

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

ROSALINO PEREZ-BENITES, et al.,

PLAINTIFFS

v.

CASE NO. 07-1048

CANDY BRAND, LLC, ARKANSAS TOMATO SHIPPERS, LLC,  
RANDY CLANTON, BROOKS LISENBEY,  
and CHARLES SEARCY

DEFENDANTS

ORDER

Currently before the Court is the Parties' Joint Motion for Preliminary Approval of Proposed Class Action Settlement Agreement and Notice to Class Members (Doc. 273). **IT IS HEREBY ORDERED** that:

1. The proposed Settlement is within the range of fairness and reasonableness and grants preliminary approval to it;
2. For purposes of the claims brought for breach of contract, which were previously certified by this Court for class action treatment pursuant to Federal Rule of Civil Procedure 23 (Doc. 174), the Settlement Agreement covers the following classes of individuals:
  - (a) all non-supervisory workers employed by Defendants at any time during the 2003 through 2007 tomato seasons who were employed pursuant to H-2A temporary work visas; and
  - (b) all non-supervisory workers employed in Defendants' packing shed operations at any time during the 2003 through 2007 tomato seasons – irrespective of visa status – who did not receive overtime pay during workweeks when they worked more than forty (40) hours.

3. A hearing on the fairness and reasonableness of the Settlement and whether final approval shall be granted will take place on Tuesday, March 27, 2012, at 9:00 a.m. in El Dorado, Arkansas.
4. The Court approves as to form and content the proposed Notice and Claim Form attached as Exhibit C to the parties' Settlement (Doc. 273-1, pp. 41-52) and directs Class Counsel to mail the Notice and Claim Form to each class member within ten (10) days of the entry of this Order. An English and Spanish version of the Notice and Claim Form shall be mailed to each class member whose last known address is in the United States, and a Spanish version of the Notice and Claim Form shall be mailed to each class member whose last known address is in Mexico. Class Counsel shall file a Notice with the Court upon completion of the mailing.
5. The Court finds that mailing of Notice to the class members and provision of Notice to class members is the only notice required for class members and that such notice satisfies the requirements of due process and Federal Rule of Civil Procedure 23(e)(1).
6. Within ten (10) days of the entry of this Order, Defendants are directed to file any notices with governmental agencies as required by the Class Action

Fairness Act, and to provide Notice to the Court upon completion.

7. Any class member who desires to exclude himself from the action must file a request for exclusion with the Clerk of the Court by Tuesday, March 27, 2012.
8. Any class member who wishes to object to the Settlement must submit an objection to the Clerk of the Court by Tuesday, March 27, 2012. It is not necessary for any class member objecting to the Settlement to appear in person at the fairness hearing.
9. The parties may file memoranda in support of the Settlement prior to the fairness hearing. Any submission must be filed no later than Friday, March 16, 2012.
10. Settlement Services, Inc., of Tallahassee, Florida, is appointed to act as the Settlement Administrator, pursuant to the terms of the Settlement.
11. The Court reserves the right to adjourn the date of the fairness hearing without further notice to the class members. The Court retains jurisdiction to consider further applications arising out of or in connection with the Settlement.

Accordingly, the Parties' Joint Motion for Preliminary Approval of Proposed Class Action Settlement Agreement and Notice to Class Members (Doc. 273) is **GRANTED**. The Scheduling Order of

May 24, 2011 (Doc. 253) is therefore terminated and trial of this matter will not take place. A hearing on the fairness and reasonableness of the Proposed Class Action Settlement will occur on Tuesday, March 27, 2012, at 9:00 a.m.

**IT IS SO ORDERED** this 29th day of December, 2011

/s/ Robert T. Dawson  
Honorable Robert T. Dawson  
United States District Judge