

PLAINTIFF'S EXHIBIT 1

SECOND AMENDED STIPULATION AND SETTLEMENT AGREEMENT

In The Case Of

*Rebecca Scheuerman,
individually and on behalf of all others similarly situated,*

v.

Vitamin Shoppe Industries, Inc. d/b/a Vitamin Shoppe, Inc.,

BC592773

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

REBECCA SCHEUERMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

VITAMIN SHOPPE INDUSTRIES, INC.,
d/b/a VITAMIN SHOPPE, INC.,

Defendant.

CASE NO. BC592773

Assigned to the Hon. Kenneth R. Freeman

CLASS ACTION

**SECOND AMENDED STIPULATION
AND AGREEMENT OF SETTLEMENT**

1 It is hereby stipulated and agreed by and between the undersigned Parties, subject to the
2 approval of the Court, that the settlement of this Action shall be effectuated pursuant to the terms
3 and conditions set forth in this Second Amended Settlement Agreement.

4 **ARTICLE I – PREAMBLE**

5 1. WHEREAS Rebecca Scheuerman (“Scheuerman”) was the named plaintiff in an
6 action entitled *Rebecca Scheuerman, individually and on behalf of all others similarly situated,*
7 *Plaintiff, v. Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc.*, Case No. 3:15-cv-00025-
8 AJB-NLS (S.D. Cal.), commenced on or about January 7, 2015 (the “Dismissed Action”);

9 2. WHEREAS Scheuerman filed a First Amended Complaint for Damages and
10 Restitution for Violations of California’s Bus. & Prof. Code §§ 17200 *et seq.*; California’s Bus. &
11 Prof. Code §§ 17500 *et seq.*; California’s Health and Safety Code § 11660; Negligent
12 Misrepresentation; and Intentional Misrepresentation, in the Dismissed Action on or about March
13 26, 2015;

14 3. WHEREAS the parties to the Dismissed Action filed a Joint Motion for Dismissal of
15 the Dismissed Action in its entirety, without prejudice as to the named plaintiff and without
16 prejudice as to the putative class, on or about August 12, 2015;

17 4. WHEREAS, based on the Joint Motion for Dismissal and for good cause, the
18 Honorable Anthony J. Battaglia dismissed the Dismissed Action without prejudice as to the named
19 plaintiff and without prejudice as to the putative class, on or about August 13, 2015;

20 5. WHEREAS Scheuerman is the named plaintiff in the above-captioned action entitled
21 *Rebecca Scheuerman, individually and on behalf of all others similarly situated, Plaintiff, v.*
22 *Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc.*, Los Angeles County Superior Court,
23 No. BC486925 (the “Action”);

24 6. WHEREAS Vitamin Shoppe Industries, Inc. (“Vitamin Shoppe”), incorrectly sued as
25 Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc., is the defendant in the Action;

26 7. WHEREAS Scheuerman alleges that she relied on allegedly false and misleading
27 statements contained on the labels and in advertisements and marketing materials for Vitamin
28 Shoppe’s “Reservie Trans-Resveratrol” dietary supplement products regarding the lawfulness,

1 composition and ingredients of the products, and that such statements violate state consumer
2 protections laws (including California's False Advertising Laws ("FAL"), Bus. & Prof. Code
3 §17500 *et. seq.*; and California's Unfair Competition Laws ("UCL"), Bus. & Prof. Code §17200 *et*
4 *seq.*), as well as California Health and Safety Code § 110660 and California's common-law
5 doctrines of negligent misrepresentation and intentional misrepresentation;

6 8. WHEREAS Scheuerman seeks to recover monetary and equitable remedies on
7 behalf of herself and a class of similarly situated persons;

8 9. WHEREAS Scheuerman acknowledges that she has not suffered personal injuries as
9 a result of her personal consumption and use of Reservie Trans-Resveratrol;

10 10. WHEREAS the Parties have negotiated this Settlement at arms-length from positions
11 of informed strength, and have had a full and fair opportunity to evaluate the strengths and
12 weaknesses of their respective positions;

13 11. WHEREAS Vitamin Shoppe denies the allegations of the Action, denies all
14 allegations of wrongdoing and of liability, and denies any causation of harm or damage to the
15 Settlement Class;

16 12. WHEREAS Vitamin Shoppe nevertheless has concluded that, in light of the costs,
17 risks and disruption of litigation, this Settlement is appropriate on the terms and conditions set forth
18 herein;

19 13. WHEREAS Scheuerman believes that the claims asserted in the Action are
20 meritorious;

21 14. WHEREAS Scheuerman nevertheless has concluded that, in light of the costs, delay
22 and risks of litigation of the matters in dispute, the risk that the Court will not certify her claims as a
23 class action, particularly in complex class action proceedings, the risk of losing on the merits, and in
24 the desire to provide relief to the class sooner rather than later, this Settlement is fair, reasonable,
25 adequate, and in the best interests of the Settlement Class;

26 15. WHEREAS the performance of any act referenced in this Second Amended
27 Settlement Agreement, or any other circumstance regarding the Parties' agreement to settle, shall
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1 not be considered an admission of liability or as an admission of any allegations made in any claim
2 or litigation, including this Action or the Dismissed Action;

3 16. WHEREAS the Court, by order entered February 23, 2016, requested that the Parties
4 incorporate certain modifications to the original Settlement Agreement in this Action, and the
5 Parties intend that this Second Amended Settlement Agreement shall supersede and control over all
6 previous agreements and representations, whether written or oral, between or among the Parties,
7 made with respect to the matters herein contained, and that this Second Amended Settlement
8 Agreement, when duly executed, shall constitute the entire agreement between the Parties hereto;
9 and

10 17. WHEREAS the Parties hereto agree that this Second Amended Settlement
11 Agreement shall not be deemed or construed to be an admission or evidence of any violation of any
12 federal or state statute, rule or regulation, principle of common law or equity, or of any liability or
13 wrongdoing whatsoever by Vitamin Shoppe, or of the truth of any of the Claims asserted in the
14 Action, or the Dismissed Action, or elsewhere;

15 18. NOW THEREFORE, it is hereby stipulated and agreed that, in consideration of the
16 agreements, promises, and covenants set forth in this Second Amended Settlement Agreement, and
17 subject to approval of the Court, the Action shall be fully and finally settled, with final judgment
18 entered by the Court, under the following terms and conditions:

19 **ARTICLE II – DEFINITIONS**

20 As used in this Second Amended Settlement Agreement and the related documents attached
21 hereto as exhibits, the terms set forth below shall have the meanings set forth below. The singular
22 includes the plural and vice versa.

23 1. “Action” means the civil action entitled *Rebecca Scheuerman, individually and on*
24 *behalf of all others similarly situated, Plaintiff, v. Vitamin Shoppe Industries, Inc., d/b/a Vitamin*
25 *Shoppe, Inc.*, Los Angeles County Superior Court, No. BC486925.

26 2. “Class Counsel” means Abbas Kazerounian and the law firm, Kazerouni Law Group,
27 APC, and Jessica R. K. Dorman and Joshua B. Swigart and the law firm of Hyde & Swigart.

1 3. “Class Notice” means the long-form and short-form Notices, substantially in the
2 form of **Exhibits C and D** attached hereto. The long-form Notice and the short-form Notice will be
3 provided as set forth in the Preliminary Approval Order, pursuant to California Rule of Court
4 3.771(b).

5 4. “Class Period” means January 1, 2011 through the date the Preliminary Approval
6 Order is entered.

7 5. “Class Released Claims” means any and all actions, causes of action, claims,
8 demands, liabilities, obligations, fees, costs, sanctions, proceedings, and/or rights of any nature and
9 description whatsoever, including, without limitation, violations of any state or federal statutes,
10 rules or regulations, or principles of common law, whether liquidated or unliquidated, known or
11 unknown, in law or in equity, whether or not concealed or hidden, by Scheuerman, members of the
12 Settlement Class, or any of them (on their own behalf and/or on behalf of the proposed class or the
13 general public) against Vitamin Shoppe, Rasi, Gemini, or any other Released Parties, through the
14 date the Final Approval Order and Judgment is entered, and that are based on, arise out of, or in any
15 way relate to the facts, transactions, events, occurrences, acts, disclosures, advertisements,
16 omissions, or failure to act concerning the manufacturing, marketing, sale, labeling and/or
17 advertising of Reservie Trans-Resveratrol or the lawfulness, composition and/or ingredients of
18 Reservie Trans-Resveratrol. Notwithstanding the above, “Class Released Claims” shall exclude any
19 claims for personal injury on behalf of the Settlement Class.

20 6. “Class Representative” means Scheuerman.

21 7. “Class Settlement Payment” means the sum of: (1) \$25 multiplied by the number of
22 Participating Claimants, if the number of Valid Claims is 5,000 or less; or (2) \$21 multiplied by the
23 number of Participating Claimants, if the number of Valid Claims is between 5,001 and 10,000; or
24 (3) \$17 multiplied by the number of Participating Claimants, if the number of Valid Claims is
25 10,001 or more. In the event that the total of the Class Settlement Payment (as calculated above) is
26 less than \$125,000, then the balance shall be distributed as provided for in Article III(4) of this
27 Second Amended Settlement Agreement.

1 8. “Court” means the Superior Court of the State of California for the County of Los
2 Angeles.

3 9. “Dismissed Action” means the action entitled *Rebecca Scheuerman, individually and*
4 *on behalf of all others similarly situated, Plaintiff, v. Vitamin Shoppe Industries, Inc., d/b/a Vitamin*
5 *Shoppe, Inc.*, Case No. 3:15-cv-00025-AJB-NLS (S.D. Cal.), commenced on or about January 7,
6 2015 and related to the claims raised in this Action, and dismissed without prejudice on or about
7 August 13, 2015.

8 10. “Effective Date” means the first date by which all of the following events shall have
9 occurred: (a) the Court has entered the Preliminary Approval Order; (b) the Court has entered the
10 Final Approval Order and Judgment; and (c) the Final Approval Order and Judgment have become
11 Final.

