 283-1);
- Declaration of Stacy W. Harrison ("Harrison Decl.," Dkt. No 283-2); and
- Proposed Order (Dkt. No. 283-3).

At the March 18, 2019 hearing, the Court requested additional information from the Settling Parties regarding the contacts between California and the claims of out-of-state class members. On March 25, 2019, Plaintiffs filed a Supplemental Memorandum in support of their Motion. ("Supp. Memo," Dkt. No. 291.) The Supp. Memo was accompanied by the declaration of Gajan Retnasaba ("Retnasaba Decl.," Dkt. No. 291-1) and three exhibits:

- A copy of the 2010 Census Summary ("Census Summary," Dkt. No. 291-2);
- A copy of a press release from the U.S. Census Bureau ("Press Release," Dkt. No. 291-3);
- Copies of screenshots from the U.S. Centers for Disease Control and Prevention ("CDC") Behavioral Risk Factor Surveillance System ("BRFSS") ("CDC BRFSS," Dkt. No. 291-4).

[2] Here, because Dkt. No. 284-3 includes multiple documents with distinct pagination, the Court refers to the page numbers contained in the heading generated by the Electronic Case File ("ECF") system. Hereinafter, when citing documents within Dkt. No. 284-3, the Court will refer to the page numbers of the specific document.

Plaintiffs request that the Court take judicial notice of the three exhibits.[3] ("RJN," Dkt. No. 291-5.)

II. LEGAL STANDARD

Class action settlements must be approved by the Court. See Fed. R. Civ. P. 23(e). Court approval occurs in three steps, the first of which is a preliminary approval hearing. See Manual for Complex Litigation (Fourth) §§ 21.632 (2012). At the preliminary approval stage, the Court "must make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms." Id. "The settlement need only be *potentially* fair, as the Court will make a final determination of its adequacy at the hearing on Final Approval." Acosta v. Trans Union, LLC, 243 F.R.D. 377, 386 (C.D. Cal. 2007) (emphasis in original). A court considers the following factors to determine whether a settlement agreement is potentially fair: the strength of the plaintiff's case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement. Staton v. Boeing Co., 327 F.3d 938, 959 (9th Cir. 2003).

Approval of a class action settlement requires certification of a settlement class. La Fleur v. Med. Mgmt. Int'l, Inc., 2014 WL 2967475, at *2–3 (C.D. Cal. June 25, 2014) (internal quotation marks omitted). A court may certify a class if the plaintiff demonstrates that the class meets the requirements of Federal Rule of Civil Procedure 23(a) and at least one of the requirements of Rule 23(b). See Fed R. Civ. P. 23; see also Valentino v. Carter-Wallace, Inc., 97 F.3d 1227, 1234 (9th Cir. 1996).

Rule 23(a) contains four prerequisites to class certification: (1) the class must be so numerous that joinder is impracticable; (2) there must be questions of law or fact common to the class; (3) the claims of the class representative must be typical of the other class members; and (4) the representative parties must fairly and adequately protect the interests of the class. See Fed R. Civ. P. 23(a). Rule 23(b) requires that the class satisfy one of the following requirements: (1) prosecuting the claims of class members separately would create a risk of inconsistent or prejudicial outcomes; (2) the party opposing the class has acted or refused to act on ground that

[3] The Court GRANTS Plaintiffs' RJN because all three exhibits "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." See Fed. R. Evid. 201(b)(2); see also United States v. Esquivel, 88 F.3d 722, 727 (9th Cir. 1996) ("[C]ensus documents meet the requirements of Rule 201(b) . . . in that they are 'not subject to reasonable dispute' because they are 'capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.'"); Glenn v. B & R Plastics, Inc., 326 F. Supp. 3d 1044, 1068 n.7 (D. Idaho 2018) ("[I]t is proper to take judicial notice of information from a federal agency, such as the CDC, under Rule 201 of the Federal Rules of Evidence, as facts from a governmental agency that are not subject to reasonable dispute.").

apply generally to the class, so that final injunctive or declaratory relief benefitting the whole class is appropriate; or (3) common questions of law or fact predominate so that a class action is superior to another method of adjudication. Fed. R. Civ. P. 23(b).

Additionally, when the settlement involves the resolution of state law claims, the court also determines whether the settlement is made in good faith. In re Heritage Bond Litig., 2005 WL 1594403, at *3 (C.D. Cal. June 10, 2005). The California Supreme Court has outlined the following criteria for deciding whether a particular settlement is made in good faith pursuant to California Code of Civil procedure § 877.6: "a rough approximation of plaintiffs' total recovery, the settlor's proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable at trial." Tech-Bilt, Inc. v. Woodward-Cyde & Assoc., 38 Cal.3d 488, 499 (1985) (citations omitted).

III. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

Plaintiffs seek certification of the proposed settlement class for purposes of the Settlement Agreement. (MPA Memo at 16.) The Settling Parties define the class as follows: "All persons in the United States who purchased the Naturex Ingredient[4] or any Green Coffee Bean Extract Product[5] [("Product")] for personal or household use and not for resale, from February 2, 2012 until the date Notice is made to the Settlement Class Members." (Id. at 4.)

The Court first addresses the requirements of Rule 23(a) and then turns to the requirements of Rule 23(b).

