

FILED
Clerk of the Superior Court

OCT 11 2019

By: A. TAYLOR

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PAIGE PETKEVICIUS, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

LAMPS PLUS, INC., a California corporation,
and DOES 1-50, inclusive,

Defendant.

Case No: 37-2019-00020667-CU-MC-CTL

[E-FILE]

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT AND PROVISIONAL
CERTIFICATION**

Date: October 11, 2019

Time: 9:00 a.m.

Judge: Hon. Joel R. Wohlfeil

Dept.: C-73

On October 11, 2019, this Court heard Plaintiff Paige Petkevicius's motion for preliminary approval of class settlement and provisional class certification. This Court reviewed the motion, including the Settlement Agreement and Release ("Settlement Agreement"). Based on this review and the findings below, the Court finds good cause to grant the motion.¹

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¹ Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

1 **FINDINGS:**

2 1. The Settlement Agreement appears to be the product of serious, informed, non-collusive
3 negotiations with defendant Lamps Plus, Inc. and falls within the range of possible approval as fair,
4 reasonable and adequate.

5 2. The Full Notice, Email Notice, Mail Notice, Online Media Notice, and Claim Form
6 (attached to the Settlement Agreement), (a) constitute the best such forms and notice practicable under the
7 circumstances; (b) the method for providing notice to Class Members set forth in the Agreement
8 constitutes valid, due, and sufficient notice to all members of the Class; and (c) the notices and notice plan
9 set forth in the Agreement comply fully with the requirements of California Code of Civil Procedure §
10 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other
11 applicable law.

12 3. For settlement purposes only, the Class is so numerous that joinder of all Class Members
13 is impracticable.

14 4. For settlement purposes only, Plaintiffs' claims are typical of the Class's claims.

15 5. For settlement purposes only, there are questions of law and fact common to the Class,
16 which predominate over any questions affecting only individual Class Members.

17 6. For settlement purposes only, Class Certification is superior to other available methods for
18 the fair and efficient adjudication of the controversy.

19 **IT IS ORDERED THAT:**

20 1. **Settlement Approval.** The Settlement Agreement, including the Full Notice, Email
21 Notice, Mail Notice, Online Media Notice and Claim Form, attached to the Settlement Agreement as
22 Exhibits B-F are preliminarily approved.

23 2. **Provision of Class Notice.** Lamps Plus will notify Class Members of the Settlement in
24 the manner specified under Section 3.2 of the Settlement Agreement.

25 3. **Claim for a Voucher or Settlement Check.** Class Members who do not receive direct
26 notice via email or mail must submit complete and deliver a Claim Form to the Claims Administrator,
27 along with any required supporting proofs of purchase, no later than one-hundred twenty (120) calendar
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1 days after the issuance of Class Notices in order to receive a Voucher or settlement check. Class
2 Members for whom Lamps Plus has a valid email or mailing address need not do anything to receive a
3 Voucher. However, all Class Members who elect to receive a settlement check in lieu of a Voucher must
4 (i) verify their identity and contact information in response to the Notice such that the Claims
5 Administrator can deliver a claim form to the Class Member; and (ii) complete, sign under penalty of
6 perjury, and return the claim form to the Claims Administrator.

7 **4. Objection to Settlement.** Class Members who have not submitted a timely written
8 exclusion request pursuant to Paragraph 6 below and who want to object to the Settlement Agreement
9 must deliver written objections to the Claims Administrator no later than the Objection or Exclusion
10 Response Deadline. The delivery date is deemed to be the date the objection is deposited in the U.S.
11 Mail as evidenced by the postmark. The objection must include: (1) the name and case number of the
12 Action; (2) the Class Member's full name, address, and telephone number; (3) the words "Notice of
13 Objection" or "Formal Objection"; (4) in clear and concise terms, the legal and factual arguments
14 supporting the objection; (5) facts supporting the person's status as a Class Member (e.g., the date and
15 location of his/her relevant purchases and description of the item(s) purchased); (6) the Class Member's
16 signature and the date; and (7) the following language immediately above the Class Member's signature
17 and date: "I declare under penalty of perjury under the laws of the State of California that the foregoing
18 statements regarding class membership are true and correct to the best of my knowledge." Any Class
19 Member who submits a written objection, as described in this section, has the option to appear at the
20 Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to
21 object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed
22 Settlement, or to the award of attorneys' fees. Class Members, or their attorneys, intending to make an
23 appearance at the Fairness Hearing, however, must include on a timely and valid objection a statement
24 substantially similar to "Notice of Intention to Appear." If the objecting Class Member intends to
25 appear at the Fairness Hearing through counsel, he or she must also identify the attorney(s) representing
26 the objector who will appear at the Fairness Hearing and include the attorney(s) name, address, phone
27 number, e-mail address, and the state bar(s) to which counsel is admitted. If the objecting Class
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1 Member intends to request the Court allow the Class Member to call witnesses at the Fairness Hearing,
2 such request must be made in the Class Member's written objection, which must also contain a list of
3 any such witnesses and a summary of each witness's expected testimony. Only Class Members who
4 submit timely objections containing Notices of Intention to Appear may speak at the Fairness Hearing.