12 11. “Fee and Cost Application” means the written motion or application by which the
13 Class Representative and/or Class Counsel request that the Court award attorneys’ fees, costs,
14 expenses and incentive award.

15 12. “Final” means that the Court has entered the Final Approval Order and Judgment on
16 the docket in the Action, and (a) the time to appeal from such order has expired and no appeal has
17 been timely filed, (b) if such an appeal has been filed, it has finally been resolved and has resulted
18 in an affirmation of the Final Approval Order and Judgment, or (c) the Court, following the
19 resolution of the appeal, enters a further order or orders approving settlement on the terms set forth
20 herein, and either no further appeal is taken from such order(s) or any such appeal results in
21 affirmation of such order(s). Neither the pendency of the Fee and Cost Application, nor any appeal
22 pertaining solely to a decision on the Fee and Cost Application, shall in any way delay or preclude
23 the Final Approval Order and Judgment from becoming Final.

24 13. “Final Approval Hearing” means the hearing scheduled to take place at least one-
25 hundred and twenty (120) days after the date of entry of the Preliminary Approval Order at which
26 the Court shall: (a) determine whether to grant final approval to this Second Amended Settlement
27 Agreement and to certify the Settlement Class; (b) consider any timely objections to this Settlement
28 and all responses thereto; and (c) rule on the Fee and Cost Application.

1 14. “Final Approval Order and Judgment” means the order, substantially in the form of
2 **Exhibit B** attached hereto, in which the Court grants final approval of this Second Amended
3 Settlement Agreement, certifies the Settlement Class, and authorizes the entry of a final judgment.

4 15. “Gemini” means Gemini Pharmaceuticals, Inc.

5 16. “Individual Released Claims” means any and all of the Class Representative’s
6 actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions,
7 proceedings, and/or rights of any nature and description whatsoever, including, without limitation,
8 violations of any state or federal statutes, rules or regulations, or principles of common law, whether
9 liquidated or unliquidated, known or unknown, in law or in equity, whether or not concealed or
10 hidden, that are based on, arise out of, or are related to the Class Representative’s personal
11 purchase, use, and consumption of any products manufactured, sold, or otherwise distributed by
12 Vitamin Shoppe, Rasi and Gemini, including but not limited to any claims relating to (i) physical,
13 mental, or emotional injury or disability; (ii) the manufacturing, marketing, sale, labeling and/or
14 advertising of any products manufactured, sold, or otherwise distributed by Vitamin Shoppe, Rasi
15 and Gemini; and (iii) the lawfulness, composition and/or ingredients of any products manufactured,
16 sold, or otherwise distributed by Vitamin Shoppe, Rasi and Gemini.

17 17. “Notice” means direct notice and Internet notice, as set forth in Article IV(1) of this
18 Second Amended Settlement Agreement.

19 18. “Notice Provider” means the third-party agent(s) or administrator(s) agreed to by the
20 Parties and appointed by the Court for purposes of direct notice and Internet notice.

21 19. “Notice Response Deadline” means the deadline for all members of the Settlement
22 Class to respond to the Notice, which shall be twenty-one (21) days prior to the Final Approval
23 Hearing.

24 20. “Participating Claimant” means a Settlement Class Member who submits a
25 Qualifying Settlement Claim Form in response to the Notice.

26 21. “Parties” means Class Representative Scheuerman and Defendant Vitamin Shoppe.
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22. “Person” means any natural person, firm, corporation, unincorporated association, partnership, or other form of legal entity or government body, including its agents and representatives.

23. “Preliminary Approval Order” means the order, substantially in the form of **Exhibit A** attached hereto, in which the Court grants its preliminary approval to this Second Amended Settlement Agreement and preliminarily certifies the Settlement Class, authorizes dissemination of Notice to the Settlement Class, and appoints the Settlement Administrator and Notice Provider.

24. “Qualifying Settlement Claim Form” means a Settlement Claim Form that: (a) is fully completed, properly executed and timely returned to the Settlement Administrator, *i.e.*, returned via the Internet or with a postmark on or before the Notice Response Deadline; and (b) confirms, under penalty of perjury, that the Settlement Class Member purchased the Resveratrol identified in the Claim Form during the Class Period.

25. “Rasi” means Rasi Laboratories, Inc.

26. “Released Parties” means (1) Vitamin Shoppe Industries, Inc. and its past and present officers, directors, employees, stockholders, investors, owners, agents, representatives, attorneys, administrators, successors, subsidiaries, assigns, affiliates, joint-ventures, partners, members, divisions, predecessors, spokespersons, public relations firms, advertising and production agencies, manufacturers, distributors, suppliers, wholesalers, retailers, vendors, licensees and licensors; (2) Vitamin Shoppe, Inc. and its past and present officers, directors, employees, stockholders, investors, owners, agents, representatives, attorneys, administrators, successors, subsidiaries, assigns, affiliates, joint-ventures, partners, members, divisions, predecessors, spokespersons, public relations firms, advertising and production agencies, manufacturers, distributors, suppliers, wholesalers, retailers, vendors, licensees and licensors; (3) Rasi and its past and present officers, directors, employees, stockholders, investors, owners, agents, representatives, attorneys, administrators, successors, subsidiaries, assigns, affiliates, joint-ventures, partners, members, divisions, predecessors, spokespersons, public relations firms, advertising and production agencies, manufacturers, distributors, suppliers, wholesalers, retailers, vendors, licensees and licensors; and (4) Gemini and its past and present officers, directors, employees, stockholders,

investors, owners, agents, representatives, attorneys, administrators, successors, subsidiaries, assigns, affiliates, joint-ventures, partners, members, divisions, predecessors, spokespersons, public relations firms, advertising and production agencies, manufacturers, distributors, suppliers, wholesalers, retailers, vendors, licensees and licensors.

27. "Releasing Parties" means all Settlement Class Members.

28. "Request for Exclusion" means a valid request for exclusion from a Settlement Class Member. To be valid, a request for exclusion must (a) be submitted by the Settlement Class Member; (b) be submitted to the Settlement Administrator and postmarked by a date not later than twenty-one (21) days before the Final Approval Hearing; (c) contain the submitter's name, address and telephone number; and (d) otherwise comply with the instructions set forth in the Notice.

29. "Reservie Trans-Resveratrol" means Vitamin Shoppe's "Reservie Trans-Resveratrol" dietary supplement product, inclusive of both 250mg and 500mg quantities.

30. "Settlement Administrator" means the third-party agent(s) or administrator(s) agreed to by the Parties and appointed by the Court.

31. "Settlement Agreement," "Second Amended Settlement Agreement," "Settlement," or "Agreement" means this Stipulation and Agreement of Settlement, as amended, including the attached exhibits.

32. "Settlement Claim" or "Claim" means a claim for reimbursement submitted by a Settlement Class Member to the Settlement Administrator as provided in this Agreement.

33. "Settlement Claim Form" or "Claim Form" means a claim form, in the form to be determined by the Settlement Administrator, that a Settlement Class Member seeking reimbursement must submit to the Settlement Administrator as provided in this Agreement.

34. "Settlement Class" means, collectively, all persons who purchased for personal consumption, and not for re-sale, Reservie Trans-Resveratrol in the United States during the Class Period. Excluded from the Settlement Class are any officers, directors, or employees of Vitamin Shoppe, and the immediate family member of any such person, as well as any individual who received remuneration from Vitamin Shoppe in connection with that individual's use or

endorsement of Reservie Trans-Resveratrol. Also excluded is any judge who may preside over this case.

35. “Settlement Class Member” or “Class Member” means any member of the Settlement Class who does not submit a timely and valid Request for Exclusion.

36. “Settlement Website” means the Internet website to be established by the Settlement Administrator within thirty (30) days after the date of entry of the Preliminary Approval Order.

37. “Valid Claim” means a claim for reimbursement submitted by a Settlement Class Member that satisfies all the criteria for submission of a Qualifying Settlement Claim Form.

38. “Vitamin Shoppe” means Vitamin Shoppe Industries, Inc., incorrectly sued as Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc.

39. “Vitamin Shoppe’s Counsel” means Venable LLP.

ARTICLE III – SETTLEMENT CLASS RELIEF

In consideration of a full, complete, and final settlement of the Action, and the Releases in Article VII below, and subject to the Court’s approval, the Parties agree to the following relief:

1. Class Settlement Payment

No later than five (5) business days after the Effective Date, Vitamin Shoppe shall deposit the amount of the Class Settlement Payment, as calculated above, into the claims administrator’s Trust account, to be held for safekeeping. The amount deposited by Vitamin Shoppe into the Class Settlement Payment is to be released from the trust only for distribution to Participating Claimants, as set forth below.

2. Distribution of the Class Settlement Payment

Distribution of funds from the Class Settlement Payment to Participating Claimants shall commence as soon as practicable after the Effective Date, but in no event later than thirty (30) days after the Effective Date.

Payments issued to Participating Claimants shall be made via check. All such checks will expire and become null and void unless cashed within one-hundred and eighty (180) days after the date of issuance. To the extent that a check issued to a Participating Claimant is not cashed within one-hundred and eighty (180) days after the date of issuance, the check will be void and such funds

1 shall revert to the claims administrator's Trust account. Within seven (7) days after the one-
2 hundred and eightieth (180th) day after the date of issuance of the settlement checks, the claims
3 administrator shall notify the bank that issued these checks to stop payment on the checks.

4 3. Settlement Class Member Claims

5 a. Relief to the Settlement Class

6 The Class Settlement Payment shall be available to pay Valid Claims submitted by
7 Participating Claimants who purchased Reservie Trans-Resveratrol for personal consumption, and
8 not for re-sale, during the Class Period. Each Participating Claimant will be entitled to
9 reimbursement in the amount of: (1) \$25, if the number of Valid Claims is 5,000 or less; or (2) \$21,
10 if the number of Valid Claims is between 5,001 and 10,000; or (3) \$17, if the number of Valid
11 Claims is 10,001 or more.

