

FILED

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JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

ABRAHAM LIZAMA, on behalf of himself)
and all others similarly situated,)

Plaintiff,)

vs.)

VICTORIA'S SECRET STORES, LLC)
and VICTORIA'S SECRET DIRECT, LLC)

Defendants.)

Cause No. 21SL-CC02221

Division: 9

PRELIMINARY APPROVAL ORDER

This matter having come before the Court for consideration of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"), the Court having considered and reviewed Plaintiff's Motion, the Parties' class action Settlement Agreement, and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement.

IT IS HEREBY ORDERED:

1. Unless stated otherwise, all capitalized terms used in this Final Order and Judgment shall be defined and interpreted in accordance with the definitions in the Parties' Settlement Agreement.
2. The Parties have applied to the Court for preliminary approval of the proposed Settlement, the terms of which are set forth in the Settlement Agreement, and have provided the Court with sufficient information to enable it to determine whether to certify the Settlement Class and order that notice be given to the Settlement Class Members.

3. Subject to further consideration by the Court at the time of final approval, the Court preliminarily approves the Parties' Settlement as falling within the range of possible final approval and as meriting notice to the Settlement Class Members for their consideration.

4. For settlement purposes only, pursuant to Missouri Rule of Civil Procedure 52.08, the Court hereby preliminarily certifies the Settlement Class defined as:

[A]ll Persons who made at least one Qualifying Purchase, but "Settlement Class" does not include any of the following: Victoria's Secret, any entity in which Victoria's Secret has a controlling interest or which has a controlling interest in Victoria's Secret, and Victoria's Secret's legal representatives, predecessors, successors, assigns, and employees; Class Counsel and members of the immediate family of Class Counsel; the judge and staff to whom this case is assigned and any member of the judge's immediate family.

A Qualifying Purchase is defined as follows:

[A] retail transaction for the purchase of tangible personal property from Victoria's Secret for which all of the following are true: (a) the transaction was made either via Victoria's Secret's website or via another remote sales channel for which Victoria's Secret was responsible for calculating tax due on the purchase; (b) the transaction was completed between May 18, 2016, through May 18, 2023; (c) the purchased property was shipped by or on behalf of Victoria's Secret from a location outside the state of Missouri to a Settlement Class Member's delivery address; (d) the Settlement Class Member's delivery address was within the state of Missouri; and (e) Victoria's Secret charged the Settlement Class Member an amount of tax on the transaction that exceeded the Vendor's Use Tax Amount for that transaction. Notwithstanding the foregoing sentence, any transaction on which the Settlement Class Member received a refund on the entire transaction will be excluded from "Qualifying Purchases," and where a consumer received a partial refund on a transaction, only the portions of the transaction on which the purchaser did not receive a refund may be a Qualifying Purchase, provided that those portions, standing alone, meet the definition of "Qualifying Purchase" set forth in this Paragraph. Furthermore, any such transaction in which a Settlement Class Member failed to pay taxes to Victoria's Secret (for which Victoria's Secret may or may not have later received tax benefits for writing off the unpaid debt) is not a "Qualifying Purchase."

5. The Court appoints Plaintiff Abraham Lizama as Settlement Class Representative of the Settlement Class, and the following counsel are appointed as Settlement Class Counsel for the Settlement Class:

Daniel J. Orłowsky
ORŁOWSKY LAW, LLC
7777 Bonhomme Ave., Suite 1910
St. Louis, Missouri 63105

Adam M. Goffstein
GOFFSTEIN LAW, LLC
7777 Bonhomme Ave., Suite 1910
St. Louis, MO 63105

6. The Court finds that Plaintiff and Settlement Class Counsel have and will continue to fairly and adequately represent and protect the interests of the members of the Settlement Class.

7. The Settlement Class is so numerous that joinder of all members is impracticable.

8. The Court finds, based on the Settlement Agreement and submissions of the parties,

that:

- a) There are questions of law and fact common to the Settlement Class.
- b) The claims of Representative Plaintiffs are typical of the claims of members of the Settlement Class.
- c) Representative Plaintiff and Class Counsel will fairly and adequately represent the interests of the Settlement Class. There are no conflicts of interest between Representative Plaintiff and members of the Settlement Class.
- d) Questions of law and fact common to Settlement Class Members predominate over any questions affecting only individual members of the Settlement Class.
- e) Certification of the Settlement Class is superior to other methods for the fair and efficient adjudication of the controversy.
- f) The prosecution of separate actions by or against individual members of the Settlement Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Settlement Class, which would establish incompatible standards of conduct for the party opposing the class.

9. Accordingly, the Court hereby certifies the Settlement Class, for settlement purposes only, pursuant to Missouri Rule of Civil Procedure 52.08.

10. The Court preliminarily approves the settlement set forth in the Settlement Agreement as fair, reasonable, and adequate within the meaning of Missouri Rule of Civil Procedure 52.08, subject to final consideration at the Final Fairness Hearing provided for below.

11. A hearing (“the Final Fairness Hearing”) shall be held before this Court, on the date and time set forth below, in Division 9 of the Circuit Court of St. Louis County, Missouri to determine: (a) whether the settlement set forth in the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class; (b) whether a Final Approval Order and Judgment as provided in the Settlement Agreement should be entered granting final approval of the settlement; and (c) whether the requested attorneys’ fees, costs and expenses, and the incentive award for Abraham Lizama should be paid as provided in the Settlement Agreement. The Court may adjourn and/or continue the Final Fairness Hearing, without further notice to Settlement Class Members.