A. Requirements of Rule 23(a)

Rule 23(a) requires the following: (1) the class must be so numerous that joinder is impracticable (numerosity); (2) there must be questions of law or fact common to the class (commonality); (3) the claims of the class representative must be typical of the other class members (typicality); and (4) the representative parties must fairly and adequately protect the interests of the class (adequacy). See Fed R. Civ. P. 23(a).

1. Numerosity

A class satisfies the prerequisite of numerosity if it is so large that joinder of all class members is impracticable. Hanlon v. Chrysler Corp., 150 F.3d 1011, 1019 (9th Cir. 1998). To be

[4] The Settling Parties define "Naturex Ingredient" as "the green coffee bean extract Svetol® made or sold by Naturex, whether or not it was sold under or using the Svetol® trademark." (Settlement Agreement ¶ 2.1(JJ).)

[5] The Settling Parties define "Green Coffee Bean Extract Product" as "any product containing the Naturex Ingredient, including but not limited to the Labrada Fat Loss Optimizer with Svetol® Green Coffee Bean Extract." (Settlement Agreement ¶ 2.1(DD).)

impracticable, joinder must be difficult or inconvenient, but need not be impossible. Keegan v. Am. Honda Motor Co., 284 F.R.D. 504, 522 (C.D. Cal. 2012). There is no numerical cutoff for sufficient numerosity. Id. However, 40 or more members will generally satisfy the numerosity requirement. Id. Here, the settlement class includes thousands of consumers who purchased the Products. (MPA Memo at 16–17.) Accordingly, the numerosity requirement is satisfied.

2. Commonality

The commonality requirement is satisfied when plaintiffs assert claims that "depend upon a common contention . . . capable of classwide resolution—which means that a determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338, 350 (2011). In the Ninth Circuit, "Rule 23(a)(2) has been construed permissively. . . . The existence of shared legal issues with divergent factual predicates is sufficient, as is a common core of salient facts coupled with disparate legal remedies within the class." Staton, 327 F.3d at 953.

In this case, Plaintiffs represent there are questions of law and fact common to the settlement class: the same facts give rise to the claims, particularly the alleged misrepresentation of the weight-loss benefits of supplements containing the green coffee bean extract Svetol. (MPA Memo at 17.) Further, Plaintiffs claim to bring their action under legal theories common to the Class as a whole. (Id.) The Court discusses in Part III.B below whether Plaintiffs can bring their action on behalf of a nationwide class under legal theories common to the Class as a whole. Regardless of the outcome of that analysis, commonality is satisfied because whether Naturex misrepresented the benefits of the ingredient is a question that is capable of classwide resolution.

3. Typicality

"The purpose of the typicality requirement is to assure that the interest of the named representative aligns with the interests of the class." Hanon v. Dataproducts Corp., 976 F.2d 497, 508 (9th Cir. 1992). "The test of typicality is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same course of conduct." Wolin v. Jaguar Land Rover No. Am., 617 F.3d 1168, 1175 (9th Cir. 2010) (quoting Hanon, 976 F.2d at 508). Because typicality is a permissive standard, the claims of the named plaintiff need not be identical to those of the other class members. Hanlon, 150 F.3d at 1020.

Here, Plaintiffs' claims are typical of the class because their claims arise out of the purchase of the Products after relying on Naturex's alleged representations. (MPA Memo at 18.) Moreover, the claims of the Plaintiffs are identical to those of the class members and are based on the same alleged course of conduct. (Id.) Plaintiffs further assert that the other class members have been injured in the same manner as the named Plaintiffs. (Id.)

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4. Adequacy

In determining whether a proposed class representative will adequately protect the interests of the class, the court should determine whether the proposed class representative and his counsel have any conflicts of interest with any class members and whether the proposed class representative and his counsel will prosecute the action vigorously on behalf of the class. Johnson v. General Mills, Inc., 275 F.R.D. 282, 288 (C.D. Cal. 2011).

Plaintiffs maintain the named Plaintiffs and Class Counsel have no conflicts of interest with the Class. (MPA Memo at 19.) Plaintiffs represent that they have advanced and will continue to advance the common interests of all members of the Class. (Id.) Further, Plaintiffs' counsel is experienced in class action and consumer fraud litigation. (Id. (citing Marron Decl. ¶¶ 17-35; Cohelan Decl., ¶¶ 2-9).) Thus, the adequacy requirement is satisfied.

B. Requirements of Rule 23(b)

"In addition to satisfying Rule 23(a)'s prerequisites, parties seeking class certification must show that the action is maintainable under Rule 23(b)(1), (2), or (3)." Amchem Prod., Inc. v. Windsor, 521 U.S. 591, 614 (1997). Here, Plaintiffs argue the Settlement Agreement satisfies the requirements of Rule 23(b)(3). (MPA Memo at 19.) Rule 23(b)(3) requires (1) issues common to the whole class to predominate over individual issues and (2) that a class action be a superior method of adjudication for the controversy. See Fed. R. Civ. P. 23(b)(3). As to predominance, the "inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." Hanlon, 150 F.3d at 1022 (quoting Amchem, 521 U.S. at 623). "[T]he examination must rest on 'legal or factual questions that qualify each class member's case as a genuine controversy, questions that preexist any settlement.'" Id. (same). A class should not be certified if the issues of the case require separate adjudication of each individual class member's claims. Id.