12 All Settlement Class Members who submit a Claim must provide an affirmation, signed
13 under penalty of perjury, that the Class Member personally purchased Reservie Trans-Resveratrol
14 during the Class Period.

15 b. Claim Forms

16 Settlement Class Members will be able to obtain a Settlement Claim Form by calling the
17 toll-free number established for purposes of administering this Agreement, by requesting one by
18 mail at the address established by the Settlement Administrator, or by downloading the form from
19 the Settlement Website established by the Settlement Administrator. Settlement Claim Forms also
20 will be sent by mail or email to certain Settlement Class Members, as set forth in Article IV(1)
21 below. The Claim Form shall include instructions for the submission process. Settlement Class
22 Members may submit a Claim Form online or by mail to the Settlement Administrator at the
23 address provided. A copy of the Proposed Claim Form is attached hereto as **Exhibit E**.

24 c. Waiver

25 If a Qualifying Settlement Claim Form is not actually received by the Settlement
26 Administrator from a Settlement Class Member via the Internet or with a postmark on or before the
27 Notice Response Deadline, then that Settlement Class Member will be deemed to have forever
28 waived his or her right to be a Participating Claimant and to receive payment under this Settlement.

As long as they do not properly submit a Request for Exclusion, Settlement Class Members who do not become Participating Claimants shall be deemed Members of the Settlement Class and shall be subject to the Judgment. Only Participating Claimants shall be entitled to payment pursuant to the Judgment.

4. Excess Funds

If the aggregate value of Valid Claims submitted by Settlement Class Members is less than \$125,000, then the unclaimed balance shall be distributed cy pres to a charitable organization that benefits the Settlement Class, the Consumer Federation of America. Such unclaimed balance, if any, shall be paid no later than two-hundred and twenty-four (224) days after the Effective Date, provided that the Effective Date occurs.

5. Equitable Relief and Future Conduct by Vitamin Shoppe

To the extent Vitamin Shoppe still markets or sells Reservie Trans-Resveratrol in the United States after the Effective Date, Vitamin Shoppe shall revise the labels on Reservie Trans-Resveratrol manufactured one hundred and eighty (180) days after the Effective Date to make clear that Reservie Trans-Resveratrol contains *Polygonum cuspidatum* (Japanese Knotweed) by listing that ingredient in the Supplement Facts panel on the label. Vitamin Shoppe shall undertake best efforts to withdraw from the marketplace, within one hundred and eighty (180) days after the Effective Date, all Reservie Trans-Resveratrol with labels that do not list *Polygonum cuspidatum* (Japanese Knotweed) as an ingredient. Nothing in this provision shall prevent Vitamin Shoppe from making changes to Reservie Trans-Resveratrol labels not inconsistent with the foregoing, or as necessary to comply with governmental or regulatory requirements.

ARTICLE IV – NOTICE AND REQUESTS FOR EXCLUSION

1. Provision of Class Notice

Notice to the Settlement Class shall be provided in the forms approved by the Court in the Preliminary Approval Order, by those means set forth in the Preliminary Approval Order. The Notice shall be substantially in the same forms as the exemplars submitted as **Exhibits C and D**.

a. Direct Mail/Email Notice

1 No later than twenty-one (21) days after the full execution of this Second Amended
2 Settlement Agreement, Vitamin Shoppe will provide the Settlement Administrator and the Notice
3 Provider with a schedule in electronic format that contains, to the extent reasonably available from
4 Vitamin Shoppe's records, the names, postal addresses, email addresses and telephone numbers
5 associated with each individual member of Vitamin Shoppe's "Healthy Awards" program who
6 purchased Resveratrol in the United States on or after January 1, 2011. The Parties
7 agree that such "Healthy Awards" program members constitute approximately 90% of the
8 Settlement Class. Within thirty (30) days after the date of entry of the Preliminary Approval Order,
9 the Settlement Administrator and the Notice Provider shall use best efforts to cause the short-form
10 Notice to be sent by email to all such "Healthy Awards" program Settlement Class members for
11 whom there is a record of an email address. Within thirty (30) days after the date of entry of the
12 Preliminary Approval Order, the Settlement Administrator and the Notice Provider shall use best
13 efforts to cause a single-postcard short-form Notice to be sent by U.S. Mail to all such "Healthy
14 Awards" program Settlement Class members for whom there is a record of a postal address only,
15 plus any such "Healthy Awards" program Settlement Class members for whom email transmission
16 was not successful.

17 b. Internet Notice

18 The Parties, the Settlement Administrator and the Notice Provider shall use best efforts to
19 cause the Notice to commence online at the Settlement Website promptly after entry of the
20 Preliminary Approval Order. The Settlement Website shall be administered by the Settlement
21 Administrator and the Notice Provider. The Settlement Administrator and the Notice Provider shall
22 use best efforts, within thirty (30) days after the date of entry of the Preliminary Approval Order, to
23 cause Internet users who are likely settlement class members or who utilize search engines to search
24 for some combination of "Vitamin Shoppe" and "Resveratrol" to be exposed to an ad banner
25 directing such users to the Settlement Website. The content of this ad banner is to be agreed upon
26 by the Parties.

1 2. Declarations Of Compliance

2 The Settlement Administrator and the Notice Provider shall prepare declarations attesting to
3 compliance with the notice requirements set forth above. Such declarations shall be provided to
4 Class Counsel and Vitamin Shoppe's Counsel and filed with the Court no later than ten (10) days
5 prior to the Final Approval Hearing.

6 3. Best Notice Practicable

7 The Parties agree that compliance with the procedures described in this Article is the best
8 notice practicable under the circumstances and shall constitute due and sufficient notice to the
9 Settlement Class of the pendency of the Action, certification of the Settlement Class, the terms of
10 the Second Amended Settlement Agreement, and the Final Approval Hearing, and shall satisfy the
11 requirements of the California Rules of Court, the California Code of Civil Procedure, the
12 Constitution of the State of California, the United States Constitution, and any other applicable law.

13 4. Report On Requests For Exclusion, Objections and Valid Claims

14 Not later than ten (10) days before the Final Approval Hearing, the Settlement Administrator
15 shall prepare and deliver to Class Counsel, who shall file it with the Court, and Vitamin Shoppe's
16 Counsel, a report stating: (1) the total number of Persons who have submitted timely and valid
17 Requests for Exclusion from the Settlement Class, and the names of such Persons; (2) the total
18 number of Settlement Class Members objecting to or opposing the approval of this Settlement
19 and/or the Fee and Cost Application, the names of all such Persons, and the written objections
20 submitted by such Persons; and (3) the total number of Persons that have submitted timely Valid
21 Claims, and the aggregate value of those Valid Claims. Any Person who has submitted a timely and
22 valid Request for Exclusion will not be entitled to receive any relief under this Second Amended
23 Settlement Agreement.

24 5. Inquiries From Settlement Class Members

25 It shall be the responsibility of Class Counsel to establish procedures for receiving and
26 responding to all inquiries from Settlement Class Members with respect to this Settlement. Vitamin
27 Shoppe and Vitamin Shoppe's Counsel may respond, but are not required to respond, to such
28 inquiries.

1 **ARTICLE V – COURT APPROVAL OF SETTLEMENT**

2 1. Preliminary Approval

3 As soon as practicable, Class Counsel shall apply for entry of the Preliminary Approval
4 Order in the form of **Exhibit A** hereto. The Preliminary Approval Order proposed to the Court
5 shall include provisions: (a) preliminarily certifying the Settlement Class for settlement purposes
6 only; (b) preliminarily approving this Settlement and finding this Settlement sufficiently fair,
7 reasonable and adequate to allow Notice to be disseminated to the Settlement Class; (c) approving
8 the form, content, and manner of the Notice; (d) setting a schedule for proceedings with respect to
9 final approval of this Settlement; (e) providing that, pending entry of a Final Approval Order and
10 Judgment, no Settlement Class Member (either directly, in a representative capacity, or in any other
11 capacity) shall commence or continue any action against the Released Parties asserting any of the
12 Class Released Claims; and (f) staying the Action, other than such proceedings as are related to this
13 Settlement.

14 2. Objections To Settlement

15 Any Settlement Class Member wishing to object to or to oppose the approval of this
16 Settlement and/or the Fee and Cost Application shall submit a written objection (with a statement of
17 reasons) to the Settlement Administrator at least twenty-one (21) days before the date of the Final
18 Approval Hearing. Any Settlement Class Member who fails to do so shall be foreclosed from
19 making such objection or opposition. Scheuerman will file with the Court her brief in support of
20 final settlement approval, in support of final certification of the Settlement Class, and in response to
21 any objections at least seven (7) days before the date of the Final Approval Hearing. Any
22 Settlement Class Member who fails to submit a timely written objection and to appear at the final
23 approval hearing shall have no right to file an appeal relating to the approval of this Settlement.

24 3. Final Approval Hearing And Notice Of Final Approval

25 The Parties shall request that the Court, on the date set forth in the Preliminary Approval
26 Order, or on such other date that the Court may set, conduct a Final Approval Hearing to:
27 (a) determine whether to grant final approval to this Second Amended Settlement Agreement and to
28 certify the Settlement Class; (b) consider any timely objections to this Settlement and the Parties'

1 responses to such objections; and (c) rule on the Fee and Cost Application. At the Final Approval
2 Hearing, the Parties shall ask the Court to give final approval to this Second Amended Settlement
3 Agreement. If the Court grants final approval to this Second Amended Settlement Agreement, then
4 the Parties shall ask the Court to enter a Final Approval Order and Judgment, substantially in the
5 form of **Exhibit B** attached hereto, which approves this Settlement, certifies the Settlement Class,
6 and authorizes entry of a final judgment. The Settlement Administrator shall, promptly after the
7 entry of the Final Approval Order and Judgment, cause the Final Approval Order and Judgment
8 and/or any other final judgment entered by the Court, to become available online at the Settlement
9 Website.

