

<p>FILED CLERK, U.S. DISTRICT COURT</p> <div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 80%;"> <p style="text-align: center;">MAY 13, 2014</p> </div> <p style="text-align: center;">CENTRAL DISTRICT OF CALIFORNIA</p> <p>BY: _____ PMC _____ DEPUTY</p>

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 OF AMERICA, INC.

15 **UNITED STATES DISTRICT COURT**
 16 **CENTRAL DISTRICT OF CALIFORNIA**

17 SEAN PAGEL, an individual, for
 18 himself and those similarly situated,

19 Plaintiffs,

20 vs.

21 DAIRY FARMERS OF AMERICA,
 22 INC., a Kansas corporation; and DOES 1
 23 through 100, inclusive,

24 Defendants.

CASE NO: 2:13-cv-02382-SVW (VBK)

[Assigned to Hon. Stephen V. Wilson]

CLASS ACTION

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

Hearing:

DATE: April 28, 2014

TIME: 1:30 p.m.

PLACE: Courtroom 6 – 2nd Floor
 312 North Spring Street
 Los Angeles, CA 90012

1 The Court has received the Joint Stipulation re: Class Action Settlement and
2 Release (hereinafter sometimes referred to as the “Settlement” or “Agreement”),
3 entered into between Plaintiff and Class Representative Sean Pagel (“Plaintiff”), on
4 behalf of the Class, on the one hand, and Defendant Dairy Farmers of America, Inc.
5 (“DFA”), on the other hand, and their respective counsel of record.

6 After reviewing the Agreement and other documents filed in support of the
7 Motion for Preliminary Approval of Class Action Settlement, along with the
8 supplemental briefing provided by Plaintiff regarding the attorneys’ fees requested
9 pursuant to the settlement, and having considered the arguments by the respective
10 parties, THE COURT HEREBY ORDERS THE FOLLOWING:

11 **ORDERS**

12 1. The Court hereby grants preliminary approval of the proposed Settlement
13 upon the terms and conditions set forth in the Agreement. The Court preliminarily finds
14 that the terms of the proposed Settlement are fair, adequate and reasonable, and that
15 they comply with Rule 23(e) of the Federal Rules of Civil Procedure (“FRCP”). The
16 Court hereby adopts and incorporates by this reference the recitals, terms and conditions
17 of the Settlement.

18 2. The Court preliminarily finds that the Settlement is the product of serious,
19 informed, non-collusive negotiations conducted at arm’s-length by the Parties. In
20 making these preliminary findings, the Court considered, among other factors, the
21 potential damages claimed in the lawsuit on behalf of Plaintiffs and members of the
22 Settlement Class, Defendant’s potential liability, the risks of continued litigation
23 including trial outcome, delay and potential appeals, the substantial benefits available to
24 the Settlement Class as a result of the Settlement, and the fact that the proposed
25 Settlement represents a compromise of the Parties’ respective positions rather than the
26 result of a finding of liability at trial. The Court further preliminarily finds that the
27 terms of the Settlement have no obvious deficiencies and do not improperly grant
28 preferential treatment to any individual member of the Settlement Class.

1 3. The Court approves the proposed manner of the notice of Settlement set
2 forth in the Agreement. The Court also approves the size and contents of the Notice of
3 Proposed Class Action Settlement, Claim Form and Opt-Out Form attached to the
4 parties' Stipulation of Settlement as Exhibits A - C (CM/ECF Doc. No. 47-1, pp. 1-17)

5 4. The Court finds that the proposed manner of the notice of Settlement set
6 forth in the Agreement (and the Notice of Proposed Class Action Settlement and Claim
7 Form referenced therein and which the Court approves of, as set forth in paragraph 3,
8 above) constitutes the best notice practicable under the circumstances and is in full
9 compliance with the United States Constitution and the requirements of due process.
10 The Court further finds that the notice fully and accurately informs Settlement Class
11 Members of all material elements of the lawsuit and proposed class action Settlement,
12 of each member's right to be excluded from the Settlement, and each member's right
13 and opportunity to object to the proposed class action Settlement and be heard at the
14 final approval (fairness) hearing.