1. Predominance

Plaintiffs argue that common questions predominate over individual questions in this case. (MPA Memo at 20.) Specifically, they maintain common questions include: "(1) whether Naturex's representations regarding the green coffee bean extract Svetol® were false and misleading or reasonably likely to deceive consumers; (2) whether Naturex violated the CLRA, UCL, FAL and NY GBL §§ 349-350; (3) whether Naturex had defrauded Plaintiff and the Class Members; and (4) whether the Class has been injured by the wrongs complained of, and if so, whether Plaintiffs and the Class are entitled to damages, injunctive and/or other equitable relief, including restitution or disgorgement, and if so, the nature and amount of such relief." (Id.)

Plaintiffs appear to argue that the application of California law to a nationwide class does not pose a predominance problem. (See id. at 20.) To apply California law on a classwide basis, Plaintiffs must show "California has significant contact or significant aggregation of contacts to the claims of each class member." Mazza v. Am. Honda Motor Co., 666 F.3d 581, 589 (9th Cir.

2012). Under Mazza, if Plaintiffs make this showing, the burden then shifts to Defendants to demonstrate that foreign law, rather than California law, should apply. Id. In weighing the states' interests, the Court applies California's three-part choice-of-law analysis: (1) whether the relevant law of each of the potentially affected jurisdictions with regard to the particular issue in question is the same or different; (2) if there is a difference, the Court examines each jurisdiction's interest in the application of its own law under the circumstances of the particular case to determine whether a true conflict exists; and (3) if there is a true conflict, the Court evaluates and compares the nature and strength of the interest of each jurisdiction in the application of its own law to determine which state's interest would be more impaired if its policy were not applied, and then apply the law of the state whose interest would be more impaired. Id.

Plaintiffs assert that "[w]here, as here, Naturex's products were widely distributed and there are significant contacts with California residents, and where Naturex does not oppose California law applying to the nationwide class, a *Mazza* analysis is unnecessary because the interests of other states will not be impaired." (MPA Memo at 21.) They also note that "[t]he Ninth Circuit is currently reviewing, *en banc*, whether a *Mazza* choice of law analysis even applies in the context of a settlement class." (MPA Memo at 21 n. 7 (citing In re Hyundai & Kia Fuel Econ. Litig., 881 F.3d 679 (9th Cir. 2018); In re Hyundai and Kia Fuel Econ. Litig., 897 F.3d 1003 (9th Cir. 2018)).) Lacking such guidance from the Ninth Circuit, district courts considering unopposed motions for preliminary approval have found California law applicable to nationwide classes based upon only a showing of significant contact between California and the class members' claims. See Friedman v. Guthy-Renker, LLC, 2016 WL 6407362, at *5 (C.D. Cal. Oct. 28, 2016) ("Here, the Court finds that California has significant contact to the claims of each class member. . . . [W]ith no party opposing class certification to satisfy [the defendant's] burden [to show that foreign law should apply], the three-step government interest test cannot defeat the application of California law."); Kearney v. Hyundai Motor Am., 2012 WL 13049699, at *7 (C.D. Cal. Dec. 17, 2012) ("[Plaintiffs] [h]aving carried their burden, the burden shifts to the other side to demonstrate that foreign law, rather than California law, should apply to class claims. Defendant does not make any showing that a different jurisdiction's law should apply. Accordingly, California law will apply to the Class' claims.").[6]

[6] Moreover, the considerations driving the rest of the Mazza analysis are inapplicable here. In the settlement context, other states' interests would not be subverted to California law because the defendant opts into a regime that protects consumers more vigorously than other states. In fully litigated cases where defendants do not consent to consumer-friendly California law, Mazza firmly guards the interests of other states that may choose less rigorous consumer protection than California. Additionally, there is less reason for concern about the unfairness of applying California law to absent class members who might have received better results under their own states' laws. Here, the potential applicability of California's consumer protection law to the claims of the entire class likely resulted in a more favorable outcome than the absent class members might have received either litigating or settling their claims under the laws of the states in which they reside.

In their Supp. Memo, Plaintiffs assert it is likely that more class members reside in California than in any other state. (Supp. Memo at 2; see also Retnasaba Decl.) "This assessment is based U.S. Census data showing that California has both the largest absolute population and the largest population fitting the class member demographic profile; Facebook data showing California has the largest population matching the class member target audience; and CDC data showing th[at] California[ns] have a higher rate of health consciousness, suggesting higher usage of dietary supplement products, including those containing the Naturex ingredient." (Retnasaba Decl. ¶ 8; see also Census Summary; Press Release; CDC BRFSS.) In addition, Naturex is registered to do business in California and has a sales office in Costa Mesa, California. (FAC ¶¶ 60, 62.) Plaintiffs also argue that "Naturex has agreed that California's strong consumer protection laws should apply to the claims of the Nationwide Settlement Class and therefore no due process concerns are at issue." (Supp. Memo at 4.) Under these circumstances, the Court concludes that California "has a constitutionally sufficient aggregation of contacts" to the class members' claims. See Mazza, 666 F.3d at 590; Parkinson v. Hyundai Motor Am., 258 F.R.D. 580, 589, 598 (C.D. Cal. 2008) (finding sufficient contacts between California and the class members' claims where "defendant ha[d] a substantial presence in California" and "it [was] likely that more class members reside in California than any other state.").

2. Superiority

A class action must also be superior to other methods of adjudication for resolving the controversy. Fed. R. Civ. P. 23(b)(3). To determine superiority, a court's inquiry is guided by the following pertinent factors:

(A) the class members' interests in individually controlling the prosecution or defense of separate actions;
(B) the extent and nature of any litigation concerning the controversy already begun by or against class members;
(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
(D) the likely difficulties in managing a class action.