10 4. Disapproval, Cancellation, Termination, Or Nullification Of Settlement

11 a. This Second Amended Settlement Agreement shall terminate automatically if
12 either (i) the Court denies preliminary approval or final approval to this Second Amended
13 Settlement Agreement, or (ii) the Final Approval Order and Judgment does not become Final by
14 reason of a higher court reversing final approval by the Court, and the Court thereafter declining to
15 enter a further order or orders approving settlement on the terms set forth herein.

16 b. If this Second Amended Settlement Agreement is terminated pursuant to its
17 terms, then: (i) this Second Amended Settlement Agreement shall be rendered null and void; (ii)
18 this Second Amended Settlement Agreement and all negotiations and proceedings relating hereto
19 shall be of no force or effect, and without prejudice to the rights of the Parties; and (iii) all Parties
20 shall be deemed to have reverted to their respective status in the Action, or the Dismissed Action, as
21 of the date and time immediately preceding the execution of this Second Amended Settlement
22 Agreement and, except as otherwise expressly provided, the Parties shall stand in the same position
23 and shall proceed in all respects as if this Second Amended Settlement Agreement and any related
24 orders had never been executed, entered into, or filed, except that the Parties shall not seek to
25 recover from one another any costs incurred in connection with this Settlement.
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1 **ARTICLE VI – ADMINISTRATIVE EXPENSES, ATTORNEYS’ FEES, COSTS**

2 1. Costs Of Notice

3 All costs of providing the Notice as provided herein, including the costs of direct mail, email
4 and Internet notice, shall be borne by Vitamin Shoppe, subject to the terms hereof.

5 2. Costs Of Administering Settlement

6 All costs of administering this Settlement, including all fees of the Settlement Administrator
7 and the costs of generating and mailing any checks to be issued as part of this Settlement, shall be
8 borne by Vitamin Shoppe, subject to the terms hereof. In the event that this Second Amended
9 Settlement Agreement is terminated pursuant to its terms, Vitamin Shoppe shall bear any costs of
10 administering this Settlement already incurred.

11 3. Attorneys’ Fees And Costs

12 Scheuerman and/or Class Counsel may make a Fee and Cost Application, to be heard
13 sometime after the Final Approval Hearing, seeking an award of attorneys’ fees in an amount not to
14 exceed one hundred and seventy thousand dollars (\$170,000), and reasonable documented costs
15 consistent with California law. Scheuerman and/or Class Counsel shall file such application no
16 later than thirty (30) days prior to the deadline for class members to file their claims, object, or opt
17 out. Vitamin Shoppe shall pay all attorneys’ fees up to one hundred and seventy thousand dollars
18 (\$170,000) that are approved by the Court, and all reasonable documented costs that are approved
19 by the Court, no later than fifteen (15) days after the Effective Date, and only in the event that the
20 Effective Date occurs. Payments under this provision shall be made to Hyde & Swigart. Class
21 Counsel shall be solely responsible for further distributing any payments made under this provision.

22 4. Incentive Award

23 Scheuerman and/or Class Counsel on her behalf, may make an application to be heard at the
24 Final Approval Hearing for an incentive award to be paid by Vitamin Shoppe in an amount not to
25 exceed two thousand five hundred dollars (\$2,500). Such incentive award, if approved by the
26 Court, shall be paid by Vitamin Shoppe no later than fifteen (15) days after the Effective Date, and
27 only in the event that the Effective Date occurs. Such payment shall be compensation and
28 consideration for the efforts of Scheuerman as the Class Representative in the Action.

1 5. Effect On Settlement

2 The Parties agree that the rulings of the Court regarding the amount of attorneys' fees or
3 costs and any incentive award, and any claim or dispute relating thereto, will be considered by the
4 Court separately from the remaining matters to be considered at the Final Approval Hearing as
5 provided for in this Second Amended Settlement Agreement and any determinations in that regard
6 will be embodied in a separate order. Any order or proceedings relating to the amount of attorneys'
7 fees or incentive award, including any appeals from or modifications or reversals of any order
8 related thereto, shall not operate to modify, reverse, terminate, or cancel the Second Amended
9 Settlement Agreement, affect the releases provided for in the Second Amended Settlement
10 Agreement, or affect whether the Final Approval Order and Judgment becomes Final as defined
11 herein.

12 **ARTICLE VII – RELEASES UPON EFFECTIVE DATE**

13 1. Binding and Exclusive Nature of Second Amended Settlement Agreement

14 On the Effective Date, if it occurs, the Parties and each and every Settlement Class Member
15 shall be bound by this Second Amended Settlement Agreement and shall have recourse exclusively
16 to the benefits, rights, and remedies provided hereunder. No other action, demand, suit or other
17 claim may be pursued against the Released Parties with respect to the Class Released Claims.

18 2. Class Releases

19 On the Effective Date, if it occurs, the Releasing Parties shall be deemed to have, and by
20 operation of this Second Amended Settlement Agreement shall have, fully, finally and forever
21 released, relinquished and discharged the Released Parties from any and all of the Class Released
22 Claims.

23 3. Class Representative's Individual Releases

24 On the Effective Date, if it occurs, the Class Representative shall be deemed to have, and by
25 operation of this Second Amended Settlement Agreement shall have, fully, finally and forever
26 released, relinquished and discharged the Released Parties from any and all of the Class
27 Representative's Individual Released Claims.

1 4. Stay Of The Action

2 The Parties agree to request that the Court, in connection with Preliminary Approval, issue
3 an immediate stay of the Action.

4 5. Assumption of Risk

5 In entering into this Second Amended Settlement Agreement, each of the Parties assumes
6 the risk of any mistake of fact or law. If either Party should later discover that any fact which the
7 Party relied upon in entering this Second Amended Settlement Agreement is not true, or that the
8 Party's understanding of the facts or law was incorrect, the Party shall not be entitled to modify,
9 reform, or set aside this Second Amended Settlement Agreement, in whole or in part, by reason
10 thereof. The Parties agree that at the time this Second Amended Settlement Agreement was
11 executed, there were unsettled issues of law, and the Parties agree to honor this Agreement
12 regardless of developments in the law after execution; specifically, the Class Representative and
13 Class Counsel recognize and agree that, given these uncertainties in the law, the Class
14 Representative and Class Counsel are receiving valuable consideration for the settlement of the
15 Action at this time and per the terms of this Agreement. The Parties will advocate for Court
16 approval of this Second Amended Settlement Agreement.

17 **ARTICLE VIII – LIMITATIONS ON USE OF SECOND AMENDED SETTLEMENT**
18 **AGREEMENT**

19 1. No Admission

20 Neither the acceptance by Vitamin Shoppe of the terms of this Second Amended Settlement
21 Agreement nor any of the related negotiations or proceedings constitutes an admission with respect
22 to the merits of the claims alleged in the Action, the validity of any claims that could have been
23 asserted by any of the Settlement Class Members in the Action, or the liability of Vitamin Shoppe
24 in the Action, or the Dismissed Action. Vitamin Shoppe specifically denies any liability or
25 wrongdoing of any kind associated with the claims alleged in the Action, and the Dismissed Action.
26 Neither the acceptance by Scheuerman of the terms of this Second Amended Settlement Agreement,
27 nor any of the related negotiations or proceedings constitutes an admission with respect to the
28 merits of the claims alleged in the Action, or the Dismissed Action.

1 2. Limitations on Use

2 This Second Amended Settlement Agreement shall not be used, offered, or received into
3 evidence in the Action for any purpose other than to enforce, to construe, or to finalize the terms of
4 the Second Amended Settlement Agreement or to obtain the preliminary and final approval by the
5 Court of the terms of the Second Amended Settlement Agreement. Neither this Second Amended
6 Settlement Agreement nor any of its terms shall be offered or received into evidence in any other
7 action or proceeding except that Vitamin Shoppe may file this Second Amended Settlement
8 Agreement or the Judgment in any action that may be brought against a Released Party in order to
9 support a defense or counterclaim based on principles of res judicata, collateral estoppel, release,
10 good faith settlement, judgment bar, reduction, or any other theory of claim preclusion or issue
11 preclusion or similar defense or counterclaim.

12 3. No Public Statements Without Agreement of the Parties

13 The Parties and their counsel agree that no Party or counsel who is a signatory to this
14 Second Amended Settlement Agreement will comment publicly in any form regarding this
15 Settlement or litigation without prior approval of all Parties and counsel. Any disputes among the
16 Parties regarding publicity associated with this Settlement shall be submitted to this Court for
17 expedited review and determination.

18 **ARTICLE IX – MISCELLANEOUS PROVISIONS**

19 1. No Assignment

20 Each Party represents, covenants, and warrants that she or it has not directly or indirectly
21 assigned, transferred, encumbered, or purported to assign, transfer, or encumber any portion of any
22 liability, claim, demand, cause of action, or rights that she or it herein releases.

23 2. Binding On Assigns

24 This Second Amended Settlement Agreement shall be binding upon and inure to the benefit
25 of the Parties and their respective heirs, trustees, executors, successors, and assigns.

26 3. Captions

27 Titles or captions contained herein are inserted as a matter of convenience and for reference,
28 and in no way define, limit, extend, or describe the scope of this Second Amended Settlement

1 Agreement or any provision hereof. Each term of this Second Amended Settlement Agreement is
2 contractual and not merely a recital.

3 4. Settlement Class Member Signatures

4 It is agreed that, because the Settlement Class Members are so numerous, it is impractical to
5 have each Settlement Class Member execute this Second Amended Settlement Agreement. The
6 Notice will advise all Settlement Class Members of the binding nature of the Releases and of the
7 remainder of this Second Amended Settlement Agreement, and in the absence of a valid and timely
8 Request for Exclusion, such Notice shall have the same force and effect as if each Settlement Class
9 Member executed this Second Amended Settlement Agreement.

10 5. Construction

11 The Parties agree that the terms and conditions of this Second Amended Settlement
12 Agreement are the result of arms-length negotiations between the Parties and that this Second
13 Amended Settlement Agreement shall not be construed in favor of or against any Party by reason of
14 the extent to which any Party, or his or its counsel, participated in the drafting of this Second
15 Amended Settlement Agreement.

