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9 Attorneys for Plaintiffs and the Proposed Class

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SACRAMENTO**

13 ELISABETH DIEGLE; DIANNA SPEARS,
14 as individuals, on behalf of themselves and
others similarly situated

15 PLAINTIFFS,

16 v.

17 VARSITY SPIRIT CORPORATION; and
18 DOES 1 thru 50, inclusive,

19 DEFENDANTS.

CASE NO. 34-2020-00284681

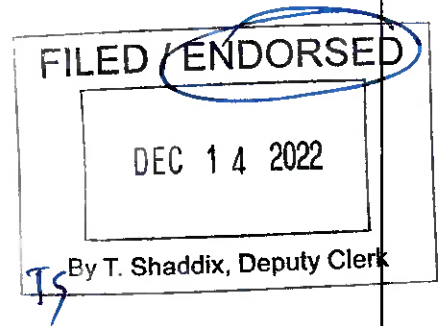
[Case Assigned for All Purposes to Hon.
2 JILL H. TALLEY in Dept. 25]

**~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT**

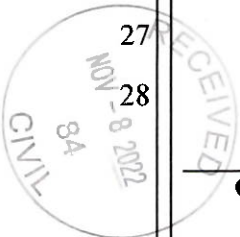
BY FAX

Date: December 2, 2022
Time: 9:00 a.m.
Dept.: 25

Complaint Filed: August 24, 2020
FAC Filed: March 4, 2022
Trial Date: None Set



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**ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND ENTERING
JUDGMENT**



1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class action lawsuit brought by Plaintiffs ELISABETH
3 DIEGLE and DIANNA SPEARS (“Plaintiffs” or “Class Representatives”) against Defendant
4 VARSITY SPIRIT CORPORATION (“Defendant”). The Motion for Final Approval of Class
5 Action Settlement came before this Court on December 2, 2022.

6 **WHEREAS**, Judge Gevercer granted preliminary approval of the Joint Stipulation of
7 Class Action Settlement Agreement (“Settlement Agreement” or “Settlement”), attached to the
8 concurrently-filed Declaration of Kelsey M. Szamet as Exhibit “1”, on June 30, 2022.

9 **WHEREAS**, Plaintiffs ELISABETH DIEGLE and DIANNA SPEARS have applied to
10 the Court for an order granting final approval of the Settlement Agreement.

11 **WHEREAS**, the Settlement Agreement sets forth the terms and conditions of the
12 proposed Settlement and for entry of an Order of Final Approval and entry of final judgment
13 thereon. The Court having read and considered Plaintiffs’ Motion for Final Approval of Class
14 Action Settlement; Motion for Approval of Approval of Attorneys’ Fees and Costs; the
15 Declarations of Kelsey M. Szamet, Elisabeth Diegle, Dianna Spears, and Krystal Quiroz of
16 ILYM Group, Inc.; and the supporting documents annexed thereto, now finds:

17 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

18 1. The Court has personal jurisdiction over all Settlement Class Members and that
19 the Court has subject matter jurisdiction to approve the Settlement;

20 2. The terms of the Settlement are fair, just, reasonable, and adequate, consistent and
21 in compliance with California Code of Civil Procedure, the California and United States
22 Constitutions (including the due process clauses), the California Rules of Court and any other
23 applicable law, and in the best interest of each of the Parties and the Class members and is
24 hereby finally approved in all respects.

25 3. The Parties are hereby directed to perform the terms of the Settlement as
26 described in the Settlement Agreement according to its terms and provisions.

27 4. The Settlement Agreement is binding on Plaintiffs and all other Settlement Class
28 Members, except those timely and properly filed Requests for Exclusions, as well as their heirs,

1 executors, and administrators, successors, and assigns.

2 5. There are zero (0) valid requests for exclusion.

3 6. There are zero (0) valid objections.

4 7. It is ordered that the Settlement Class is certified for settlement purposes only.

5 The Court finds that an ascertainable class exists and a well-defined community of interest exists
6 in the questions of law and fact involved because in the context of the Settlement: (i) there are
7 questions of law and fact common to the Class Members which, as to the Settlement and all
8 related matters, predominate over any individual questions; (ii) the Claims of Plaintiffs are
9 typical of the Claims of the Class members; and (iii) in negotiating, entering into and
10 implementing the Settlement, Plaintiffs and Plaintiffs' Attorneys have fairly and adequately
11 represented and protected the interest of the Class Members.

12 8. The Court finds that the Notice and notice methodology implemented pursuant to
13 this Settlement (i) constituted the best practicable notice; (ii) constituted notice that was
14 reasonably calculated, under the circumstances, to apprise Settlement Class Members of the
15 pendency of the Action, their right to object to or exclude themselves from the proposed
16 Settlement and their right to appear at the Final Settlement Hearing; (iii) were reasonable and
17 constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (iv)
18 met all applicable requirements of the California Code of Civil Procedure, the California and
19 United States Constitution (including the Due Process Clause), the California Rules of Court and
20 any other applicable law.

21 9. The Settlement Class is hereby made final. The Settlement Class is defined as:
22 "all salespersons who are employed or have been employed by Varsity Spirit Corporation, in the
23 State of California, who worked one or more pay periods during the Class Period."

24 10. The "Class Period" is March 16, 2016 through October 31, 2021.

25 11. The Settlement Agreement is not an admission by Defendant, nor is this Final
26 Order a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither
27 this Final Order, the Settlement, nor any document referred to herein, nor any action taken to
28 carry out the Settlement, shall be construed or deemed an admission of liability, culpability,

1 negligence, or wrongdoing on the part of Defendant.