Fed. R. Civ. P. 23(b)(3)(A)-(D). However, "[confronted] with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial." Amchem, 521 U.S. at 620.

Here, class members may be unable to pursue individual claims due to the steep cost of litigation. (MPA Memo at 23.) Moreover, resolution of the common issues as a class promotes judicial economy and avoids the risk of inconsistent or contradictory judgments individualized litigation would entail. (Id.) Because the parties seek class certification for settlement purposes only, the Court ends its analysis here. Accordingly, the Court concludes the superiority requirement is also satisfied.

For the reasons above, the Court conditionally certifies the class.

IV. THE SETTLEMENT AGREEMENT

In January 2019, Plaintiffs and Naturex signed the Settlement Agreement.[7] (See Settlement Agreement at 36–37.) The Settlement Agreement resolves in full the class action lawsuit as to Naturex. (Id. at 1.) This agreement does not constitute any admission of liability or wrongdoing by Naturex, nor any concession that this lawsuit lacks merit by Plaintiffs. (Id. at 5, ¶ 1.14.) Nonetheless, Naturex agrees to pay $1,300,000 to resolve the claims against it. (Id. at 11, ¶ 2.1(II).) Additionally, Naturex agrees not to represent, or inform any third party, "that Svetol® will help users lose weight without diet and exercise" or "that Svetol® has weight loss benefits that are not supported by clinical studies." (Id. at 26, ¶ 2(a–c).) In return, Plaintiffs and settlement class members fully release Naturex from all claims that could have been raised in this lawsuit. (Id. at 9–11, ¶ 2.1(EE, FF).)

The Settlement Amount will be divided as follows. The Settlement Agreement allocates up to 33% of the Settlement Amount for an award of attorneys' fees. (Id. at 30, ¶ 8.1.) Additionally, Plaintiffs seek incentive awards in the amount of $5,000 for Plaintiffs Woodard and Morrison and $7,500 for Plaintiff Rizzo-Marino. (Id. at 30, ¶ 8.3.) Classaura, LLC ("Classaura") will serve as the claims administrator. (Id. at 7, ¶ 2.1(H).) Classaura shall be paid out of the settlement fund (id. at 12, ¶ 2.1(KK); id. at 27, ¶ 3(b)), but the exact terms of that payment have not been detailed.[8]

Class members who submit a claim with receipts that show purchase of a Product will receive $30 for each Product purchased. (Id. at 25, ¶ 1(a).) Class members who submit a claim without a receipt will receive $30 for each Product purchased, with a limit of $60 per household. (Id. at 25, ¶ 1(b).) The Settlement Amount is non-reversionary; if the fund is not exhausted, then the amount each claimant will receive will increase proportionally. (Id. at 26, ¶ 1(e)) Conversely, if the amount of eligible claims exceeds the amount of the settlement fund, then each individual award will be proportionately reduced. (Id.) To be eligible for monetary relief, the Settlement Class Member must timely submit a signed and completed claim form containing his or her name, mailing address, and email address within the specified time period. (Id. at 28, ¶ 6(a-b); Claim Form.)

To object to the Settlement Agreement, an individual must file an objection with the Court and serve on Class Counsel and Defense Counsel a written objection. (Id. at 18, ¶ 4.5.)

[7] On page 25 of the Settlement Agreement, the numbering of the paragraphs begins again at 1. As a result, there are multiples of certain paragraph numbers. For the sake of clarity, the Court refers to both the page number and paragraph number when citing the Settlement Agreement. When referring to portions of the Settlement Agreement that are not in numbered paragraphs, the Court refers only to the page number.

[8] For final approval, the Court instructs the Settling Parties to both prove the costs of administration as well as its fairness to justify deducting the amount from the settlement fund.

Objections must "be accompanied by any documentary or other evidence and any factual or legal arguments that the objecting Class Member intends to rely upon in making the objection." (Id. at 18, ¶ 4.5(b).) Class members who wish to be excluded from the Settlement Agreement must notify Classaura at least thirty days before the final fairness hearing. (Id. at 17, ¶¶ 4.3(n)(iii), 4.4.)

> The Settlement Agreement purports to release the following claims:
>
> [A]ll claims, known and unknown, against the Released Naturex Parties . . .[, which] include any and all claims, demands, rights, suits, liabilities, and causes of action of every nature and description whatsoever, known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, asserted in, arising out of, or in connection with any Green Coffee Bean Extract Product or the Naturex Ingredient or any of the matters alleged or that could have been alleged in the Action.

(Settlement Agreement at 9–10, ¶ 2.1, EE.) Each Settlement Class Member, and each of their heirs, spouses, guardians, executors, administrators, representatives, agents, attorneys, insurers, partners, successors, predecessors-in-interest, and assigns agree to release said claims. (Id. at 28, ¶ 7.1.) Naturex reserves the right to withdraw from the Settlement Agreement if requests for exclusion exceed 1,000. (Id. at 19, ¶ 4.5(d).)