16 6. Counterparts

17 This Second Amended Settlement Agreement and any amendments hereto may be executed
18 in one or more counterparts, and either Party may execute any such counterpart, each of which
19 when executed and delivered shall be deemed to be an original and both of which counterparts
20 taken together shall constitute but one and the same instrument. A facsimile or portable data file
21 (PDF) signature shall be deemed an original for all purposes.

22 7. Governing Law

23 Construction and interpretation of the Second Amended Settlement Agreement shall be
24 determined in accordance with the laws of the State of California, without regard to the choice-of-
25 law principles thereof.

26 8. Integration Clause

27 This Second Amended Settlement Agreement, including the exhibits referred to herein,
28 which form an integral part hereof, contains the entire understanding of the Parties with respect to

1 the subject matter contained herein. There are no promises, representations, warranties, covenants,
2 or undertakings governing the subject matter of this Second Amended Settlement Agreement other
3 than those expressly set forth in this Second Amended Settlement Agreement. This Second
4 Amended Settlement Agreement supersedes all prior agreements and understandings among the
5 Parties with respect to the settlement of the Action. This Second Amended Settlement Agreement
6 may not be changed, altered or modified, except in a writing signed by the Parties and approved by
7 the Court. This Second Amended Settlement Agreement may not be discharged except by
8 performance in accordance with its terms or by a writing signed by the Parties.

9 9. Jurisdiction

10 The Parties shall propose that the Court retain jurisdiction, after entry of the Final Approval
11 Order and Judgment, with respect to enforcement of the terms of this Settlement, and all Parties and
12 Settlement Class Members submit to the exclusive jurisdiction of the Court with respect to the
13 enforcement of this Settlement and any dispute with respect thereto.

14 10. No Collateral Attack

15 This Second Amended Settlement Agreement shall not be subject to collateral attack by any
16 Settlement Class Member at any time on or after the Effective Date. Such prohibited collateral
17 attacks shall include, but shall not be limited to, claims that a Settlement Class Member's claim was
18 improperly denied, that the payment to a Settlement Class Member was improperly calculated,
19 and/or that a Settlement Class Member failed to receive timely notice of the Second Amended
20 Settlement Agreement.

21 11. Parties' Authority

22 The signatories hereto represent that they are fully authorized to enter into this Second
23 Amended Settlement Agreement and bind the Parties to the terms and conditions hereof.

24 12. Receipt Of Advice Of Counsel

25 The Parties acknowledge, agree, and specifically warrant to each other that they have read
26 this Second Amended Settlement Agreement, have received legal advice with respect to the
27 advisability of entering into this Settlement, and fully understand its legal effect.
28

1 13. Waiver Of Compliance

2 Any failure of any Party to comply with any obligation, covenant, agreement, or condition
3 herein may be expressly waived in writing, to the extent permitted under applicable law, by the
4 Party or Parties entitled to the benefit of such obligation, covenant, agreement, or condition. A
5 waiver or failure to insist upon compliance with any representation, warranty, covenant, agreement,
6 or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other
7 failure.

8 14. Settlement Conditioned on Certain Matters

9 This entire Second Amended Settlement Agreement is contingent upon the Parties reaching
10 agreement on the contents of the exhibits and ancillary agreements hereto.

11 [SIGNATURES ON THE FOLLOWING PAGE]
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8 Dated: May 29 2016
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10 By: Rebecca Scheuerman
11 REBECCA SCHEUERMAN, on behalf of
herself and the proposed class

12 Dated: May 27, 2016
13

14 By: Michael A. Jaffe
15 Name: Michael A. Jaffe
16
17 Title: VP, Deputy General Counsel
on behalf of Defendant Vitamin Shoppe
18 Industries, Inc.
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1 APPROVED AS TO FORM:

2 Dated: May 27, 2016

KAZEROUNI LAW GROUP, APC

3
4
5 By: 

ABBAS KAZEROUNIAN

6 Attorneys for Plaintiff Scheuerman, and the
7 proposed class

8
9 Dated: May 30, 2016

HYDE & SWIGART

10
11
12 By: 

JESSICA R. K. DORMAN

13 Attorneys for Plaintiff Scheuerman, and the
14 proposed class

15
16 Dated: May 27, 2016

VENABLE LLP

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19 By: 

ANGEL A. GARGANTA

20 Attorneys for Defendant Vitamin Shoppe
21 Industries, Inc.

PLAINTIFF'S EXHIBIT 1A

PROPOSED ORDER FOR PRELIMINARY APPROVAL

In The Case Of

*Rebecca Scheuerman,
individually and on behalf of all others similarly situated,
v.*

Vitamin Shoppe Industries, Inc. d/b/a Vitamin Shoppe, Inc.,

BC592773

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

REBECCA SCHEUERMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

VITAMIN SHOPPE INDUSTRIES, INC.,
d/b/a VITAMIN SHOPPE, INC.,

Defendant.

CASE NO. BC592773

Assigned to the Hon. Kenneth R. Freeman

CLASS ACTION

**[PROPOSED] ORDER RE:
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT**

1 WHEREAS, Plaintiff in the above-captioned action, *Rebecca Scheuerman*,
2 *individually and on behalf of all others similarly situated v. Vitamin Shoppe Industries, Inc., d/b/a*
3 *Vitamin Shoppe, Inc.*, Los Angeles County Superior Court, No. BC486925 (the “Action”), and
4 Defendant Vitamin Shoppe Industries, Inc. (“Vitamin Shoppe”), incorrectly sued as Vitamin
5 Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc., have reached a proposed settlement and
6 compromise of the disputes between them in the above action, which is embodied in the Second
7 Amended Settlement Agreement filed with the Court;

8 WHEREAS, the Parties have applied to the Court for preliminary approval of the
9 proposed Settlement of the Action, the terms and conditions of which are set forth in the Second
10 Amended Stipulation and Agreement of Settlement (the “Second Amended Settlement
11 Agreement”);

12 AND NOW, the Court, having read and considered the Second Amended Settlement
13 Agreement and accompanying documents and the Motion For Preliminary Settlement Approval and
14 Supporting Papers, and the Parties to the Second Amended Settlement Agreement having consented
15 to the entry of this order, and all capitalized terms used herein having the meaning defined in the
16 Second Amended Settlement Agreement, **IT IS HEREBY ORDERED AS FOLLOWS:**

17 1. The Court, for purposes of this Order, adopts all defined terms as set forth in
18 the Second Amended Settlement Agreement.

19 2. Subject to further consideration by the Court at the time of the Final Approval
20 Hearing, the Court preliminarily approves the Settlement as fair, reasonable and adequate to the
21 Settlement Class, as falling within the range of possible final approval, and as meriting submission
22 to the Settlement Class for its consideration.

23 3. For purposes of the Settlement only, the Court certifies the Settlement Class,
24 which means: All persons who purchased for personal consumption, and not for re-sale, Resveric
25 Trans-Resveratrol in the United States during the Class Period. Excluded from the Settlement Class
26 are any officers, directors, or employees of Vitamin Shoppe, and the immediate family members of
27 any such person, as well as any individual who received remuneration from Vitamin Shoppe in
28

1 connection with that individual's use or endorsement of Reservie Trans-Resveratrol. Also excluded
2 is any judge who may preside over this case.

3 4. Based upon the submissions of the Parties and the evidence submitted
4 therein, the Court conditionally makes the following findings for settlement purposes only, subject
5 to final affirmation at the Fairness Hearing: (a) the members of the Settlement Class are so
6 numerous as to make joinder impracticable; (b) there are questions of law and fact common to the
7 Settlement Class, and such questions predominate over any questions affecting only individual
8 Settlement Class Members; (c) Plaintiff's claims and the defenses thereto are typical of the claims
9 of Settlement Class Members and the defenses thereto; (d) Plaintiff and her counsel can and have
10 fairly and adequately protected the interests of the Settlement Class Members in this Action; and (e)
11 a class action is superior to all other available methods for fairly and efficiently resolving this
12 Action and provides substantial benefits to the Parties, the Settlement Class Members and the Court.

13 5. This matter is conditionally certified as a class action for settlement purposes
14 only, under California Code of Civil Procedure Section 382, California Civil Code Section 1781,
15 and California Rules of Court, Chapter 6, Rules 3.767 *et seq.*, as applicable.

16 6. The Court appoints Rebecca Scheuerman as Class Representative. The Court
17 also appoints Kazerouni Law Group, APC and Hyde & Swigart as Class Counsel for purposes of
18 this Settlement.

19 7. A Final Approval Hearing shall be held before this Court at ____ a.m. on
20 _____ 2016 in Dept. ____ of the Los Angeles County Superior Court, to address
21 whether the proposed Settlement should be finally approved as fair, reasonable and adequate, and
22 whether the Final Approval Order and Judgment should be entered;

23 8. Following the hearing on fairness, another hearing shall be held before this
24 Court at ____ a.m. on _____ 2016 in Dept. ____ of the Los Angeles County Superior
25 Court, to address whether Class Counsel's application for attorneys' fees, costs, and incentive
26 award should be approved. Consideration of any application for an award of attorneys' fees, costs,
27 and incentive award shall be separate from consideration of whether or not the proposed Settlement
28 should be approved. Class Counsel will file their application for attorneys' fees, costs, and incentive

1 award no later than thirty (30) days prior to the deadline for class members to file their claims,
2 object, or opt out.

3 9. With the exception of such proceedings as are necessary to implement,
4 effectuate and grant final approval to the terms of the Second Amended Settlement Agreement, all
5 proceedings are stayed in this Action and all Settlement Class Members are enjoined from
6 commencing or continuing any action or proceeding in any court or tribunal asserting any claims
7 encompassed by the Second Amended Settlement Agreement, unless the Settlement Class Member
8 timely files a valid Request for Exclusion as defined in the Second Amended Settlement
9 Agreement.