2 12. Pursuant to the Settlement Agreement, upon entry of this Final Order, Plaintiff
3 and each Settlement Class Member shall fully release and discharge the Released Parties
4 pursuant to the following release, which provides:

5 all claims and causes of action alleged in the First and Fourth
6 Causes of Action in the Action, as well as all predicate claims
7 based on the factual or legal theories alleged in the First and Fourth
8 Causes of Action, or reasonably could have been alleged based on
9 the facts and legal theories alleged in the First and Fourth Causes
10 of Action, including the following legal claims: any and all claims
11 for unreimbursed expenses, including, but not limited to, expenses
12 incurred for the cost of internet for home computer use, electricity
13 to run phone computers, personal cell phone usage, paper and ink,
14 mileage, food expenses, and giveaways to potential and existing
15 clients, as well as all claims for remedies and damages for alleged
16 unfair business practices. (collectively, the 'Released Claims.')

17 The period of the Release shall extend to the limits of the Covered
18 Period. The res judicata effect of the Judgment will be the same as
19 that of the Release.

20 13. Plaintiffs and all Settlement Class Members who have not been timely and
21 properly excluded from the Settlement Class, and any person acting on their behalf, are
22 permanently barred and enjoined from: (i) filing, commencing, prosecuting, intervening in,
23 participating in (as class members or otherwise), or receiving any benefits or other relief from,
24 any other lawsuit, in any state or federal court, arbitration, or administrative, regulatory or other
25 proceeding or order in any jurisdiction based on the Released Claims; and (ii) organizing such
26 non-excluded Settlement Class Members into a separate class for purposes of pursuing as a
27 purported class action (including by seeking to amend a pending complaint to include class
28 allegations, or by seeking class certification in a pending action) any lawsuit based on or relating
to the Released Claims;

14 14. The Settlement Agreement provides that the Maximum Settlement Amount is One
15 hundred and Ninety thousand dollars and zero cents (\$190,000.00). The Net Settlement Amount
16 shall be determined according to the terms of the Settlement Agreement.

17 15. The Court orders the calculations and the payments to be made and administered
18 in accordance with the terms of the Settlement Agreement.

1 16. The Court hereby finds that Plaintiffs and Class Counsel adequately represented
2 the Settlement Class for purposes of entering into and implementing the settlement. The Court
3 hereby confirms Kingsley & Kingsley, APC as Class Counsel in the Action.

4 17. The Court hereby finds the unopposed application of Class Counsel for a costs
5 and attorneys' fees award provided for under the proposed Settlement to be fair and reasonable
6 in light of all the circumstances and is hereby granted. Of the Gross Settlement Amount,
7 \$63,333.33 shall be paid for attorney fees and \$4,667.72 shall be paid for litigation costs.

8 18. The unopposed application of Class Counsel for an enhancement service payment
9 is hereby granted. Of the Gross Settlement Amount, a \$10,000.00 enhancement award shall be
10 allocated to named Plaintiffs ELISABETH DIEGLE and DIANNA SPEARS, with \$5,000.00
11 allocated to each named Plaintiff.

12 19. The unopposed application of Class Counsel for claims administration fees to
13 ILYM Group, Inc. is hereby granted. Of the Gross Settlement Amount, \$4,000.00 shall be paid
14 for settlement administration fees.

15 20. If a Settlement Class Member does not cash his or her settlement check within
16 180 days, the uncashed funds shall be transmitted by the Claims Administrator to the State of
17 California Office of the Controller in the name of the class member who did not cash his or her
18 individual settlement payment check, pursuant to California Code of Civil Procedure section
19 384(a),(b).

20 21. Defendant shall have no further liability for costs, expenses, interest, attorneys'
21 fees, or for any other charge, expense, or liability, except as provided for in the Settlement
22 Agreement.

23 22. The Parties are authorized, without further approval from the Court, to agree to
24 and to adopt such amendments, modifications and expansions of this Stipulation and all exhibits
25 attached hereto as (i) are consistent with the Final Judgment; and (ii) do not limit the rights of
26 Settlement Class Members under the Stipulation.

27 23. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court
28 shall retain continuing jurisdiction over the Actions, the Parties, and the Settlement Class, as well

1 as the administration and enforcement of the terms of the Settlement of this action to enforce the
2 terms of the judgment. Without affecting the finality of the Final Judgment, the Court shall
3 retain continuing jurisdiction over the Actions, the Parties, and the Settlement Class, as well as
4 the administration and enforcement of the Settlement. Any disputes or controversies arising with
5 respect to the interpretation, consummation, enforcement, or implementation of the Settlement
6 shall be presented by motion to the Court; provided however, that nothing in this Part shall
7 restrict the ability of the Parties to exercise their rights to terminate the Settlement pursuant to the
8 terms of the Settlement Agreement.

9 24. This Final Order shall constitute a final judgment.

10 25. The Court hereby dismisses the action (including all individual claims and
11 Released Claims presented thereby) with prejudice, without fees or costs to any party except as
12 provided in the Settlement Agreement.

JILL H. TALLEY

13
14 DATED: _____

12/14/22

JUDGE OF THE SUPERIOR COURT

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On November 7, 2022, I served all interested parties in this action the following documents described as: **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND ENTERING JUDGMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

OLGTREE, DEAKINS, NASH, SMOAK & STEWERT, P.C.

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OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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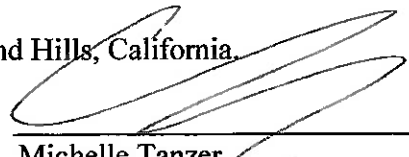
UNITED EMPLOYEES LAWGROUP, PC

Walter L. Haines, Esq.
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4276 Katella Ave., #301
Los Alamitos, CA 90720

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 7, 2022, at Woodland Hills, California.



Michelle Tanzer