12. The Court approves, in form and content, the Notice Plan set forth in the Settlement Agreement and the attendant exhibits and finds that the Notice Plan provides the best notice practicable under the circumstances of this Settlement. The Court further finds that the Parties’ Notice Plan meets all of the requirements and contains all the requirements of Supreme Court Rule 52.08 and satisfies Due Process, such that the Settlement Agreement will be binding on all Settlement Class Members upon final approval. The Court finds that the proposed Notice is clearly designed to advise the Class Members of their rights.

13. The Court finds that the Notice Program, the Email Notice, the Postcard Notice, and Settlement Website outlined in the Settlement Agreement, the Declaration of Tiffany A.

Janowicz, and Exhibits C and D attached thereto, meets all of the requirements and contains all the requirements of Supreme Court Rule 52.08 and Due Process. No notice other than that specifically identified in the Settlement Agreement and its attendant exhibits is necessary in this action. The Parties, by agreement, may revise the Notices in ways that are not material, or in ways that are appropriate to update the documents for purposes of accuracy, readability, or formatting.

14. The Court approves the establishment of a Settlement Fund, that shall be funded and administered in accordance with the terms of the Settlement Agreement.

15. Rust Consulting is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the administration of the Settlement, as more fully described in the Settlement Agreement. The Settlement Administrator shall proceed with the distribution of class notice, as set forth in the Settlement Agreement and its attendant exhibits.

16. Any Settlement Class Member who does not request exclusion may enter an appearance in this action through an attorney, if desired. Any Settlement Class Member who does not request exclusion, and who objects to approval of the proposed settlement in compliance with the requirements of the Settlement Agreement, may appear at the Final Fairness Hearing in person or through counsel to show cause why the proposed Settlement Agreement should not be approved as fair, reasonable, and adequate.

17. No person (other than representatives of the named parties) may be heard at the Final Fairness Hearing, or file papers or briefs, unless on or before the date set forth in the Class Notice, such person files with the Clerk of the Court and serves on Class Counsel and counsel for Defendant a timely written objection and notice of intent to appear, in accordance with the procedures specified in the Settlement Agreement. Any Settlement Class Member who does not make his or her objection to the Settlement Agreement as provided for in the Settlement Agreement

and in compliance with applicable law, shall be deemed to have waived such objection for purposes of appeal, collateral attack, or otherwise. Counsel for the parties are authorized to conduct any necessary discovery, including, but not limited to, depositions, regarding any objector who indicates an intent to appear as set forth herein.

18. Any Settlement Class Member who desires exclusion therefrom must send a written request to be excluded, by the date set forth in the Class Notice, in the manner and form set forth on the Notice published on the Settlement Website and pursuant to the terms of the Settlement Agreement. All persons who properly submit requests for exclusion under the Settlement Agreement shall not be part of the Settlement Class and shall have no rights with respect to the Settlement Agreement.

19. If the Settlement Agreement is finally approved, the Court shall enter a Final Approval Order and Judgment approving the Settlement Agreement. The Final Approval Order and Judgment shall be fully binding with respect to all Settlement Class Members who did not request exclusion by the date set forth in the Class Notice, in accordance with the terms of the Class Notice and the Settlement Agreement.

20. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

21. All discovery and other pretrial proceedings in this action are stayed and suspended until further order of this Court, except as otherwise agreed to by the parties or as may be necessary to implement the Settlement Agreement or this Order. All Settlement Class Members are enjoined from prosecuting separate actions against Defendant asserting any of the claims alleged in this Action.

22. The dates of performance of this Order are as follows:

- a) The Settlement Administrator shall provide notice to the Settlement Class in accordance with the Notice Plan and Notice Program set forth in the Settlement Agreement and its attendant exhibits. The Settlement Administrator shall begin providing Notice, and the beginning date of the Notice Plan under the Settlement Agreement, shall be ^{2/3/25}~~DATE~~ (77 days from entry of this Order), provided, however, that the Parties may agree to begin the Notice Period at a later date if needed for scheduling and logistical considerations.
- b) Requests for exclusion must be submitted to the Settlement Administrator or postmarked no later than 63 days after the Notice Date.
- c) Objections to the Settlement Agreement and notices of intention to appear at the Final Fairness Hearing must be filed with the Court and served on Class Counsel and counsel for Defendant no later than 63 days after the Notice Date.
- d) The Claims Administrator shall prepare a list of Settlement Class Members who have filed timely requests for exclusion, and the Parties shall submit a list of valid opt-outs at least 14 days prior to the Final Fairness Hearing.
- e) The parties may file and serve papers in support of final approval of the settlement, responding to any objections or motions to intervene, and requesting attorneys' fees, costs and expenses no later than 14 days prior to the Final Fairness Hearing.

- f) No later than 70 days after the Notice Date, the administrator shall certify to the Court that it has complied with the notice requirements set forth in the Settlement Agreement and this Order.
- g) The Final Fairness Hearing shall be held on ^{6/2/25} [DATE] at ^{9:00am} [TIME] in Division 9 at the St. Louis County Circuit Court

IT IS SO ORDERED.

ENTERED: 2/3/25


David L. Vincent
Circuit Judge, St Louis County, Division 9