10 10. The Court approves, as to form and content, the long-form and short-form
11 Notices, substantially in the forms attached as Exhibits C and D to the Second Amended Settlement
12 Agreement. The Notice Plan, including direct mail/email notice and Internet notice, shall be
13 implemented as set forth in Article IV of the Second Amended Settlement Agreement, the
14 submissions of Plaintiff in support of Preliminary Approval, and the Declarations of Steven
15 Weisbrot. No later than ten (10) days prior to the Final Approval Hearing, the Settlement
16 Administrator and Notice Provider shall file with the Court declarations attesting to compliance
17 with this Order.

18 11. The Court finds that the Notice Plan described in Article IV of the Second
19 Amended Settlement Agreement, the submissions of the Class Representative in support of
20 Preliminary Approval, and the Declarations of Steven Weisbrot constitute the best notice
21 practicable under the circumstances and shall constitute due and sufficient notice to the Settlement
22 Class of the pendency of the Action, certification of the Settlement Class, the terms of the Second
23 Amended Settlement Agreement, and the Fairness Hearing, and complies fully with the
24 requirements of the California Rules of Court, the California Code of Civil Procedure, the United
25 States Constitution, and any other applicable law.

26 12. The Court further finds that the Notice Plan described in Article IV of the
27 Second Amended Settlement Agreement, the submissions of the Class Representative in support of
28 Preliminary Approval, and the Declarations of Steven Weisbrot will adequately inform members of

1 the Settlement Class of their right to exclude themselves from the Settlement Class so as not to be
2 bound by the terms of the Second Amended Settlement Agreement. Any member of the Settlement
3 Class who desires to be excluded from the Settlement Class, and therefore not bound by the terms
4 of the Second Amended Settlement Agreement, must submit to the Settlement Administrator,
5 pursuant to the instructions set forth in the Notice, a timely and valid written Request for Exclusion,
6 submitted online or postmarked at least twenty-one (21) days prior to the date set for the Final
7 Approval Hearing in paragraph 7 above. Not later than ten (10) days before the Final Approval
8 Hearing, the Settlement Administrator shall prepare and deliver to Class Counsel, who shall file it
9 with the Court, and Vitamin Shoppe's Counsel, a report stating the total number of Persons that
10 have submitted timely and valid Requests for Exclusion from the Settlement Class, and the names
11 of such Persons.

12 13. Any member of the Settlement Class who elects to be excluded shall not be
13 entitled to receive any of the benefits of the Second Amended Settlement Agreement, shall not be
14 bound by the release of any claims pursuant to the Second Amended Settlement Agreement, and
15 shall not be entitled to object to the Second Amended Settlement Agreement or appear at the Final
16 Approval Hearing. The names of all Persons timely submitting valid Requests for Exclusion shall
17 be provided to the Court.

18 14. Service of all papers on counsel for the Parties shall be made as follows:

19 To Class Counsel:

20
21 Abbas Kazerounian, Esq.
22 KAZEROUNI LAW GROUP, APC
23 245 Fischer Avenue, Suite D1
24 Costa Mesa, CA 92626

25 Jessica R. K. Dorman, Esq.
26 Joshua B. Swigart, Esq.
27 HYDE & SWIGART
28 2221 Camino Del Rio South, Suite 101
San Diego, CA 92108-3551

To Defense Counsel:

Angel A. Garganta, Esq.

1 VENABLE LLP
2 505 Montgomery Street
3 Suite 1400
4 San Francisco, CA 94111

5 15. Only Settlement Class Members who have filed and served valid and timely
6 notices of intention to appear, together with supporting papers, shall be entitled to be heard at the
7 Final Approval Hearing.

8 16. Any Settlement Class Member who does not make an objection in the time
9 and manner provided shall be deemed to have waived such objection and forever shall be foreclosed
10 from making any objection to the fairness or adequacy of the proposed Settlement as incorporated
11 in the Second Amended Settlement Agreement, adequacy of notice, the payment of attorneys' fees
12 and costs, the payment of incentive award, and/or the Final Approval Order and Judgment. Any
13 Settlement Class Member who makes a timely written objection in the time and manner provided,
14 but fails to appear at the Final Approval Hearing, shall have waived the right to appeal the fairness
15 or adequacy of the proposed Settlement as incorporated in the Second Amended Settlement
16 Agreement, adequacy of notice, the payment of attorneys' fees and costs, the payment of incentive
17 award, and/or the Final Approval Order and Judgment.

18 17. In the event that the proposed Settlement is not approved by the Court, or in
19 the event that the Second Amended Settlement Agreement becomes null and void pursuant to its
20 terms, this Order and all orders entered in connection therewith shall become null and void, shall be
21 of no further force and effect, and shall not be used or referred to for any purposes whatsoever in
22 this civil action or in any other case or controversy; in such event the Second Amended Settlement
23 Agreement and all negotiations and proceedings directly related thereto shall be deemed to be
24 without prejudice to the rights of any and all of the Parties, who shall be restored to their respective
25 positions as of the date and time immediately preceding the execution of the Second Amended
26 Settlement Agreement.

27 18. The Court may, for good cause, extend any of the deadlines set forth in this
28 Order without further notice to the Settlement Class Members. The Final Approval Hearing may,

1 from time to time and without further notice to the Settlement Class, be continued by order of the
2 Court.

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4 **IT IS SO ORDERED.**

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6 Dated:

7 Honorable Kenneth R. Freeman
8 Judge, Los Angeles County Superior Court
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PLAINTIFF'S EXHIBIT 1B

PROPOSED ORDER FOR FINAL APPROVAL

In The Case Of

*Rebecca Scheuerman,
individually and on behalf of all others similarly situated,*

v.

Vitamin Shoppe Industries, Inc. d/b/a Vitamin Shoppe, Inc.,

BC592773

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

REBECCA SCHEUERMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

VITAMIN SHOPPE INDUSTRIES, INC.,
d/b/a VITAMIN SHOPPE, INC.,

Defendant.

CASE NO. BC592773

Assigned to the Hon. Kenneth R. Freeman

CLASS ACTION

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

1 WHEREAS, on _____, an Order Re: Preliminary Approval of Proposed
2 Settlement (“Preliminary Approval Order”) was entered by this Court, preliminarily approving the
3 proposed settlement of the Action pursuant to the terms of the Second Amended Stipulation and
4 Agreement of Settlement (the “Second Amended Settlement Agreement”) and directing that notice
5 be given to the members of the Settlement Class.

6 WHEREAS, pursuant to the Parties’ plan for providing notice to the Settlement
7 Class (the “Notice Plan”), the Settlement Class were notified of the terms of the proposed
8 Settlement and of a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and
9 conditions of the Settlement are fair, reasonable and adequate for the release of the Released Claims
10 against the Released Parties; and (2) whether judgment should be entered.

11 WHEREAS, a Final Approval Hearing was held on _____. Prior to the Final
12 Approval Hearing, proof of completion of the Notice Plan was filed with the Court, along with
13 declarations of compliance as prescribed in the Preliminary Approval Order. Settlement Class
14 Members were therefore notified of their right to appear at the hearing in support of or in opposition
15 to the proposed Settlement, the award of attorneys’ fees and costs to Class Counsel, and the
16 payment of incentive award.

17 NOW, THEREFORE, the Court, having heard the presentations of Class Counsel
18 and Vitamin Shoppe’s Counsel, having reviewed all of the submissions presented with respect to
19 the proposed Settlement, having carefully considered the requirements for class certification, having
20 determined that the Settlement is fair, adequate, and reasonable, having considered the application
21 of Class Counsel for awards of attorneys’ fees and costs, and having reviewed the materials in
22 support thereof, it is hereby ORDERED, ADJUDGED and DECREED THAT:

23 1. The capitalized terms used in this Final Approval Order and Judgment shall
24 have the same meaning as defined in the Second Amended Settlement Agreement except as may
25 otherwise be ordered.

26 2. The Court has jurisdiction over the subject matter of this Action and over all
27 claims raised therein and all Parties thereto, including the Settlement Class.

28 3. With respect to the Settlement Class, the Court finally finds and concludes,

1 for settlement purposes only, that: (a) the members of the Settlement Class are so numerous as to
2 make joinder of them impracticable; (b) there are questions of law and fact common to the
3 Settlement Class, and such questions predominate over any questions affecting only individual
4 Settlement Class Members; (c) the Class Representative's claims and the defenses thereto are
5 typical of the claims of Settlement Class Members and the defenses thereto; (d) the Class
6 Representative and Class Counsel have fairly and adequately protected the interests of the
7 Settlement Class Members throughout this Action; and (e) a class action is superior to all other
8 available methods for fairly and efficiently resolving this Action and provides substantial benefits to
9 the Parties, the Settlement Class Members and the Court. The Court therefore determines that this
10 Action satisfies the prerequisites for class certification for settlement purposes under California
11 Code of Civil Procedure Section 382, California Civil Code Section 1781, and California Rules of
12 Court, Chapter 6, Rules 3.767 *et seq.*, as applicable, and finally certifies the Settlement Class for
13 settlement purposes.

14 4. The Settlement Class, which will be bound by this Final Approval Order and
15 Judgment, shall include all members of the Settlement Class who did not submit a timely and valid
16 Request for Exclusion.

17 5. For purposes of the Settlement and this Final Approval Order and Judgment,
18 the Settlement Class shall consist of the following: All persons who purchased for personal
19 consumption, and not for re-sale, Reservie Trans-Resveratrol in the United States during the Class
20 Period. Excluded from the Settlement Class are any officers, directors, or employees of Vitamin
21 Shoppe, and the immediate family member of any such person, as well as any individual who
22 received remuneration from Vitamin Shoppe in connection with that individual's use or
23 endorsement of Reservie Trans-Resveratrol. Also excluded is any judge who may preside over this
24 case.

25 6. The Court finds that the Notice Plan set forth in Article IV of the Second
26 Amended Settlement Agreement, the submissions of the Class Representative in support of
27 Preliminary Approval, and the Declaration of Steven Weisbrot, and effectuated pursuant to the
28 Preliminary Approval Order constitutes the best notice practicable under the circumstances and

1 shall constitute due and sufficient notice to the Settlement Class of the pendency of the Action,
2 certification of the Settlement Class for settlement purposes only, the terms of the Second Amended
3 Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of California
4 law and federal due process of law.

