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FILED
Superior Court of California
County of Los Angeles

FEB 16 2017

Sherri R. Canel, Executive Offices/Clerk
By: [Signature], Deputy
Rozanne A. Fraign

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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL CIVIL WEST DISTRICT**

By: S. Amador

<p>REBECCA SCHEUERMAN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>VITAMIN SHOPPE INDUSTRIES, INC., d/b/a VITAMIN SHOPPE, INC,</p> <p style="text-align: right;">Defendant.</p>	<p>Case No: BC592773</p> <p>[REPROPOSED] FINAL APPROVAL ORDER AND JUDGMENT</p> <p>Judge: Kenneth R. Freeman Dept.: 310</p> <p style="text-align: right;">By Fax</p>
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WHEREAS, after arm's length negotiations and settlement discussions, Plaintiff Rebecca Scheuerman ("Plaintiff") and Defendant Vitamin Shoppe Industries, Inc., incorrectly sued as Vitamin Shoppe Industries, Inc., d/b/a Vitamin Shoppe, Inc. ("Defendant") (herein jointly referred to as the "Parties") entered in to a Second Amended Stipulation and Agreement of Settlement (the "Second

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1 Amended Settlement Agreement”), which is subject to review pursuant to the
2 applicable Rules of Civil Procedure. Subsequently, the Parties filed the Agreement,
3 along with Plaintiff’s Motion for Preliminary Approval of Class Action Settlement
4 Agreement.

5 WHEREAS, on June 6, 2016 and June 17, 2016, Orders Re: Preliminary
6 Approval of Proposed Settlement (“Preliminary Approval Order”) were entered by
7 this Court, preliminarily approving the proposed settlement of the Action pursuant
8 to the terms of the Second Amended Stipulation and Agreement of Settlement (the
9 “Second Amended Settlement Agreement”) and directing that notice be given to the
10 members of the Settlement Class.

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

17 WHEREAS, a Final Approval Hearing was held on January 26, 2017. Prior
18 to the Final Approval Hearing, proof of completion of the Notice Plan was filed
19 with the Court, along with declarations of compliance as prescribed in the
20 Preliminary Approval Order. Settlement Class Members were therefore notified of
21 their right to appear at the hearing in support of or in opposition to the proposed
22 Settlement, the award of attorneys’ fees and costs to Class Counsel, and the
23 payment of incentive award.

24 NOW, THEREFORE, the Court, having heard the presentations of Class
25 Counsel and Vitamin Shoppe’s Counsel, having reviewed all of the submissions
26 presented with respect to the proposed Settlement, having carefully considered the
27 requirements for class certification, having determined that the Settlement is fair,
28 adequate, and reasonable, having considered the application of Class Counsel for

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1 awards of attorneys' fees and costs, and having reviewed the materials in support
2 thereof, it is hereby ORDERED, ADJUDGED and DECREED THAT:

