SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
NORTH COUNTY

MINUTE ORDER

DATE: 11/14/2025 TIME: 1:30 PM DEPT: N-31

JUDICIAL OFFICER: MICHAEL D. WASHINGTON
CLERK: Ashley Carini
REPORTER/ERM: Not Reported
BAILIFF/COURT ATTENDANT: R. Christy

CASE NO: **25CU012849N** CASE INIT.DATE: 03/07/2025
CASE TITLE: **BINDER vs PREMIUM BRANDS OPCO LLC**
CASE CATEGORY: Civil CASE TYPE: (U)Business Tort/Unfair Business Practice

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HEARING TYPE: Motion Hearing
MOVING PARTY:

APPEARANCES

Clerk's Note: Prior to calendar call, all parties submit(s) on the Court's tentative ruling.

The Court CONFIRMS the tentative ruling as follows:

Plaintiffs Demetra Binder, Angela Waldner, Christina Calcagno, and Deborah O'Dea's Motion for Final Approval of Class Action Settlement is **GRANTED**.

Plaintiffs Demetra Binder, Angela Waldner, Christina Calcagno, Deborah O'Dea's Motion for Attorneys' Fees and Costs is **GRANTED**.

Plaintiffs Demetra Binder, Angela Waldner, Christina Calcagno, and Deborah O'Dea (together "Plaintiffs") filed this consumer class action matter on March 7, 2025. (ROA 4.) The Class Action Complaint alleges the following causes of action: (1) Violation of New York Consumer Protection from Deceptive Acts and Practices Act; (2) Violation of New York False Advertising Act; (3) Violation of New Jersey Consumer Fraud Act; (4) Violation of the New Jersey Truth in Consumer Contract, Warranty, and Notice Act; (5) Violation of California's Unfair Competition Law; (6) Violation of California's False Advertising Law; (7) Violation of California's Consumers Legal Remedies Act; and (8) Violation of Oregon's Unlawful Trade Practices Act. On May 28, 2025, this Court granted Preliminary Approval of Class Action Settlement. (ROA 23.) Plaintiffs now request final approval of the class action settlement.

A settlement or compromise of an entire class action, or of a cause of action in a class action, or as to a party, requires the approval of the court after hearing. (Cal. Rules of Court, Rule 3.769(a).) If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court. (Cal. Rules of Court, Rule 3.769(f).) The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement. (*Id*.) Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement. (Cal. Rules of Court, Rule 3.769(g).)

According to the moving papers, the Consumer class action involves 1,215,246 class members, all of whom are persons who purchased one or more products at a purported discount at Defendant's Ann Taylor Factory Stores or LOFT Outlet Stores in Pennsylvania, California, Washington, New York, Wisconsin, Texas, Ohio, or Oregon, during the class period and did not receive refund or credit for their purchase. (See Declaration of Settlement Administrator, filed concurrently herewith ("Liebhold Decl.") ¶ 5; See also ROA 23.) On June 27, 2025, the Settlement Administrator sent Email Notice to the 1,215,246 valid email addresses to Direct Benefit Settlement Class Members. (*Id*.) Of those notices, 782,066 Email Notices were successfully deliver, and 433,180 Email Notices were bounced or undeliverable. (*Id*.)

On July 17, 2025, the administrator sent Email Notices to the 414,138 Direct Benefit Settlement Class Members who had a bounced Email Notice. (*Id*. ¶ 6.) Of those, 6,693 Email Notices were successfully delivered, and 407,445 Email Notices were bounced or undeliverable. In sum, 788,759 of the 1,215,246 to whom the Email Notice was disseminated, or 64%. (*Id*. ¶ 7.)