5 7. The Settlement, as set forth in the Second Amended Settlement Agreement, is
6 in all respects fair, reasonable, adequate and in the best interests of the Settlement Class, and it is
7 approved. The Parties shall effectuate the Second Amended Settlement Agreement according to its
8 terms. The Second Amended Settlement Agreement and every term and provision thereof shall be
9 deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this
10 Court.

11 8. Unless otherwise directed by the Court, within five (5) days of the Effective
12 Date, Vitamin Shoppe shall deposit the amount of the Class Settlement Payment, as set forth in the
13 Second Amended Settlement Agreement, and the funds in the Class Settlement Payment shall be
14 distributed to the Settlement Class pursuant to the terms of the Second Amended Settlement
15 Agreement.

16 9. Upon the Effective Date, the Class Representative and all Settlement Class
17 Members shall have, by operation of this Order and Final Judgment, fully, finally and forever
18 released, relinquished, and discharged all Released Parties from all Class Released Claims pursuant
19 to Article VII of the Second Amended Settlement Agreement.

20 10. Settlement Class Members, including the Class Representative, and the
21 successors, assigns, parents, subsidiaries, affiliates or agents of any of them, are hereby permanently
22 barred and enjoined from instituting, commencing or prosecuting, either directly or in any other
23 capacity, any Class Released Claim against any of the Released Parties.

24 11. Upon the Effective Date, the Class Representative shall have, by operation of
25 this Order and Final Judgment, fully, finally and forever released, relinquished, and discharged all
26 Released Parties from all Individual Released Claims pursuant to Article VII of the Second
27 Amended Settlement Agreement.

1 12. The Class Representative, and her successors, assigns, parents, subsidiaries,
2 affiliates or agents, are hereby permanently barred and enjoined from instituting, commencing or
3 prosecuting, either directly or in any other capacity, any Individual Released Claim against any of
4 the Released Parties.

5 13. This Final Approval Order and Judgment, the Second Amended Settlement
6 Agreement, the Settlement which it reflects, and any and all acts, statements, documents or
7 proceedings relating to the Settlement are not, and shall not be construed as, or used as an admission
8 by or against Vitamin Shoppe of any fault, wrongdoing, or liability on its part, or of the validity of
9 any Class Released Claim or Individual Released Claim or of the existence or amount of damages.

10 14. The payments ordered herein shall be made in the manner and at the times set
11 forth in the Second Amended Settlement Agreement.

12 15. Except as otherwise provided in this Order, and the Court's award of costs
13 and attorneys' fees pursuant to the Fee and Cost Application, the Parties shall bear their own costs
14 and attorneys' fees. Without affecting the finality of the Judgment hereby entered, the Court
15 reserves jurisdiction over the implementation of the Settlement, including enforcement and
16 administration of the Second Amended Settlement Agreement, including any releases in connection
17 therewith, and any other matters related or ancillary to the foregoing.

18
19 **IT IS SO ORDERED.**

20
21 Dated:

Honorable Kenneth R. Freeman
Judge, Los Angeles County Superior Court

PLAINTIFF'S EXHIBIT 1C

LONG-FORM NOTICE

In The Case Of

*Rebecca Scheuerman,
individually and on behalf of all others similarly situated,*

v.

Vitamin Shoppe Industries, Inc. d/b/a Vitamin Shoppe, Inc.,

BC592773

If you bought Vitamin Shoppe’s “Reservie Trans-Resveratrol” dietary supplement product on or after January 1, 2011, you could be entitled to money from a legal settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

- A settlement has been reached between Vitamin Shoppe Industries, Inc. (“Vitamin Shoppe”), and Rebecca Scheuerman (the “Class Representative” or “Plaintiff”), individually and on behalf of the Settlement Class.
- The settlement resolves a class action lawsuit about allegations that Vitamin Shoppe made false and misleading statements in its labeling and/or advertising regarding the lawfulness, composition and ingredients of its “Reservie Trans-Resveratrol” dietary supplement product (the “Product”). The lawsuit did not claim that the Product caused anyone physical injury or harm.
- Vitamin Shoppe denies the allegations and is settling to avoid the expense and distraction of litigation. The settlement does not mean Vitamin Shoppe did anything wrong, and the Court has not decided that Vitamin Shoppe did anything wrong.
- The settlement provides cash payments to individuals who purchased the Product.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A VALID CLAIM	The only way to get a cash payment, if you qualify.
EXCLUDE YOURSELF	This is the only option that allows you to be part of any other lawsuit against Vitamin Shoppe about the legal claims in this case.
OBJECT	Tell the Court about why you don’t like the settlement.
GO TO A HEARING	Ask to speak in Court about the settlement.
DO NOTHING	Get no benefits. Give up rights to be part of any other lawsuit against Vitamin Shoppe about the legal claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Cash payments for valid claims will be issued only if the Court approves the settlement and after the time for appeals has ended and any appeals are resolved. Please be patient.

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.supplementsettlement.com

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BASIC INFORMATION

1. Why was this notice issued?

A Court authorized this notice because you have a right to know about the proposed settlement in this class action lawsuit, and about all of your options, before the Court decides whether to give “final approval” to the settlement. This notice explains the lawsuit, the settlement, and your legal rights.

The case is known as *Scheuerman v. Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc.*, Superior Court of the State of California, County of Los Angeles, No. BC592773 (the “Action”). The person who sued is called the Plaintiff. The company she is suing, Vitamin Shoppe, is called the Defendant.

2. What is the lawsuit about?

On August 19, 2015, Plaintiff filed this Action on behalf of herself and all others similarly situated alleging that she relied on allegedly false and misleading statements on labeling and in advertisements regarding the lawfulness, composition and ingredients of the Product, and that such statements violate state consumer protections laws (including California’s False Advertising Laws, Bus. & Prof. Code §17500 *et seq.*; and California’s Unfair Competition Laws, Bus. & Prof. Code §17200 *et seq.*), as well as California Health and Safety Code § 110660 and California’s common-law doctrines of negligent misrepresentation and intentional misrepresentation. Plaintiff does not claim that the Product caused anyone physical injury or harm.

Vitamin Shoppe denies any wrongdoing or liability arising out of any of the facts or conduct alleged in the Action and believes that it has valid defenses to the allegations. The Court has not decided that Vitamin Shoppe did anything wrong, and the settlement does not mean Vitamin Shoppe broke the law. Both the Plaintiff and Vitamin Shoppe believe that the settlement is fair, adequate, and reasonable and that it is in the best interests of the Settlement Class.

3. Why is this a class action?

In a class action one or more people called “Class Representative(s)” (in this case, Rebecca Scheuerman) sue on behalf of people who have similar claims. All of these people or entities are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a settlement?

Both sides agreed to the settlement to avoid the cost and risk of further trial. The settlement does not mean that any law was broken. Vitamin Shoppe denies all of the legal claims in this case. The Class Representative and the lawyers representing her think the settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT?

To see if you are affected or if you can get benefits, you first have to determine whether you are a Settlement Class member.

5. How do I know if I am part of the settlement?

You are a member of the Settlement Class if you purchased for personal consumption, and not for re-sale, the Product in the United States from January 1, 2011 until the date this Settlement is preliminarily approved by the Court. These dates are referred to as the “Class Period.”

6. I’m still not sure if I’m included in the settlement.

If you are not sure whether you are included in the Class, call 1-xxx-xxx-xxxx or go to www.supplementsettlement.com.

THE SETTLEMENT BENEFITS—WHAT YOU GET

7. What does the settlement provide?

The parties have agreed to a settlement payment (the “Class Settlement Payment”), to be paid by Vitamin Shoppe for the benefit of Class Members who purchased the Product for personal consumption, and not for re-sale, between January 1, 2011 and _____, 20___. The parties have agreed that the costs to administer this Settlement, reasonable attorneys’ fees up to \$170,000 and documented costs to Class Counsel related to obtaining the settlement payment, and an incentive award to the Class Representative will be paid by Vitamin Shoppe. The parties estimate that documented Class Counsel costs will be approximately \$15,000.

In order to make a claim, Class Members must provide information, signed under penalty of perjury, relating to their purchase of the Product, including where the purchase took place, the quantity purchased, and the approximate dates of purchase. Class Members who submit a Valid Claim will be entitled to reimbursement of \$17, or \$21, or \$25, depending upon the total number of Valid Claims submitted. The maximum reimbursement to each Class Member submitting a Valid Claim is \$25.

In the event that claims do not exceed \$125,000, the remaining settlement funds will be donated to a court-approved charitable organization.

More details are in a document called the Second Amended Settlement Agreement, which is available at www.supplementsettlement.com.

8. What am I giving up in exchange for the settlement benefits?

If the settlement becomes final, Class Members will be releasing Vitamin Shoppe and all related people and entities for all the claims described and identified in Article VII of the Second Amended Settlement Agreement (called the “Class Released Claims”). The Second Amended Settlement Agreement defines

the Class Released Claims as “any and all actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions, proceedings, and/or rights of any nature and description whatsoever, including, without limitation, violations of any state or federal statutes, rules or regulations, or principles of common law, whether liquidated or unliquidated, known or unknown, in law or in equity, whether or not concealed or hidden, by Scheuerman, members of the Settlement Class, or any of them (on their own behalf and/or on behalf of the proposed class or the general public) against Vitamin Shoppe, Rasi Laboratories, Inc. (“Rasi”), Gemini Pharmaceuticals, Inc. (“Gemini”)*, or any other Released Parties, through the date the Final Approval Order and Judgment is entered, and that are based on, arise out of, or in any way relate to the facts, transactions, events, occurrences, acts, disclosures, advertisements, omissions, or failure to act concerning the manufacturing, marketing, sale, labeling and/or advertising of Reservie Trans-Resveratrol or the lawfulness, composition and/or ingredients of Reservie Trans-Resveratrol. Notwithstanding the above, ‘Class Released Claims’ shall exclude any claims for personal injury on behalf of the Settlement Class.” The Second Amended Settlement Agreement is available at www.supplementsettlement.com. You can talk to one of the lawyers listed below for free or you can, of course, talk to your own lawyer if you have questions about the released claims or what they mean.