V. PRELIMINARY APPROVAL OF THE SETTLEMENT

"[Rule 23] requires the district court to determine whether a proposed settlement is fundamentally fair, adequate, and reasonable." Hanlon, 150 F.3d at 1026. To determine whether a settlement agreement meets these standards, the court considers a number of factors, including "the strength of the plaintiff's case, the risk, expense, complexity, and likely duration of further litigation, the risk of maintaining class action status throughout trial, the amount offered in settlement, the extent of discovery completed, and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." Staton, 327 F.3d at 959 (internal citations omitted). The settlement may not be a product of collusion among the negotiating parties. In re Mego Fin, Corp. Sec. Litig., 213 F.3d 454, 458 (9th Cir. 2000) (citing Class Plaintiffs v. City of Seattle, 955 F.2d 1268, 1290 (9th Cir. 1992)).

"At the preliminary approval stage, some of the[] factors cannot be fully assessed. Accordingly, a full fairness analysis is unnecessary." Litty v. Merrill Lynch & Co., 2015 WL 4698475, *8 (C.D. Cal. Apr. 27, 2015). Rather, the court need only decide whether the settlement is potentially fair, Acosta, 243 F.R.D. at 386, in light of the strong judicial policy in favor of settlement of class actions. Class Plaintiffs, 955 F.2d at 1276. "[T]he court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and

that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." Hanlon, 15 F.3d at 1027.

A. Extent of Discovery Completed and Stage of the Proceedings

For a court to approve a proposed settlement, "[t]he parties must . . . have engaged in sufficient investigation of the facts to enable the court to intelligently make an appraisal of the settlement." Acosta, 243 F.R.D. at 396 (internal quotation marks omitted).

Plaintiffs assert that they engaged in substantial discovery:

> [A]ll Parties to this litigation have collectively produced approximately 30,000 pages of documents. Between the Parties, approximately 20 sets of formal written discovery were propounded and responded to and the Parties met and conferred extensively regarding discovery responses and document productions. Plaintiffs also served approximately twelve Non-Party subpoenas to produce documents to gather further information about the Products, sales and potential monetary gain by the Naturex.

(MPA Memo at 15 (citing Marron Decl. ¶¶ 3, 4).) Additionally, the Parties have taken several depositions. (Id.) Consequently, the Court finds that discovery is sufficiently advanced "to enable the court to intelligently make an appraisal of the settlement." See Acosta, 243 F.R.D. at 396.

B. Amount Offered in Settlement

In determining whether the amount offered in settlement is fair, a court compares the settlement amount to the parties' estimates of the maximum amount of damages recoverable in a successful litigation. In re Mego, 213 F.3d at 459. Here, the amount offered in settlement is $1,300,000. (MPA Memo at 13.) However, Plaintiffs do not provide an estimate of the maximum potential recovery. They maintain that the settlement amount is fair because it takes into account

> that (a) the efficacy of the Svetol ingredient produced by Naturex will be subject to an expensive and uncertain 'battle of the experts' in the Action; (b) Naturex is not responsible and therefore not liable for any other representations on any Product labels or otherwise; and (c) there are many manufacturers, distributors and retailers from whom to seek contribution and who contributed to the labeling on the Products.

(Id. at 13–14.) Moreover, they contend that the settlement amount is "well within the range of reason" because Naturex's sales of the Svetol ingredient totaled only $90,250. (Id. at 14.) Finally, Plaintiffs highlight that the settlement amount is non-reversionary. (Id.)

While Plaintiffs have identified several factors that justify a settlement amount well below their maximum recoverable damages, without the parties' estimates as to the amount of such damages, the Court cannot assess the adequacy of the settlement amount. Thus, this factor weighs neither in favor of nor against approval at this time. Plaintiffs are instructed to include estimates of the maximum potential liability in their final approval papers.

C. Strength of Case; Risk of Maintaining Class Action Status; and Risk, Expense, Complexity, and Likely Duration of Litigation

Plaintiffs acknowledge the risk of proceeding and continuing to litigate this matter. Particularly, they recognize the risks that they might be denied class certification, lose at summary judgment, or, if the class is certified, that it may later be decertified. (MPA Memo at 14.) The risk, expense, complexity, and likely duration of further litigation weigh in favor of preliminary approval. Without the Settlement Agreement, the parties would be required to litigate class certification, as well as the ultimate merits of the case—a process which the Court acknowledges is long, complex, and expensive. Settlement of this matter will conserve the resources of this Court and the parties.

The strength of the case also weighs in favor of settlement approval. Plaintiffs emphasize the difficult hurdles they would need to overcome in order to win on the merits of their case. For example, they would need to prove that Naturex was responsible for misleading representations and that the ingredient in question was actually ineffective, an inquiry that "would like[ly] devolve into an expensive and uncertain 'battle of experts.'" (Id. at 12.) Plaintiffs also point out the difficulty they would face in establishing damages against Naturex. (Id. at 12–13.)

While Plaintiffs note the risk of decertification, they provide no reason why there might be an elevated risk of de-certification in this case. Thus, this factor is neutral.

D. Experience and Views of Counsel

"Great weight is accorded to the recommendation of counsel, who are most closely acquainted with the facts of the underlying litigation." Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc., 221 F.R.D. 523, 528 (C.D. Cal. 2004) (internal citation and quotation marks omitted). Plaintiffs' counsel has extensive experience litigating consumer class action cases. (See generally, Marron Decl., ¶¶ 17-35; Marron Firm Resumé; Cohelan Decl. ¶ 3, Cohelan Firm Resumé.) Counsel submits that "the Settlement provides exceptional results for the class while sparing the class from the uncertainties of continued and protracted litigation." (MPA Memo at 16.) This factor therefore weighs in favor of preliminary approval.