In addition, the administrator published a quarter-page black-and-white advertisement in the national edition of USA Today on Friday, June 27, 2025. (*Id*. ¶ 8.) In addition, the administrator published and continues to maintain a dedicated Settlement Website at www.PBOCpricingsettlement.com. (*Id.* ¶ 9.) The Settlement Website contains an online claim form module for Claim-in-Settlement-Class Members, a summary of the Settlement; important dates and deadlines, answers to frequently asked questions, information on how to contact the Settlement Administrator, and downloadable versions of the Settlement documents, including the Claim Form, long form Notice, Preliminary Approval Order, Settlement Agreement and other Court documents. (*Id.*) As of October 28, 2025, the Settlement Website has received 155,035 total page views and 45,999 unique visitors. (*Id.* ¶ 10.) Claim-in-Settlement-Class members had until September 10, 2025, to submit a Claim to the Settlement. As described in more detail below, a total of 31,690 claims have been received as of October 28, 2025. (*Id*. ¶ 13.)

Based on the foregoing, the Court finds that the parties have met the notice requirement, and will now consider the fairness of the proposed settlement.

A court's inquiry into whether to approve the settlement of a class action must consider factors including "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement" (*Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801.) The trial court operates under a presumption of fairness when the settlement is the result of arm's-length negotiation, investigation and discovery that are sufficient to permit counsel and the court to act intelligently, counsel are experienced in similar litigation, and the percentage of objectors is small. (*Cho v. Seagate Tech. Holdings, Inc.* (2009) 177 Cal. App. 4th 734, 743.) Ultimately, it is the court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation. (*Edwards v. Heartland Payment Sys., Inc.* (2018) 29 Cal. App. 5th 725, 733.)

Plaintiffs have presented a final settlement which the Parties estimate to have a total value of approximately $11,724,000. Per the terms of the settlement agreement, Class Members who were identified and received an email will receive a Settlement Voucher of $11 for store credit. (See ROA 13, Exh. A ("Settlement Agreement") § V.B.) Class Members who did not receive Email Notice were required to complete and submit a valid Claim Form on or before the Claim Filing Deadline in order to receive a Settlement Voucher. (*Id.*)For each such Class Member, the Settlement Administrator will send the Settlement Voucher to the email address specified on the Claim Form. (*Id.*) The Vouchers provide a meaningful and flexible benefit to Class Members: (1) They are redeemable at Ann Taylor Factory Stores and LOFT Outlet Stores; (2) Valid for six months from the date of distribution; (3) Require no minimum purchase; and (4) May be applied to items already on sale or discounted. (See SA § II.EE.) These features allow Class Members to realize immediate, no-strings-attached savings on merchandise of their choosing, with no out-of-pocket expenditure required. This structure is comparable to other well-regarded consumer settlements. (See *In re Online DVD-Rental Antitrust Litig.* (9th Cir. 2015) 779 F.3d 934, 951 [approving gift card relief as a real and valuable benefit to class members].). The parties reached this agreement after substantial investigation as well as mediation Before JAMS Mediator Robert A. Meyer, Esq. (Carpenter Decl. ¶ 7.)

After a review of the moving papers, based on the type of claims as well as the size of the class, the Court finds that the agreement at hand is not the product of fraud, overreaching, or collusion by the parties, and that the terms of the settlement are fair. The parties have engaged in sufficient discovery and negotiation with the help of a mediator. Furthermore, no evidence has been presented in opposition to rebut the presumption of fairness. Thus, Plaintiffs' Motion for Final Approval of Class Action Settlement is **GRANTED**.

The Court will adopt and sign the proposed order filed by the Plaintiffs on November 4, 2025 (ROA 33), and it shall be the order of the Court.

In addition, Plaintiffs move for Attorneys' Fees in the amount of $1,250,000, representing 10 percent of the total class benefit. As this request is unopposed, and constitutes only 10 percent of the common fund, the Motion for Attorneys Fees and Costs is **GRANTED.**

The Court will also adopt and sign the proposed order filed by the Plaintiffs on July 28, 2025 (ROA 27), and it shall be the order of the Court.

Case Management Conference is **taken off calendar.**

Michael D. Washington

Judge Michael D. Washington