*Rasi, Gemini are the manufacturers of the The Product hired by Vitamin Shoppe.

HOW TO GET A CASH PAYMENT—SUBMITTING A VALID CLAIM FORM

9. How can I get a cash payment?

To ask for a cash payment you must complete and submit a Claim Form along with the required supporting information. If one was not already sent to you, you can get a Claim Form at www.supplementsettlement.com. You may also submit your claim via the website. The Claim Form describes what you must provide to prove your claim and receive a cash payment and may require information, provided by you under penalty of perjury, on where any purchases took place, the quantity of the Product purchased, and the approximate dates of purchase. Please read the instructions carefully, fill out the Claim Form, and either submit it online at www.supplementsettlement.com or mail it postmarked no later than, _____, **20__** to:

Settlement Administrator
c/o Angeion Group LLC
1801 Market Street, Suite 660
Philadelphia, PA 19103

10. When will I get my check?

Checks will be mailed to Class Members who send in valid Claim Forms on time, after the Court grants “final approval” of the settlement, and after the time for appeals has ended and any appeals have been resolved. If the judge approves the settlement after a hearing on _____ **20__** (see the section “The Court’s Fairness Hearing” below), there may be appeals. Resolving these appeals can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Vitamin Shoppe over the legal issues in this case, you must take steps to get out of the settlement. This is called asking to be excluded from—sometimes called “opting out” of—the Class.

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.supplementsettlement.com

11. If I exclude myself, can I get anything from the settlement?

If you ask to be excluded, you will not get a cash payment, and you cannot object to the settlement. But you may sue, continue to sue, or be part of a different lawsuit against Vitamin Shoppe in the future. You will not be bound by anything that happens in this lawsuit.

12. If I don't exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Vitamin Shoppe for the claims that this settlement resolves. You must exclude yourself from *this* Class to start or continue your own lawsuit.

13. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from *Scheuerman v. Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc.*, Superior Court of the State of California, County of Los Angeles, No. BC592773. Be sure to include your name, address, the approximate date of purchase, and your signature. You can't ask to be excluded at the website or on the phone. You must mail your exclusion request postmarked no later than _____, 20__ to:

Vitamin Shoppe Settlement Exclusions
c/o Angeion Group LLC
1801 Market Street, Suite 660
Philadelphia, PA 19103

Requests to opt-out that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective. Settlement Class Members who fail to submit a valid and timely Request for Exclusion on or before the Objection/Exclusion Deadline shall be bound by all terms of the settlement and any Final Judgment entered in this Action if the Settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the settlement.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in the case?

The Court has designated the lawyers at KAZEROUNI LAW GROUP, APC and HYDE & SWIGART to represent you as "Class Counsel." You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

15. How will the costs of the lawsuit and settlement be paid?

The Settlement Administrator's and Notice Provider's costs and fees associated with administering the Settlement, including all costs associated with providing the Notice of Settlement, will be paid by Vitamin Shoppe. Class Counsel's reasonable attorneys' fees, in an amount not to exceed \$170,000, and reasonable documented costs related to obtaining the settlement in an amount consistent with California law will also be paid by Vitamin Shoppe, subject to Court approval. The Class Representative will also request that the Court approve a payment to her of up to \$2,500 to be paid by Vitamin Shoppe, as an

incentive award for her participation as the Class Representative, for taking on the risk of litigation, and for settlement of her individual claims as a Class Member in this Action. These amounts are subject to Court approval and the Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

You can tell the Court if you don't agree with the settlement or some part of it.

16. How do I tell the Court if I don't like the settlement?

You can object to the settlement if you don't like some part of it. You must give reasons why you think the Court should not approve it. To object, send a letter saying that you object to *Scheuerman v. Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc.*, Los Angeles County Superior Court, No. BC486925. Be sure to include your name, address, telephone number, your signature, the reasons why you object to the settlement, all documents you want the Court to consider, and indicate whether you or your attorney will appear at the fairness hearing (see the section on the "Court's Fairness Hearing" below). **Mail the objection to the Settlement Administrator at the address below so that it is postmarked no later than _____, 20__:**

SETTLEMENT ADMINISTRATOR	
Vitamin Shoppe Objections c/o Angeion Group LLC 1801 Market Street, Suite 660 Philadelphia, PA 19103	
CLASS COUNSEL	DEFENSE COUNSEL
Abbas Kazerounian, Esq. KAZEROUNI LAW GROUP, APC 245 Fischer Avenue, Suite D1 Costa Mesa, CA 92626 Jessica R. K. Dorman, Esq. Joshua B. Swigart, Esq. HYDE & SWIGART 2221 Camino Del Rio South Suite 101 San Diego, CA 92108-3551	Angel A. Garganta, Esq. VENABLE LLP 505 Montgomery Street Suite 1400 San Francisco, CA 94111

17. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. If you have filed an objection on time you may attend and you may ask to speak, but you don't have to.

18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at __:00 __m. on _____, _____, 20__, at _____. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.supplementsettlement.com. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The judge will only listen to people who have asked to speak at the hearing (see Question 20). The Court will also decide how much to pay the Class Representative and the lawyers representing Class Members. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. If you have sent an objection but do not come to the Court hearing, however, you will not have a right to appeal an approval of the settlement. You may also pay another lawyer to attend on your behalf, but it's not required.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear in the *Scheuerman v. Vitamin Shoppe Industries, Inc.* litigation." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intent to Appear must be postmarked no later than _____, 20__, and be sent to the addresses listed in Question 16. You cannot speak at the hearing if you excluded yourself from the Class.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not receive a payment from this settlement. And, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Vitamin Shoppe about the claims in this case, ever again.

GETTING MORE INFORMATION

22. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Second Amended Settlement Agreement. You can get a copy of the Second Amended Settlement Agreement, download a Claim Form and review additional case information at www.supplementsettlement.com. You may also call toll-free 1-xxx-xxx-xxxx.

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.supplementsettlement.com

PLAINTIFF'S EXHIBIT 1D

SHORT-FORM NOTICE

In The Case Of

*Rebecca Scheuerman,
individually and on behalf of all others similarly situated,*

v.

Vitamin Shoppe Industries, Inc. d/b/a Vitamin Shoppe, Inc.,

BC592773

If you bought “RESERVIE TRANS-RESVERATROL” you could be entitled to money from a legal settlement.

A Settlement has been proposed in a class action lawsuit with Vitamin Shoppe Industries, Inc. (“Vitamin Shoppe”) involving Vitamin Shoppe’s “Reservie Trans-Resveratrol” dietary supplement product (the “Product”).

What Is the Lawsuit About?

The lawsuit claims that Vitamin Shoppe made misleading or false statements about the lawfulness, composition and ingredients of the Product. The lawsuit does not claim that the Product caused anyone physical injury or harm. Vitamin Shoppe denies any wrongdoing or illegal conduct but has agreed to settle the case to avoid the expense and distraction of litigation. The Settlement does not mean that Vitamin Shoppe did anything wrong and the Court has not decided that Vitamin Shoppe did anything wrong.

Am I a Member of the Class?

You are a member of the Settlement Class if you purchased the Product for personal consumption, and not for resale, in the United States starting on or after January 1, 2011.

What Does the Settlement Provide?

Vitamin Shoppe has agreed to create a settlement fund to pay valid claims, and Vitamin Shoppe has agreed to pay the costs to administer this Settlement, reasonable attorneys’ fees and documented costs, and an incentive award to the named Plaintiff.

How Much Money Can I Get Back?

Claimants must provide information, signed under penalty of perjury, relating to their purchase of the Product. Claimants submitting valid claims will be entitled to reimbursement of \$17, or \$21, or \$25, depending upon the total number of valid claims submitted. The maximum reimbursement to each claimant submitting a valid claim is \$25. Any money remaining in the fund after all claims are processed will be donated to a court-approved charitable organization. Claims must be submitted online or by mail and submitted or postmarked, by **Month Day, 20__**.

What Are My Other Options?

If you do not want to be legally bound by the settlement, you must exclude yourself by **Month Day, 20__**. If you stay in the settlement, you may object to it by **Month Day, 20__**. The Court will hold a hearing on **Month Day, 20__** to consider whether to approve the settlement and determine the amount of attorneys’ fees and the named Plaintiff’s incentive award. Detailed information about the Settlement, including specific instructions about how to file a claim or object to, or exclude yourself from, the Settlement, is available at www.supplementsettlement.com or by calling [800#].

PLAINTIFF'S EXHIBIT 1E

CLAIM FORM

In The Case Of

*Rebecca Scheuerman,
individually and on behalf of all others similarly situated,*

v.

Vitamin Shoppe Industries, Inc. d/b/a Vitamin Shoppe, Inc.,

BC592773

11

Please read the statement below. You must sign and date the Claim Form acknowledging that you have reviewed and agree with the statement.

I declare under penalty of perjury under the laws of the United States that between January 1, 2011 and XXX, 2016, I purchased "Reservie Trans-Resveratrol" dietary supplement product for personal consumption, and not for resale, and am not an officer, director, or employee of Vitamin Shoppe, or the immediate family member of such a person, and have not received remuneration from Vitamin Shoppe in connection with the use or endorsement of Reservie Trans-Resveratrol.

Signature: _____

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REMINDER: If your Claim Form is not received or postmarked on or before XXX, 2016 your claim may be rejected.

PLEASE DO NOT CALL THE COURT, THE JUDGE, OR THE DEFENDANTS REGARDING THIS MATTER.

If you have questions about this Claim Form visit www.supplementsettlement.com.

OR E-mail the Settlement Administrator at: XXX@AngeionGroup.com

OR Write the Settlement Administrator at:

Vitamin Shoppe Industries, Inc. Settlement
Administrator c/o Angeion Group
1801 Market Street, Suite 660
Philadelphia, PA 19103