



**BENJAMIN CAREATHERS, Plaintiff, v. RED BULL NORTH AMERICA, INC.,
Defendant. DAVID WOLF, et al., Plaintiff, v. RED BULL GMBH, et al., Defendant.**

13 Civ. 0369 (KPF), CLASS ACTION 13 Civ. 8008 (KPF)

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK**

2015 U.S. Dist. LEXIS 97533

**May 12, 2015, Decided
May 12, 2015, Filed**

COUNSEL: [*1] For David Wolf, individually and on behalf of others similarly situated, Miguel Almaraz, individually and on behalf of others similarly situated, Plaintiffs (1:13cv8008): David S. Ratner, LEAD ATTORNEY, Morelli Alters Ratner, LLP, New York, NY USA; Justin Benjamin Farar, LEAD ATTORNEY, PRO HAC VICE, Kaplan Fox and Kilsheimer LLP, Los Angeles, CA USA; Laurence David King, LEAD ATTORNEY, Kaplan Fox & Kilsheimer LLP, San Francisco, CA USA; Linda M Fong, LEAD ATTORNEY, PRO HAC VICE,, Kaplan Fox & Kilsheimer LLP, San Francisco, CA USA; Melinda D. Campbell, LEAD ATTORNEY, Kaplan Fox & Kilsheimer LLP (NYC), New York, NY USA.

For Red Bull Gmbh, a foreign company, Red Bull North America Inc, a California corporation, Red Bull Distribution Company Inc, a Delaware corporation, Defendants (1:13cv8008): Jason D Russell, LEAD ATTORNEY, Skadden Arps Slate Meagher and Flom LLP, Los Angeles, CA USA; Hillary Anne Hamilton, Skadden, Arps, Slate, Meagher & Flom, LLP (Los Angeles), Los Angeles, CA USA.

For Mr. Theodore H Frank, Objector (1:13cv8008): Erin Leigh Sheley, Center For Class Action Fairness, Washington, DC USA.

For Paul J Lopez, Objector (1:13cv8008): David Stein, LEAD ATTORNEY, Samuel & Stein, [*2] New York, NY USA.

Christopher Andrews, Objector (1:13cv8008), Pro se, Livonia, MI USA.

Dave Mager, Objector (1:13cv8008), Pro se.

Michael Narkin, Objector (1:13cv8008), Pro se, Eugene, OR USA.

Lawrence Montecalvo, Objector (1:13cv8008), Pro se, Boulder, CO USA.

Jonathan Corbett, Objector (1:13cv8008), Pro se, Miami, FL USA.

Barry Waterman, Objector (1:13cv8008), Pro se, Centerville, MD USA.

For Benjamin Careathers, individually, and on behalf of all others similarly situated, Plaintiff (1:13cv369): Adam Eric Deutsch, Morelli Alters Ratner, P.C., New York, NY, USA; Benedict P. Morelli, Morelli Ratner PC, New York, NY, USA; David S. Ratner, Morelli Alters Ratner, LLP, New York, NY, USA; Jeremy W. Alters, Matthew Moore, Morelli Alters Ratner, Miami, FL, USA.

For David Wolf, individually and on behalf of others similarly situated, Miguel Almaraz, individually and on behalf of others similarly situated, Plaintiffs (1:13cv369): David S. Ratner, LEAD ATTORNEY, Morelli Alters Ratner, LLP, New York, NY, USA; Melinda D. Campbell, LEAD ATTORNEY, Kaplan Fox & Kilsheimer LLP (NYC), New York, NY, USA; Justin Benjamin Farar, PRO HAC VICE, Kaplan Fox and Kilsheimer LLP, Los Angeles, CA 90025, USA; Linda M [*3] Fong, PRO HAC VICE, Laurence David King, Kaplan Fox & Kilsheimer LLP, San Francisco, CA, USA.