15 5. The proposed plan for locating the Class Members, and for mailing the
16 Notice of Proposed Class Action Settlement and Claim Form by first-class mail to the
17 Class Members' last-known address is an appropriate method, reasonably designed to
18 find and reach all individuals who would be bound by the Settlement. There is no
19 alternative method of finding Class Members and distributing the notice that would be
20 more practicable, and any more reasonably likely to notify the Class Members. The
21 proposed Notice of Proposed Class Action Settlement and the notice plan in the
22 Settlement are the best practicable notice under the facts and circumstances of this case.

23 6. The proposed Claim Form allows Class Members a full and fair
24 opportunity to submit a claim for proceeds under the Settlement. The Notice of
25 Proposed Class Action Settlement and Claim Form fairly, accurately, and reasonably
26 inform Class Members that the failure to complete and submit a Claim Form, in the
27 manner and time specified, will constitute a waiver of any right to obtain any share of
28 the proceeds under the Settlement.

1 7. The Notice of Proposed Class Action Settlement and Claim Form are
2 approved.

3 8. The Parties are ordered to carry out the Settlement according to the terms
4 of the Settlement Agreement.

5 9. The Court appoints CPT Group, Inc. (“CPT”) as the Claims Administrator.
6 Promptly following entry of this order, CPT will prepare a final version of the Notice of
7 Proposed Class Action Settlement and Claim Form, incorporating into it the relevant
8 dates and deadlines set forth in this Order and the Settlement Agreement and will
9 commence the notice process in accordance with the scheduling order set forth below.

10 10. The deadlines for filing requests for exclusion, objections to the
11 Settlement, and Claim Forms shall be in conformity with the Settlement Agreement and
12 the scheduling order set forth below.

13 11. Class Members will have until 60 calendar days after the date CPT first
14 mails the Notice of Proposed Class Action Settlement and Claim Form, to exclude
15 themselves from the Settlement (the “Exclusion Deadline”). Class Members may opt
16 out by timely sending a written request to CPT postmarked no later than the Exclusion
17 Deadline. The request for exclusion must include the Class Member’s name, current
18 contact information and affirmatively state that the Class Member does not want to be
19 covered by the Settlement. Class Members who timely submit a request for exclusion:
20 (a) will not participate in or be bound by the terms of the Settlement; and (b) will not
21 have any right to object to the terms of the Settlement, or to be heard at the final
22 approval hearing before the Court.

23 12. Any Class Member who desires to object to the Settlement must file with
24 the Court and serve on CPT, Class Counsel, and counsel for DFA, not later than sixty
25 (60) calendar days after the date that CPT first mails the Class Notice (“Objection
26 Deadline”), a written statement objecting to the Settlement and setting forth the grounds
27 for the objection. The written statement of objection must indicate whether the Class
28 Member intends to appear and object to the Settlement at the Final Approval Hearing,

1 and the failure to so indicate will constitute a waiver of the right to appear at the Final
2 Approval Hearing. A Class Member who does not file and timely serve an objection in
3 the manner and by the Objection Deadline specified above will be deemed to have
4 waived all objections and will be foreclosed from making any objections to the
5 Settlement, whether by appeal or otherwise. Non-Participating Class Members (i.e.,
6 individuals validly seeking exclusion from the Settlement) may not object to the
7 Settlement

8 13. Class Counsel’s motion for final approval of the settlement, including the
9 award of attorneys’ fees and costs, and the Class Representatives’ motion for a service
10 enhancement, shall be filed no later than 28 calendar days before the final approval (i.e.
11 “final fairness”) hearing.

12 14. The Court will hold a final approval hearing on:

- 13 a. September 22, 2014, at 1:30 p.m. in Courtroom 6, [OR]
- 14 ~~b. the Monday which comes 18 weeks after issuance of this Preliminary~~
15 ~~Approval Order, or _____ [whichever is later],~~
16 ~~to consider the fairness, reasonableness and adequacy of the proposed Settlement as~~
17 ~~well as the award of attorney’s fees and costs to Class Counsel and incentive (service)~~
18 ~~awards to the Class Representatives. The Court reserves the right to adjourn or~~
19 ~~continue the final approval (fairness) hearing without further notice to the Settlement~~
20 ~~Class members.~~

21
22 **IT IS SO ORDERED.**



23
24 Dated: May 13, 2014

25 Hon. Stephen V. Wilson
26 United States District Judge
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