

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

LLOYD D. WHALEY, et al.,  
Plaintiffs,

No. 1:10-cv-3057-PA

v.

**ORDER**

PACIFIC SEAFOOD GROUP, et al.,  
Defendants.

**PANNER, J.**

The parties to this antitrust class action jointly move for preliminary approval of their stipulation and resolution agreement, and the proposed notice to the class. I grant the joint motion.

**BACKGROUND**

Plaintiffs filed this action in 2010. The parties have conducted extensive discovery, including 60 depositions.

I denied defendants' motions to dismiss. I also denied plaintiffs' motion for a preliminary injunction. In late January 2012, I certified a class consisting of commercial fishing vessel owners and fishermen who delivered trawl-caught groundfish, whiting, or pink shrimp to seafood processors on

the West Coast from Ft. Bragg in northern California to the Canadian border, at any time between June 21, 2006 and December 31, 2011.

In February and March 2012, Judge Michael R. Hogan mediated settlement negotiations between the parties. The class representatives now agree to drop the claims for damages in exchange for defendants' continued support of measures "designed to assure the competitiveness and transparency" in the seafood markets at issue. Stip., Ex. A, at 4. Judge Hogan noted,

This case could have gone on for years, including appeals. the fishermen and the processors, especially Pacific Seafood Group, are to commended for taking a statesmanlike approach to resolving this complicated case. These parties focused on how to insure the West coast fishing industry for the future. How can these markets be more transparent? How can we create conditions to make them more competitive?

Id.

#### **STANDARDS**

Settlement of a class action requires court approval. Fed. R. Civ. P. 23(e). Rule 23(e) requires the following procedures when the court is deciding whether to approve the proposed settlement of a class action:

- (1) The court must direct notice in a reasonable manner to all class members who would be bound by the proposal.
- (2) If the proposal would bind class members, the court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.
- (3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

(4) If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(5) Any class member may object to the proposal if it requires court approval under this subdivision (e); the objection may be withdrawn only with the court's approval.

A notice is sufficient under Rule 23(e) if it "contains adequate information, presented in a neutral manner, to apprise class members of the essential terms and conditions of the settlement." Rodriguez v. West Publ'g Corp., 563 F.3d 948, 962 (9th Cir. 2009).

## **DISCUSSION**

### **I. The Proposed Settlement Agreement**

I agree with the parties that the proposed agreement "has the potential to make the West Coast fishing industry one of the most competitive in the world for the mutual benefit of West Coast processors and West Coast fishing vessel owners and fishermen and that it is superior to continuation of the litigation through a July 2012 trial and appeals that could consume a number of years." Stip., Ex. A, at 4.

I commend the parties, counsel, and Judge Hogan on reaching resolution of a complex and difficult dispute. As required by Rule 23, I reserve final ruling on the proposed settlement agreement until the hearing to address possible objections. I set the hearing on the proposed settlement agreement May 21, 2012, at 11:00 a.m., in Courtroom 201 of the United States Courthouse at 310 W. Sixth St., Medford, Oregon.

## II. The Proposed Notice to the Class

I conclude that the parties' proposed settlement notice to the class meets Rule 23(e)'s requirements to "present information about a proposed settlement neutrally, simply, and understandably." Rodriguez, 563 F.3d at 962 (footnote omitted).

### CONCLUSION

The joint motion for preliminary approval of the stipulation and resolution agreement, and the proposed notice to the class (#426) is granted. Using the proposed class notice (#426, Ex. B), plaintiffs shall commence notifying the class members about the scheduled hearing on the proposed settlement agreement in Medford on May 21, 2012, at 11:00 a.m.

IT IS SO ORDERED.

DATED this 4 day of April, 2012.

  
OWEN M. PANNER  
U.S. DISTRICT JUDGE