For Red Bull Gmbh, A foreign corporation, Red Bull North America, Inc., A California corporation, Defendants (1:13cv369): Kenneth Alan Plevan, LEAD ATTORNEY, Jordan Adam Feirman, Skadden, Arps, Slate, Meagher & Flom LLP (NYC), New York, NY, USA; Hillary Anne Hamilton, Skadden, Arps, Slate, Meagher & Flom, LLP (Los Angeles), Los Angeles, CA, USA; Jason David Russell, Skadden, Arps, Slate, Meagher & Flom, L.L.P., Los Angeles, CA, USA.

For Mr. Theodore H Frank, Objector (1:13cv369): Erin Leigh Sheley, Center For Class Action Fairness, Washington, DC, USA; Quyen Hoang, Law Office of Quyen C. Hoang, Huntington Beach, CA, USA.

For Paul J Lopez, Objector: David Stein, LEAD ATTORNEY, Samuel & Stein, New York, NY, USA.

For Patrick E. Cruz, Ruben Quinones, Objectors (1:13cv369): Quyen Hoang, Law Office of Quyen C. Hoang, Huntington Beach, CA, USA.

Christopher Andrews, Objector (1:13cv369), Pro se, Livonia, MI, USA.

Dave Mager, Objector (1:13cv369), Pro se, Streetsboro, Oh.

Michael Narkin, Objector (1:13cv369), Pro se, Eugene, OR, USA.

Lawrence Montecalvo, Objector (1:13cv369), Pro se, Boulder, CO, USA.

For Lawrence [*4] Montecalvo (1:13cv369), Objector: Denise H. Gibbon, PRO HAC VICE, Attorney At Law, New York, NY, USA.

Jonathan Corbett, Objector (1:13cv369), Pro se, Miami, FL, USA.

Barry Waterman, Objector (1:13cv369), Pro se, Centerville, MD, USA.

JUDGES: KATHERINE POLK FAILLA, United States District Judge.

OPINION BY: KATHERINE POLK FAILLA

OPINION

FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

This matter came before the Court on May 1, 2015, pursuant to the Court's Preliminary Approval Order filed on September 3, 2014, for a hearing on the application of the Plaintiffs for final approval of the settlement set forth in the Stipulation of Settlement dated July 31, 2014, as amended and filed with the Court on April 30, 2015 (ECF No. 78) (the "Stipulation"). Due and adequate notice having been given to the Settlement Class as required in said Preliminary Approval Order, and the Court having considered all papers filed and proceedings conducted in these Actions and otherwise being fully informed, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Stipulation, and all terms used herein shall have the same meanings as set forth in the [*5] Stipulation.

2. The Court has subject matter and personal jurisdiction over the Parties, including all Settlement Class Members.

3. Pursuant to *Rule 23(e) of the Federal Rules of Civil Procedure*, and consistent with the requirements of due process, the Court hereby finally approves the Settlement and finds that the entire Settlement is, in all respects, fair, reasonable and adequate. The Court further finds that the Settlement was entered into in good faith following arm's-length negotiations and is not collusive. The Parties are hereby directed to perform the terms of the Stipulation.

4. Pursuant to *Rule 23(b)(3) of the Federal Rules of Civil Procedure*, for purposes of effectuating the Settlement, the Court hereby certifies the Settlement Class as follows:

All Persons who purchased Red Bull Products in the United States¹ during the Class Period. Excluded from the Settlement Class are: (a) employees, officers, directors, agents, and representatives of (1) Defendants and each of their subsidiaries and affiliates, and (2) all distributors, wholesalers, retailers, and licensors of Red Bull Products; (b) those who purchased Red Bull Products for the purpose of re-sale; (c) all federal judges who have presided over either of the Actions; and (d) all person who have been properly excluded from [*6] the Settlement Class.

¹ As per § II.A.31 of the Stipulation, "United States" means all fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

The Court finds the persons identified in Exhibit A attached hereto have timely and properly requested exclusion from the Settlement Class and are not bound by this Judgment ("Excluded Persons").

