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Attorneys for Plaintiffs, the Putative Class, and the Aggrieved Employees

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF PLACER**

NICOLE JANSSEN, ANDREA DANNEHL,
NEIL MILLER, ARTURO ROJAS, JASON
WHITESEL, KOREY SAXE, individuals on
behalf of themselves, the State of California,
as a private attorneys general, and on behalf
of all others similarly situated,

Plaintiffs,
v.

MUSSETTER DISTRIBUTING, INC, a
California corporation; and DOES 1 TO 50,
inclusive,

Defendants.

Filed - 12/01/2022

Electronically filed by Superior Court of California
County of Placer on 12/01/2022
Jake Chatters, Clerk of the Court
By C. Vellan-Brown Deputy Clerk

CASE NO.: S-CV-0046992

**~~[PROPOSED]~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: December 1, 2022

Time: 8:30 a.m.

Dept: ~~40~~ 3

Judge: ~~Hon. Trisha Hiroshima~~ Judge Pro Tem
Christine S. Dehr

Complaint Filed: July 13, 2021

1 Plaintiffs' unopposed Motion for Preliminary Approval of a Class Action Settlement came
2 before this Court on December 1, 2022, in Department 40, the Honorable Trisha Hirashima
3 presiding. The Court having considered the papers submitted in support of the application of the
4 parties, HEREBY ORDERS THE FOLLOWING:

5 1. The Court grants preliminary approval of the Settlement and the Settlement Class
6 based upon the terms set forth in the Settlement Agreement and Release of Class Action (the
7 "Settlement Agreement") attached as **Exhibit A** to the Declaration of Jonathan Melmed in support
8 of Plaintiffs' Motion for Order Granting Preliminary Approval of Class Action Settlement. All
9 terms used herein shall have the same meaning as defined in the Settlement Agreement. The
10 settlement set forth in the Settlement Agreement appears to be fair, adequate and reasonable to the
11 Class, and the Court preliminarily approves the terms of the Settlement Agreement, including,
12 without limitation:

- 13 a. A non-reversionary Gross Settlement Amount of **\$350,000.00**;
- 14 b. The Class Representatives' incentive award to the named Plaintiffs of
15 \$4,000 each, for a total of **\$24,000.00**;
- 16 c. Court approved attorneys' fees to Class Counsel of up to **\$116,655.00**,
17 representing one-third of the Gross Settlement Amount;
- 18 d. Court approved litigation costs to Class Counsel of up to **\$6,000.00**;
- 19 e. Fees and Costs of the Settlement Administrator of up to **\$9,000.00**; and
- 20 f. A PAGA allocation of \$20,000.00, with **\$15,000.00** (i.e., 75%) payable to
21 the California Labor & Workforce Development Agency for its portion of
22 the PAGA penalties.

23 2. This Court has considered the papers in support of the Motion and the Settlement
24 Agreement and finds that the, pursuant to C.R.C. Rule 3.769(d), proposed Class should be certified
25 for settlement purposes only. Specifically, the Court finds for settlement purposes only that the
26 proposed Class: (a) is ascertainable; (b) is sufficiently numerous; (c) meets the commonality
27 requirements; (d) the claims of the Class Representatives are typical of the claims of the proposed
28 Class Members; (e) Class Representatives' counsel has and is able to adequately represent the
proposed Class; (f) the Class Representative is adequate to represent the Class; and (g) class-wide

1 treatment of this dispute is superior to individual litigation because common issues predominate
2 over individual issues for settlement purposes.

3 3. The Settlement falls within the range of reasonableness and appears to be
4 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
5 and final approval by this Court.

6 4. A final fairness hearing on the question of whether the proposed Settlement,
7 attorneys' fees and costs to Class Counsel, and the Class Representatives' incentive award should
8 be finally approved as fair, reasonable and adequate as to the members of the Class is scheduled
9 on the date and time set forth in the implementation schedule below.