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

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

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

25 4. The Settlement Class, which will be bound by this Final Approval Order and
26 Judgment, shall include all members of the Settlement Class who did not
27 submit a timely and valid Request for Exclusion.
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- 1 5. For purposes of the Settlement and this Final Approval Order and Judgment,
 2 the Settlement Class shall consist of the following: All persons who purchased
 3 for personal consumption, and not for re-sale, Reservie Trans-Resveratrol in
 4 the United States during the Class Period. Excluded from the Settlement
 5 Class are any officers, directors, or employees of Vitamin Shoppe, and the
 6 immediate family member of any such person, as well as any individual who
 7 received remuneration from Vitamin Shoppe in connection with that
 8 individual's use or endorsement of Reservie Trans-Resveratrol. Also excluded
 9 is any judge who may preside over this case.
- 10 6. The Court finds that the Notice Plan set forth in Article IV of the Second
 11 Amended Settlement Agreement, the submissions of the Class Representative
 12 in support of Final Approval, and the Declaration of Brian Devery, and
 13 effectuated pursuant to the Preliminary Approval Order constitutes the best
 14 notice practicable under the circumstances and shall constitute due and
 15 sufficient notice to the Settlement Class of the pendency of the Action,
 16 certification of the Settlement Class for settlement purposes only, the terms of
 17 the Second Amended Settlement Agreement, and the Final Approval Hearing,
 18 and satisfies the requirements of California law and federal due process of
 19 law.
- 20 7. The Settlement, as set forth in the Settlement Agreement, is in all respects
 21 fair, reasonable, adequate and in the best interests of the Settlement Class, and
 22 it is approved. The Parties shall effectuate the Second Amended Settlement
 23 Agreement according to its terms. The Second Amended Settlement
 24 Agreement and every term and provision thereof shall be deemed
 25 incorporated herein as if explicitly set forth and shall have the full force of an
 26 Order of this Court.
- 27 8. Unless otherwise directed by the Court, within five (5) days of the Effective
 28 Date, Vitamin Shoppe shall deposit the amount of the Class Settlement

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1 Payment, as set forth in the Second Amended Settlement Agreement, and the
2 funds in the Class Settlement Payment shall be distributed to the Settlement
3 Class pursuant to the terms of the Settlement Agreement.

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

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

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

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

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

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

15. The Court finds that Plaintiff's request for \$170,000 in Attorney's fees, \$11,540.76 in costs, and \$2,500 for an incentive award to Rebecca Scheuerman is reasonable and appropriate.


16. As such, the Court approves Class Counsel's request for an award of attorneys' fees in the amount of \$170,000; (2) approves Class Counsel's request for an award of costs in the amount of \$11,540.76; and (3) approves the payment of an incentive award to Plaintiff in the amount of \$2,500.

17. The court has evaluated the Declaration of Brian Devery, Project Manager with the claims administrator, Angeion Group ("Angeion"), and finds that the work for which payment is sought by Angion was completed efficiently and fairly.

18. As such, the Court orders Defendant to pay Angion for the work completed in administering this class action settlement as agreed to in the Second Amended Settlement Agreement §§ VI.1-2.

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

Dated: FEB 16 2017



Hon. Kenneth R. Freeman
Superior Court Judge

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1 *Rebecca Scheuerman v. Vitamin Shoppe Industries, Inc.*
2 *Superior Court of California, County of Los Angeles*
3 *Case No.: BC592773*

4 **PROOF OF SERVICE**

5 I, Eva Dickey, declare as follows:

6 I am over the age of eighteen years and not a party to the case. I am employed in the County of San
7 Diego, California, where the mailing occurs. My business address is 2221 Camino del Rio South, Suite
8 101, San Diego, CA, 92108. I am readily familiar with our business' practice of collecting, processing,
9 and mailing of correspondence and pleadings for mail with the United States Postal Service.

10 On February 9, 2017, I served the foregoing document(s) described as:

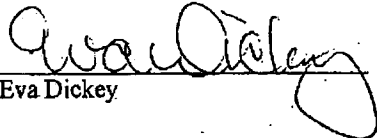
- 11 • [Proposed] Final Approval Order and Judgment

12 On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope as
13 follows:

14 Angel A. Garganta
15 Cody S. Lonning
16 Venable LLP
17 505 Montgomery Street, Suite 1400
18 San Francisco, CA 94111

19 [X] BY MAIL, by placing a copy thereof in a separate envelope for each addressee named above,
20 addressed to each addressee respectively, and then sealed each envelope and, with the postage
21 fully prepaid, deposited each in the United States mail at San Diego, California in accordance
22 with our business' practice.

23 I declare under penalty under perjury under the laws of the State of California that the foregoing is true
24 and correct. Executed on February 9, 2017, at San Diego, California.

25 
26 Eva Dickey

27
28

Proof of Service

HUDE & SWIGART
San Diego, California

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