

VENABLE LLP
505 MONTGOMERY STREET, SUITE 1400
SAN FRANCISCO, CA 94111
415-653-3750

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VENABLE LLP
Angel A. Garganta (163957)
AGarganta@Venable.com
Cody Lonning (301972)
CSLonning@Venable.com
505 Montgomery Street
San Francisco, CA 94111
Telephone: (415) 653-3750
Facsimile: (415) 653-3755

Attorneys for Vitamin Shoppe Industries, Inc.

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ORIGINAL FILED
Superior Court Of California
County Of Los Angeles

SEP 20 2016

Sherri R. Carter, Executive Officer/Clerk
By: Margo Webb, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BY FAX

REBECCA SCHEUERMAN,
INDIVIDUALLY AND ON BEHALF OF
ALL SIMILARLY SITUATED,

Plaintiff,

v.

VITAMIN SHOPPE INDUSTRIES, INC.,

Defendant.

CASE NO. BC592773

Hon. Kenneth R. Freeman
Dept: 310

JOINT *EX PARTE* APPLICATION
SEEKING THE COURT'S
GUIDENCE

Action Filed: August 27, 2015

1 The parties of the above-entitled civil case, through their respective attorneys of record, jointly
2 request the Court's immediate guidance due to the following:

3 The settlement administrator has detected a large number of potentially fraudulent claims.
4 In fact, the number of claims significantly exceeds the total number of potential class members.
5 As the Court may recall, Defendant Vitamin Shoppe can account for over 93% of the total units
6 sold through its Healthy Awards membership program. The parties estimated that the remaining
7 less than 7% of units sold (8034 units) were purchased by 2634 individuals. However, over
8 45,000 individuals have filed claims corresponding to the unaccounted for 8034 units. This is a
9 mathematical impossibility and suggests a massive amount of fraudulent claims.

10 Currently, there are several deadlines set by previous court order, which will need to be
11 altered if the Parties and claims administrator take action to further investigate this likely fraud.
12 The following are the remaining dates and deadlines set by the Court's previous order:

Event	Estimated Date
Notice Response Deadline (claim, object, opt-out)	September 23, 2016
Deadline to file Settlement Administrator Declaration of Compliance and Report from Settlement Administrator on Requests for Exclusion, Objections, and Valid Claims	October 4, 2016
Deadline for Plaintiff's Brief in support of Final Approval and Response to Objections	October 7, 2016
Final Approval Hearing	November 8, 2016, 10:00 AM
Opposition to Application for Fees, Cost and Incentive Award	November 16, 2016
Reply to Application for Fees, Cost and Incentive Award	November 22, 2016
Hearing on Applications for Fees, Costs, and Incentive Awards	December 8, 2016, 2:00 PM

21
22 At this time, the Parties expect that the solution to this fraud will entail some sort of
23 additional verification which will take several weeks, and therefore the deadlines for the claims
24 administrator reports, Plaintiff's Final Approval and Response to Objection, as well as the
25 corresponding hearing dates will need to be altered.

26 Due to the urgent nature of this issue and previously scheduled events, Defendant's
27 counsel Angel A. Garganta will be appearing telephonically along with Plaintiff's counsel Abbas
28 Kazerounian who will appear in person.

1	Requests for Exclusion, Objections, and Valid Claims	
2	Deadline for Plaintiff's Brief in support of Final Approval and Response to Objections	October 7, 2016
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12 counsel Angel A. Garganta will be appearing telephonically along with Plaintiff's counsel Abbas
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14 Due to these extraordinary circumstances, the parties jointly request the Court's guidance
15 in proceeding with the administration of this settlement.

16 Respectfully Submitted,

17
18 Dated: September 19, 2016

KAZEROUNI LAW GROUP, APC
Abbas Kazerounian

19
20 By: 

Abbas Kazerounian
Attorney for Plaintiff
REBECCA SCHEUERMAN

21
22
23 Dated: September 19, 2016

VENABLE LLP
Angel A. Garganta
Cody Lonning

24
25
26 By: _____

Angel A. Garganta
Attorney for Defendant
VITAMIN SHOPPE INDUSTRIES, INC.

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505 MONTGOMERY STREET, SUITE 1400
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Abbas Kazerounian

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21 Abbas Kazerounian
22 *Attorney for Plaintiff*
23 REBECCA SCHEUERMAN

24 Dated: September 19, 2016

VENABLE LLP
Angel A. Garganta
Cody Lonning

25
26 By: 
27 *Attorney for Defendant*
28 VITAMIN SHOPPE INDUSTRIES, INC.