E. Collusion Between the Parties

"To determine whether there has been any collusion between the parties, courts must evaluate whether 'fees and relief provisions clearly suggest the possibility that class interests gave way to self interests,' thereby raising the possibility that the settlement agreement is the result of

overt misconduct by the negotiators or improper incentives for certain class members at the expense of others." Litty, 2015 WL 4698475, at *10 (quoting Staton, 327 F.3d at 961).

As an initial matter, the Court notes that settlement negotiations were conducted at arms-length. The parties engaged in two mediation sessions before a neutral mediator. (MPA Memo at 2, 3; Marron Decl. ¶ 9; see also Papas Resumé.) The use of a mediator experienced in the settlement process tends to establish that the settlement process was not collusive. See, e.g., Satchell v. Fed Ex. Corp., No C 03-2659 SI, 2007 WL 1114010, at *4 (N.D. Cal. Apr. 13, 2007). The Court thus turns to the financial terms of the Settlement Agreement.

Plaintiffs request a service award of up to $5,000 for Plaintiffs Woodard and Morrison and up to $7,500 for Plaintiff Rizzo-Marino. (MPA Memo at 9.) A court may grant a modest incentive award to class representatives, both as an inducement to participate in the suit and as compensation for the time spent in litigation activities. See In re Mego Fin. Corp., 213 F.3d at 463 (finding the district court did not abuse its discretion in awarding an incentive award to the class representatives). Plaintiffs argue that an award of $5,000 is presumptively reasonable. (MPA Memo at 9 (citing Bellinghausen v. Tractor Supply Co., 306 F.R.D. 245, 266 (N.D. Cal. 2015); Wren v. RGIS Inventory Specialists, 2011 WL 1230826, at *36 (N.D. Cal. Apr. 1, 2011).) They request an additional $2,500 for Plaintiff Rizzo-Marino because she had to appear for depositions on two different dates. (Id.; Marron Decl. ¶ 7.) Though Plaintiffs provide little information to justify the requested incentive awards, the amounts requested do not "clearly suggest the settlement agreement is the result of overt misconduct[.]" See Litty, 2015 WL 4698475, at *10. The Court instructs Plaintiffs, when they move for final approval, to provide declarations from each of the named Plaintiffs attesting to the efforts they undertook in furtherance of the litigation.

Though the Settlement Agreement allows Plaintiffs' counsel to seek up to 33.33% of the settlement amount in attorneys' fees, Plaintiffs indicate that their counsel intends to request only 25% of the common fund. (MPA Memo at 9.) Generally, courts find that a benchmark of 25% of the common fund is a reasonable fee award. Hanlon, 150 F.3d at 1029 ("This circuit has established 25% of the common fund as a benchmark award for attorney fees."); Paul, Johnson, Alston & Hunt v. Graulty, 866 F.3d 258, 272 (9th Cir. 1989) (the 25% benchmark can be adjusted in either direction "to account for any unusual circumstances[,]" but the justification for adjustment must be apparent); Monterrubio v. Best Buy Stores, L.P., 291 F.R.D. 443, 455 (E.D. Cal. 2013) (citing Six (6) Mexican Workers v. Arizona Citrus Growers, 904 F.2d 1301, 1311 (9th Cir. 1990)) ("In applying this method, courts typically set a benchmark of 25% of the fund as a reasonable fee award, and justify any increase or decrease from this amount based on circumstances in the record."). The Court therefore concludes that the amount requested does not raise any concerns regarding collusion. Plaintiffs must provide documentation and legal argument to support the reasonableness of their fee request at the time they move for final approval.

Plaintiffs also indicate that their counsel intend to request 25% of their litigation costs, which they submit is reasonable considering that this settlement is with one of four main groups

of Defendants. (MPA Memo at 10.) As with their attorneys' fees request, Plaintiffs must provide documentation and legal argument in support of the reasonableness of their cost request at the time they move for final approval. At this stage, the requested fees, costs, and awards raise no concerns about collusion. Moreover, Naturex asserts that "[t]here was no collusion, fraud, or tortious conduct involved" in the settlement. (MGDF at 8.) Accordingly, this factor weighs in favor of approval.

VI. NOTICE TO THE CLASS

Rule 23(c)(2)(B) requires the Court to "direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). Similarly, Rule 23(e)(1) requires that a proposed settlement may only be approved after notice is directed in a reasonable manner to all class members who would be bound by the settlement agreement. Fed. R. Civ. P. 23(e)(1). Notice must be "timely, accurate, and informative." See Hoffmann-La Roche Inc. v. Sperling, 493 U.S. 165, 172 (1989); Churchill Village, LLC v. Gen. Elec., 361 F.3d 566 (9th Cir. 2004) ("Notice is satisfactory if it 'generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.'").

When class members' addresses are unknown, notice by publication may be reasonable. See In re Toys R Us-Delaware, Inc.--Fair & Accurate Credit Transactions Act (FACTA) Litig., 295 F.R.D. 438, 449 (C.D. Cal. 2014) ("When the court certifies a nationwide class of persons whose addresses are unknown, notice by publication is reasonable."); In re Valdez, 289 Fed. App'x. 204, 205-06 (9th Cir. 2008) (citation omitted) ("[I]nstead of requiring individual notice to all class members who can be identified through reasonable effort, [R]ule 23(d)(2) provides only that notice be given 'in a manner as the court may direct.' The sufficiency of such notice is measured 'against the broader standards of due process.' . . . Newby has not shown that the district court's order, which required publication of the claims filing deadline in local newspapers for three consecutive weeks, violated due process."); In re Wal–Mart Stores, Inc. Wage & Hour Litig., 2008 WL 1990806, *2 (N.D. Cal. May 5, 2008) ("[N]otice by publication is only used when the identity and location of class members cannot be determined through reasonable efforts."); In re Tableware Antitrust Litigation, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007) ("Because defendants do not have a list of potential class members, the court agrees with plaintiffs that notice by publication is the only reasonable method of informing class members of the pending class action and the Lenox settlement").