10 5. This Court approves, as to form and content, the Notice of Proposed Class Action
11 Settlement ("Class Notice"), in substantially the form attached to the herein as **Exhibit 1**. The
12 Court approves the procedure for Class Members to participate in, to opt out of, and to object to,
13 the Settlement as set forth in the Settlement Agreement.

14 6. The Court directs the mailing of the Class Notice by first class mail to the Class
15 Members in accordance with the Implementation Schedule set forth below. The Court finds the
16 dates selected for the mailing and distribution of the Notice, as set forth in the Implementation
17 Schedule, meet the requirements of due process and provide the best notice practicable under the
18 circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

19 7. It is ordered that the Settlement Class is preliminarily certified for settlement
20 purposes only.

21 8. The Court preliminary certifies for settlement purposes only the Settlement Class
22 defined as follows: *all individuals who are or have been employed as "Outside Sales*
23 *Representatives" by Defendant during the Class Period.* The Class Period is defined as the period
24 of time from July 13, 2017 through the date of preliminary approval.

25 9. Upon final approval of the settlement, the Class Members who do not seek to be
26 excluded from the settlement release those claims arising out of or related to the allegations set
27 forth in the Complaint and/or PAGA notice to the LWDA, which arose during the Class Period,
28 including claims for: (1) failure to reimburse business expenses in violation of Labor Code sections
2802 and 2804; (2) deceptive, fraudulent, or otherwise unlawful business practices based on the

1 foregoing in violation of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–
2 17210); (3) statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–
3 2699.6); and (4) all claims for liquidated damages, penalties, interest, fees, costs based on the
4 foregoing.

5 10. The Court confirms Plaintiffs Nicole Janssen, Andrea Dannehl, Neil Miller, Arturo
6 Rojas, Jason Whitesel and Korey Saxe as Class Representatives, and Jonathan Melmed and Laura
7 M. Supanich of Melmed Law Group P.C. and Jonathan Durham of Law Offices of Jonathan
8 Durham as Class Counsel.

9 11. The Court appoints ILYM Group, Inc. as the Settlement Administrator.

10 12. To facilitate administration of the Settlement pending final approval, the Court
11 hereby enjoins Plaintiffs and all Class Members from filing or prosecuting any claims, suits or
12 administrative proceedings (including filing claims with the Division of Labor Standards
13 Enforcement of the California Department of Industrial Relations) regarding claims released by
14 the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with
15 the Settlement Administrator and the time for filing claims with the Settlement Administrator has
16 elapsed.

17 13. The Court orders the following **Implementation Schedule** for further proceedings:

18	a. Deadline for Defendant to Submit Class Member Information to Settlement Administrator	[within 14 days after the Preliminary Approval Date]
19		
20	b. Deadline for Settlement Administrator to Mail Notice to Class Members	[within 28 days of preliminary approval]
21		
22	c. Deadline for Class Members to Postmark Requests for Exclusion	[45 days after mailing of the Class Notice]
23		
24	d. Deadline for Class Members to submit any Objections to Settlement	[45 days after mailing of the Class Notice]
25		
26	e. Deadline for Settlement Administrator to file Declaration of Due Diligence and Proof of Mailing	[21 Court days prior to Final Approval and Fairness Hearing]
27		
28		

f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	[16 Court days prior to Final Approval and Fairness Hearing]
g.	Final Approval and Fairness Hearing (the Court's first available date after May 1, 2023)	May 4, 2023 at 8:30 a.m. in Dept. 3 May 4, 2023 at 8:30 a.m. in Dept. 3

14. If any of the dates in this Implementation Schedule falls on a weekend, bank or court holiday, the time to act shall be extended to the next business day.

15. The Court shall retain jurisdiction over the Action for all purposes pursuant to California Rule of Court 3.769 and California Rule of Civil Procedure § 664.6 to enforce the terms of the Settlement.

IT IS SO ORDERED.

Dated: December 1, 2022


~~Judge of the Superior Court, Placer County~~
 Judge Pro Tem
 Christine S. Dehr