5 **5. Failure to Object to Settlement.** Class Members who fail to object to the Settlement
6 Agreement in the manner specified above will: (1) be deemed to have waived their right to object to the
7 Settlement Agreement; (2) be foreclosed from objecting (whether by a subsequent objection,
8 intervention, appeal, or any other process) to the Settlement Agreement; and (3) not be entitled to speak
9 at the Fairness Hearing.

10 **6. Requesting Exclusion.** Class Members who want to be excluded from the Settlement
11 must send a signed letter or postcard to the Claims Administrator stating: (a) the name and case number
12 of the Action; (b) the full name, address, and telephone number of the person requesting exclusion; and
13 (c) a statement that the person does not wish to participate in the Settlement, postmarked no later than
14 the Objection or Exclusion Response Deadline.

15 **7. Provisional Certification.** The Class is provisionally certified as all Lamps Plus
16 customers who purchased Lamps Plus branded or trademarked merchandise bearing a "Compare At"
17 price tag in the State of California from April 22, 2015 to the date of preliminary approval. Excluded
18 from the Class are Lamps Plus's Counsel, Lamps Plus's officers, directors and employees, and the judge
19 presiding over the Action.

20 **8. Conditional Appointment of Class Representative and Class Counsel.** Plaintiff Paige
21 Petkevicius is conditionally certified as the Class Representative to implement the Parties' settlement in
22 accordance with the Settlement Agreement. The law firm of Carlson Lynch LLP is conditionally
23 appointed as Class Counsel. Plaintiff and Class Counsel must fairly and adequately protect the Class's
24 interests.

25 **9. Termination.** If the Settlement Agreement terminates for any reason, the following will
26 occur: (a) Class Certification will be automatically vacated; (b) Plaintiff will stop functioning as Class
27 Representative; (c) Class Counsel will stop functioning as Class Counsel; and (d) this Action will revert
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1 to its previous status in all respects as it existed immediately before the Parties executed the Settlement
2 Agreement. This Order will not waive or otherwise impact the Parties' rights or arguments.

3 **10. No Admissions.** Nothing in this Order is, or may be construed as, an admission or
4 concession on any point of fact or law by or against any Party.

5 **11. Stay of Dates and Deadlines.** All discovery and pretrial proceedings and deadlines, are
6 stayed and suspended until further notice from the Court, except for such actions as are necessary to
7 implement the Settlement Agreement and this Order.

8 **13. Further Procedures.** Counsel for the Parties are hereby authorized to agree to utilize all
9 reasonable procedures in connection with the administration of the Settlement which are not materially
10 inconsistent with either this Order or the terms of the Agreement.

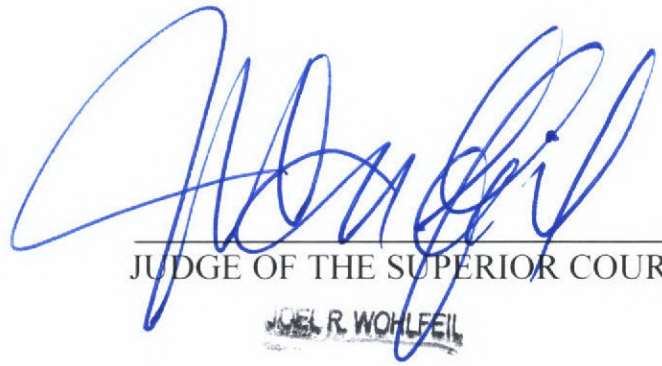
11 **14. Fairness Hearing.** On April (month) 3 (day), 2020, at 9 AM, this
12 Court will hold a Fairness Hearing to determine whether the Settlement Agreement should be finally
13 approved as fair, reasonable, and adequate. Based on the date of this Order and the date of the Fairness
14 Hearing, the following are the certain associated dates in this Settlement:

Event	Timing	Date
Last day for Defendant, through the Claims Administrator, begin operating Settlement Website and begin to provide Online Media Notice	15 days after entry of this Order	10/26/19
Last day for Defendant, through the Claims Administrator, to send Email Notice and Mail Notice	25 days after entry of this Order	11/5/19
Last Day for Plaintiff to file fee petition	85 days after entry of this Order (30 days before last day for class members to request exclusion or object)	1/3/20
Last day for Class Members to request exclusion or object to the Settlement	115 days after entry of this Order (90 days after distribution of Email and Mail Notice)	2/3/20
Last day for Class Members to file a claim	145 day after entry of this Order (120 day after issuance of Class Notice)	3/4/20
Last day for Parties to file brief in support of the Final Order and Judgment	10 days before Fairness Hearing	3/22/20

1 This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the
2 updated hearing date shall be posted on the Settlement Website but other than the website posting
3 Lamps Plus will not be required to provide any additional notice to Class Members.

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5 **IT IS SO ORDERED.**

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8 DATED: 10-11-19



JUDGE OF THE SUPERIOR COURT

JOEL R. WOHLFEIL

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