The Court finds notice by publication appropriate here because there are no centralized records of the names and contact information of all individuals who purchased the Products. The Court next considers whether the proposed components of notice amount to the best notice practicable. Plaintiffs maintain that "[t]he Notices[9] accurately inform Class Members of the

[9] Though not mentioned in the Settlement Agreement itself, the attachments to the Settlement Agreement include a Long Form Notice and a Short Form Notice. The Long Form

salient terms of the Settlement, the Class to be certified, the final approval hearing and the rights of all parties, including the rights to file objections and to opt out of the class." (MPA Memo at 24.) They argue that the notice plan, which is intended to reach at least 52% of class members, "amply satisf[ies] the requirements of due process." (Id. at 24–25.)

The Settlement Agreement provides for three forms of notice: Print Publication Notice, Settlement Website, and Toll-Free Interactive Voice Response ("IVR"). (Settlement Agreement at 21, ¶ 5.5.) The Print Publication Notice will be published according to the Notice Plan. (Id. at 21, ¶ 5.5(a).) In the Notice Plan, a Classaura representative recommends publication in *Prevention Magazine*, "a national magazine with circulation of approximately 1,800,000 and an audience of approximately 5,300,000" that "often focuses on topics related to supplements and weight loss." (Notice Plan ¶ 14.) The Notice Plan provides that the publication notice will direct readers how to request a mailed copy of the Long Form Notice or claim form. (Id. ¶ 16.) The Classaura representative estimates that publication in *Prevention Magazine* will reach 1.4 million people in the target audience. (Id. ¶ 14) The Court is skeptical of this estimate, which is based on the assumption that 27% of *Prevention* readers have used the green coffee bean supplement because that percentage of all weight loss supplement users have used supplements with the Naturex ingredient. (See id.) The Court sees no reason to assume that all *Prevention* readers use weight loss supplements. Nonetheless, the Court finds publication in *Prevention*, along with the other forms of notice proposed, is likely to reach a large number of class members.

The Settlement Agreement also provides for a Settlement Website. (Settlement Agreement at 21, ¶ 5.5(b); Notice Plan ¶¶ 11–13.) The Long Form Notice, Short Form Notice, Settlement Agreement, and Preliminary Approval Order will be posted on a website, which the Settlement Administrator will maintain. (Settlement Agreement at 21, ¶ 5.5(b); MPA Memo at 24.) The website will also contain an online claim form, a list of deadlines, and forms for requesting exclusion or objecting. (Id.) The third form of notice for which the Settlement Agreement provides is a toll-free IVR phone number, which Classaura will establish by the notice deadline. (Id. at 21, ¶ 5.5(c).) The IVR will have recordings of a range of information about the settlement. (Id.)

The MPA Memo and Notice Plan discuss two additional forms of notice: Online Notice and a Press Release. (MPA Memo at 6; Notice Plan ¶¶ 17–25.) In the Notice Plan, the Classaura representative recommends publication of a press release containing information about the settlement and the Settlement Website on PR Newswire. (Notice Plan ¶ 17.) PR Newswire is a

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Notice includes basic information about the lawsuit and settlement, who is covered by the settlement, instructions on how to submit a claim form, information regarding class members' rights, information on exclusions and objections, and information on the fairness hearing, and how to get more information. (Long Form Notice.) The Short Form Notice contains shorter descriptions of who is included in the class, what benefits class members could receive, class members' rights, the objection and exclusion processes, the fairness hearing, and further information. (Short Form Notice.)

national press release service used by journalists as a news source. (Id.) The Classaura representative also recommends that ads providing notice of the settlement be published on Facebook. (Id. ¶ 21.) He proposes the ads be targeted to users over the age of eighteen in the United States with an interest in weight loss or stores known to have sold Products containing Svetol. (Id. ¶¶ 20–21.) The Classaura representative estimates that publishing the notice 30 million times will reach approximately 2.4 million users of supplements containing the green coffee bean extract. (Id. ¶ 22.) This estimate is also based on the assumption that 27% of the targeted users have used a Product during the class period. (Id.) Again, the Court is skeptical of the Classaura representative's estimate. Nonetheless, the Court finds that targeted Facebook ads are likely one of the most effective methods of reaching class members under the circumstances of this case. Consequently, the Court finds the proposed notice to be "the best notice that is practicable under the circumstances[.]" Fed. R. Civ. P. 23(c)(2)(B).

VII. Class Action Fairness Act ("CAFA")

When settlement is reached in certain class action cases, CAFA requires as follows:

> Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve [notice of the proposed settlement] upon the appropriate State official of each State in which a class member resides and the appropriate Federal official. . . .

28 U.S.C. § 1715(b). The statute provides detailed requirements for the contents of such a notice. Id. A court is precluded from granting final approval of a class action settlement until the notice requirement is met:

> An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under [28 U.S.C. § 1715(b)].

