

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 01/04/2019

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Andrea Taylor

REPORTER/ERM: Kasey Mobley CSR# 13407

BAILIFF/COURT ATTENDANT: R. Camberos

CASE NO: **37-2017-00037524-CU-BT-CTL** CASE INIT.DATE: 10/06/2017

CASE TITLE: **Beck vs Point Loma Patients Consumer Cooperative Corporation [E-File]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Business Tort

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**EVENT TYPE:** Motion Hearing (Civil)

MOVING PARTY: Karl Beck

CAUSAL DOCUMENT/DATE FILED: Motion - Other Motion for Preliminary Approval of Class Action Settlement, 12/05/2018

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**APPEARANCES**

William R Restis, counsel, present for Plaintiff(s).

Matthew B Dart, counsel, present for Defendant(s).

Tamara Leetham, specially appearing for counsel Gina M Austin, present for Defendant(s).

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The Court hears oral argument and confirms as modified the tentative ruling as follows:The Court hears oral argument and the tentative ruling as follows:

The Motion (ROA # 192) of Plaintiff and proposed Class Representative Karl Beck ("Plaintiff" or "Beck") for an order, pursuant to California Code of Civil Procedure 382, and California Rules of Court 3.766 and 3.769, (1) preliminarily approving the Class Action Settlement between Plaintiff and Defendants Point Loma Patients Consumer Cooperative Corporation ("PLPCC"), 419 Consulting Inc., Golden State Greens LLC, Far West Management, LLC, Far West Operating, LLC, Far West Staffing, LLC, Adam Knopf and Justus Henkes, IV (collectively "Defendants") by finding the Settlement to be fair, adequate, and reasonable to the Class Members, free of collusion or indicia of unfairness, and within the range of possible judicial approval; (2) conditionally certifying for purposes of, and solely in connection with, the Settlement, the Class Members comprised of: "All individuals that purchased a product from Point Loma Patients Consumer Cooperative prior to December 31, 2017, except (i) any Defendant in this Action; (ii) Beck's attorneys and litigation staff, including members of their immediate families; or (iii) any judge, justice judicial officer, or judicial staff of the Court." (3) appointing and designating Plaintiff Karl Beck as Class Representative for the Class Members; (4) appointing and designating William R. Restis of The Restis Law Firm, P.C. as Class Counsel for the Class Members; (5) approving, as to form and content, the proposed Class Notice, attached as Exhibits B (Short-Form Notice) and A (Long-Form Notice) to the Settlement Agreement, the individual direct notice plan, and the form and content of the Settlement Website; (6) appointing and designating The Notice Company, Inc. as the Class Notice and Settlement Administrator; and (7)scheduling a Final Approval Hearing, is DENIED, without prejudice.

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The proposed settlement, as characterized, is reversionary in nature. See, for example, page 1 of Plaintiffs' Memorandum ("If approved, the Settlement<sup>1</sup> will create a common fund of \$630,000 that can be redeemed for free or discounted products at the PLPCC, as well as pay for notice costs and any incentive fee (if awarded) to Plaintiff Beck as Class Representative. See Declaration of William R. Restis ISO Motion for Preliminary Approval ("Restis Decl"), Ex. 1 (the "Settlement Agreement") at § 3. Class members are not required to fill out any claim form; their "Patronage Distribution Credits" will become automatically available upon final approval. **The credits will be redeemable by the Settlement Class for 18 months following final approval, after which they revert back to the PLPCC's general fund to be used "for the general welfare" of PLPCC members consistent with the Corporations Code.**") Emphasis added by the Court.

The reversionary nature renders the proposed settlement illusory and, as a result is not fair, adequate, and reasonable to the Class Members.

(Clerk's note: Tentative modified to without prejudice.)

Counsel orally stipulate to continue trial and related dates.

All Motions and Discovery are to be completed 5/10/19. Motion for Summary Judgment / Summary Adjudication will be heard pursuant to code.

Civil Jury Trial is continued pursuant to party's motion to 06/07/2019 at 08:30AM before Judge Joel R. Wohlfeil.

Trial Readiness Conference (Civil) is continued pursuant to party's motion to 05/24/2019 at 10:45AM before Judge Joel R. Wohlfeil.

Plaintiff to give notice.