5. With respect to the Settlement Class, the Court finds and concludes that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members in the Actions is impracticable; (b) there are questions of law and fact common to the Settlement Class that predominate over questions affecting only individual Settlement Class Members; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) the Plaintiffs and Plaintiffs' Lead Counsel have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for a fair and efficient adjudication of the controversy.

6. The Actions are hereby dismissed with prejudice [*7] as to Plaintiffs and all Settlement Class Members, except for Excluded Persons identified in Exhibit A. The Parties will bear their own fees and costs, except as otherwise expressly provided in the Settlement.

7. As of the Effective Date, Plaintiffs and each Settlement Class Member who has not validly excluded himself or herself from the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Persons. In connection with the Released Claims, each Settlement Class Member shall be deemed as of the Effective Date to have waived any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code and any statute, rule, and legal doctrine similar, comparable, or equivalent to California Civil Code § 1542, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

8. The Court finds that the Notice to the Settlement Class was given in accordance with the Court's Order of September [*8] 3, 2014, was collectively the best notice practicable under the circumstances of these proceedings of the matters set forth therein, and fully satisfies the requirements of Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure, due process, and any other applicable laws.

9. All Settlement Class Members, and all Persons actually or purportedly acting on behalf of any Settlement Class Member, are hereby permanently enjoined from asserting, commencing, maintaining, prosecuting,

or enforcing, directly or indirectly, in any judicial, administrative, arbitral, or other forum, any claim that will be released as part of the Settlement, provided that this injunction shall not apply to Excluded Persons.

10. Defendants are hereby ordered to make all payments required by and in accordance with the Stipulation and the Court's Order granting Plaintiffs' Motions for Final Approval of Class Settlement and for Approval of Attorneys' Fees, Service Fees, and Reimbursement of Expenses. Defendants are further enjoined from making any future claims about the functional benefits of Red Bull Products without medical and/or scientific support.

11. Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance [*9] of the Stipulation or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim or any facts alleged in the Actions, or of any wrongdoing or liability of Defendants, or of the propriety of maintaining the Actions as class actions; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of Defendants in any proceeding in any court, administrative agency, or other tribunal, except that Defendants may file the Stipulation or the Judgment in any action that may be brought against any Released Person in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

12. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (a) implementation of the Settlement and any disputes concerning payment or distribution of the proceeds from the Settlement; (b) enforcement of this Order; and (c) all Parties hereto solely for the [*10] purpose of construing, enforcing, and administering the Settlement and this Order.

SO ORDERED.

Dated: May 12, 2015

New York, New York

/s/ Katherine Polk Faila

KATHERINE POLK FAILA

United States District Judge

EXHIBIT A

Requests for Exclusion Received Timely as of April 22, 2015

2015 U.S. Dist. LEXIS 97533, *

#	Name	#	Name
		15	Francisco Ferrer
		16	Gary Case
		17	Gina Hronek
		18	Issa Beydoun
		19	GCCJLJ# Lamar Nettles
1	Alexander Severson	20	0FE8A8D954 Jennifer Bronzell
2	Amber McNeff	21	33D94CDA38 Lara Immel
3	Andrea Bianchi	22	CC2176578D Lordan Stanley
4	Benjamin Fittje	23	E11FM72554 Madison Pearce
5	Brett Anderson	24	7268M1A6 Michael Griener
6	Brian Mark South	25	D4D600A640 Michael Grotzke
7	Bridget Ehiemenonye	26	5997M1B15 Michael Romanov
8	Casey Franks	27	1F8CF88BC Rachel Lindell
9	Courtney Amber Lemons	28	848A2B168C Ryan Termaine Hill
10	Cristal Maldonado	29	76A0F97D49 Tigran Ketsoyan
11	Damaris Dolan	30	351ECCFB4 Troy Immel
12	Derrick Onwuachi		A71505EC27
13	Dzhamila Keshishian		19DA618237
14	Felicia M Spencer		D4A875F397