28 U.S.C. § 1715(d).

In their FAC, Plaintiffs assert the Court has jurisdiction pursuant to CAFA. (FAC ¶ 2.) The Settlement Agreement provides that the Claims Administrator, within ten days of the filing of the MPA, will cause notice to be served on the U.S. Attorney General and the attorneys general of each state in which a class member resides. (Settlement Agreement at 20, ¶ 5.4.) The Settling Parties are instructed to include information showing that they have complied with CAFA's notice requirements in their final approval papers.

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VIII. GOOD FAITH

Additionally, when the settlement involves the resolution of state law claims, the court also determines whether the settlement is made in good faith. In re Heritage Bond Litig., 2005 WL 1594403, at *3 (C.D. Cal. June 10, 2005). The California Supreme Court has outlined the following criteria for deciding whether a particular settlement is made in good faith pursuant to California Code of Civil procedure § 877.6: "a rough approximation of plaintiffs' total recovery, the settlor's proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable at trial." Tech-Bilt, Inc. v. Woodward-Cyde & Assoc., 38 Cal. 3d 488, 499 (1985) (citations omitted). "A determination by the court that a settlement was made in good faith shall bar any other joint tortfeasor or co-obligor from any further claims against the settling tortfeasor or co-obligor for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault." Cal. Civ. Proc. Code § 877.6(c). A party challenging the good faith of the proposed settlement must prove the settlement was entered into in bad faith. Id. § 877.6(d).

The Court need not engage in an additional, separate fairness analysis regarding California's "good faith settlement" provision pursuant to California Code of Civil Procedure § 877.6, as the Court has discussed many of the considerations above in its Rule 23(e) analysis. Heritage Bonds, 2005 WL 1594403, at *12. The Court turns to the remaining factors: "a rough approximation of plaintiffs' total recovery, the settlor's proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable after a trial." Tech–Bilt, Inc., 38 Cal.3d at 499 (citations omitted). In determining the total recovery, courts must consider the amount plaintiffs could actually recover. Id. at 501.

Here, Naturex presents a number of factors that minimize or eliminate its potential liability, including that Naturex is not responsible for representations made by manufacturers that incorporate the ingredient into their products or by distributors and retailers. (MDFG at 6–7.) Naturex also highlights that the total sales of the ingredient were only $90,250. (Id. at 7.) "[A] good faith settlement does not call for perfect or even nearly perfect apportionment of liability. All that is necessary is that there be a rough approximation between a settling tortfeasor's offer of settlement and his proportionate liability." N. Cty. Contractor's Ass'n v. Touchstone Ins. Servs., 27 Cal. App. 4th 1085, 1090-91 (1994) (citations and internal quotation marks omitted). However, Naturex provides no estimate, even a rough one, of Plaintiffs' total potential recovery. Naturex is instructed to provide, in advance of the final fairness hearing, information allowing the Court to assess "a rough approximation of plaintiffs' total recovery" and "the settlor's proportionate liability." See Tech-Bilt, 38 Cal. 3d at 499.

After careful review of the Settlement Agreement and upon consideration of the benefit to the class, the risks associated with pursuing the case against Naturex to judgment, and the absence of any objection, the Court concludes the Settlement Agreement is fair, reasonable, and

adequate, satisfying the criteria for Rule 23(e) and California Code of Civil Procedure Section 877.6. Accordingly, the Court GRANTS the MPA and the MDGF.

IX. CONCLUSION

For the foregoing reasons, the Court GRANTS Plaintiffs' Motion for Preliminary Approval. The Court also GRANTS Defendants' Motion for Determination of Good Faith Settlement. The Court ORDERS as follows:

1. The Settlement Agreement is preliminarily approved as fair, reasonable, and adequate for members of the settlement class.

2. The following settlement class is certified for settlement purpose only:

   All persons in the United States who purchased the Naturex Ingredient or any Green Coffee Bean Extract Product for personal or household use and not for resale, from February 2, 2012 until the date Notice is made to the Settlement Class Members.

3. The Law Offices of Ronald A. Marron, APLC and the law firm of Cohelan, Khoury and Singer are appointed as class counsel for purposes of settlement only.

4. Named Plaintiffs Veda Woodard, Teresa Rizzo-Marino, and Diane Morrison are qualified to act as representatives of the settlement class and are preliminarily appointed as class representatives.

5. Classaura, Inc. is appointed as the settlement administrator.

6. The Court approves the methods for giving notice of the settlement to the members of the Settlement Class, as reflected in the Settlement Agreement and attached documents and as proposed in Plaintiffs' motion for preliminary approval. The Court finds that the notice procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy the requirements of Federal Rule of Civil Procedure 23(c)(2), Federal Rule of Civil Procedure 23(e)(1), and due process.

7. Classaura, Inc. is directed to publish all notices required by **Friday, May 17, 2019.**

8. Class members will have until **Friday, August 30, 2019** to file a claim, opt-out, or file an objection to the Settlement Agreement.

9. The final approval hearing will be scheduled for **Monday, October 7, 2019** at 9:00 a.m. in Courtroom 1 of the United States District Court for the Central District of California, Eastern Division located at 3470 12th Street, Riverside, California 92501.

10. Parties must file papers supporting final approval, applying for attorneys' fees, and responding to objections by **Monday, September 9, 2019**.

IT IS SO ORDERED.