

1 Paul A. Levin – State Bar No. 229077
MARK MIGDAL & HAYDEN
2 11150 Santa Monica Blvd., Suite 1670
3 Los Angeles, California 90025
TELEPHONE: (213) 344-1793
4 EMAIL: paul@markmigdal.com

5 Etan Mark (*admitted pro hac vice*)
6 etan@markmigdal.com
7 Donald J. Hayden (*admitted pro hac vice*)
don@markmigdal.com

8 MARK MIGDAL & HAYDEN
9 80 SW 8th Street, Suite 1999
Miami, Florida 33130
10 Telephone: (305) 374-0440

11 Attorneys for Plaintiffs

12
13 Mark T. Drooks – State Bar No. 123561
mdrooks@birdmarella.com
14 Paul S. Chan – State Bar No. 183406
pchan@birdmarella.com
15 Gopi K. Panchapakesan – State Bar No. 279586
gpanchapakesan@birdmarella.com
16
17 Jon M. Jackson – State Bar No. 257554
jjackson@birdmarella.com

18 BIRD, MARELLA, BOXER, WOLPERT, NESSIM,
19 DROOKS, LINCENBERG & RHOW, P.C.
1875 Century Park East, 23rd Floor
20 Los Angeles, California 90067-2561
21 Telephone: (310) 201-2100 / Fax: (310) 201-2110

22 Attorneys for Defendant Herbalife International of America, Inc.
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

3
4 MICHAEL LAVIGNE, *et al.*,
5 Plaintiffs,
6 vs.
7 HERBALIFE LTD., *et al.*,
8 Defendants.

CASE NO. 2:18-cv-07480-JAK (MRWx)
[Related Case 2:13-cv-02488-BRO-RZ]
**JOINT STIPULATION RE: FINAL
STATUS REPORT AND
DISTRIBUTION**
Assigned to Hon. John A. Kronstadt,
Courtroom 10B

9
10
11 This stipulation re: final status report and distribution is entered into by, on the
12 one hand, Plaintiffs Patricia Rodgers, Jennifer Ribalta, and Izaar Valdez on behalf of
13 themselves, and on behalf of each of the Settlement Class Members (as defined in the
14 previously-approved Stipulation of Settlement and corresponding Final Judgment, *see*
15 Dkt. 383, 409), and, on the other hand, Defendant Herbalife International of America,
16 Inc. (“Herbalife”).¹

17 WHEREAS, on November 16, 2023, the Court entered an order granting final
18 approval over the settlement in this Action (Dkt. 408, the “**Final Approval Order**”)
19 and entered final judgment (Dkt. 409, the “**Final Judgment**”);

20 WHEREAS, the Final Judgment provided that the Court “retains jurisdiction
21 as to all matters relating to the administration, consummation, enforcement and
22 interpretation of the Agreement and of this Final Judgment, and for any other
23 necessary purpose” (*id.* at ¶ 11);

24 WHEREAS, Section 4.10 of the Stipulation of Settlement (Dkt. 383), approved
25 by the Court in the Final Approval Order and Final Judgment, provides that “The
26

27 ¹ Unless otherwise noted, the terms used herein are defined in the Stipulation of
28 Settlement.

1 Settlement Fund shall be within the control and jurisdiction of the Court, *custodia*
2 *legis*, until such time as they are distributed pursuant to the Settlement Agreement.”;

3 WHEREAS, pursuant to Section 4.9 of the approved Stipulation of Settlement
4 [Discretion of Claims Administrator], “The Claims Administrator, who shall be
5 approved by the Court, shall have discretion to make equitable decisions to carry out
6 the intent of the Settlement Agreement.” A.B. Data is the Court-approved Claims
7 Administrator;

8 WHEREAS, A.B. Data, the Claims Administrator, has completed the following
9 in accordance with the Stipulation of Settlement, Final Approval Order and Final
10 Judgment: (a) processed, evaluated, and audited claim forms submitted to A.B. Data;
11 (b) calculated the pro rata share for each class member who filed a valid and timely
12 claim; (c) answered class members’ inquiries, and followed-up with class members
13 concerning their claims; and (d) conferred with counsel for Plaintiffs and Herbalife
14 throughout the process (*see* Declaration of Eric Miller, attached hereto as **Exhibit 1**,
15 the “**Miller Declaration**”);

16 WHEREAS, based on A.B. Data’s review and audit of submitted claims, A.B.
17 Data has determined that it has received 4,030 valid claims, including 2,844 claims
18 filed by known distributors who attended Herbalife Corporate Events, and an
19 additional 1,186 claims filed by known distributors who submitted claims for
20 Herbalife Events other than Herbalife Corporate Events, both of which were accepted
21 as valid claims by A.B. Data (*see* Miller Decl. at ¶ 20);

22 WHEREAS, in the exercise of its discretion (in consultation with Class Counsel
23 and Herbalife’s Counsel), and in the interests of maximizing distributions to
24 Authorized Claimants pursuant to the Stipulation of Settlement, A.B. Data determined
25 that claims by Authorized Claimants for Herbalife Corporate Events that were not
26 reflected in Herbalife’s events data would be given credit for purposes of claims
27 administration up to a maximum of \$175 per event, and that claims by Authorized
28 Claimants for Herbalife Events other than Herbalife Corporate Events that were not

1 reflected in Herbalife’s event data would be given credit for purposes of claims
2 administration to a maximum of \$35 per event (*see* Miller Decl. at ¶ 20);

3 WHEREAS, pursuant to Section 4.2.4 of the Stipulation of Settlement,
4 Authorized Claimants can be paid up to 150% of their claimed amounts, subject to
5 total payments not exceeding the amount of the Net Settlement Fund. Because the
6 total amount of valid claims is less than the amount remaining in the Net Settlement
7 Fund, A.B. Data has determined that Authorized Claimants will be paid more than
8 their claimed amounts (on a *pro rata* basis) in order to exhaust the Net Settlement
9 Fund (*see* Miller Decl. at ¶ 23);

10 WHEREAS, subject to final calculation of the amount of the Net Settlement
11 Fund, A.B. Data is prepared to immediately distribute funds to Authorized Claimants
12 pursuant to the approved Stipulation of Settlement and Final Judgment entered by the
13 Court (*see* Miller Decl. at ¶ 22);

14 WHEREAS, Class Counsel has been informed that A.B. Data has incurred an
15 additional \$83,038.01 in claims administration costs and estimates an additional
16 \$46,657.90 in claims administration costs to be incurred to complete the distribution
17 of the Net Settlement Fund (*see id.* at ¶ 26), approval of which A.B. Data states is
18 necessary for A.B. Data to calculate the final amount to be distributed to each
19 Authorized Claimant;

20 WHEREAS, concurrent with the filing of this Stipulation, Class Counsel is
21 filing a Motion to Authorize Additional Claims Administration Costs (the “**Motion**
22 **to Authorize Additional Claims Administration Costs**”) to set forth the good cause
23 required by the Final Approval Order to authorize additional claims administration
24 costs; and

25 WHEREAS, A.B. Data has agreed not to seek any additional claims
26 administration costs except those set forth in the Motion to Authorize Additional
27 Claims Administration Costs, and Class Counsel and A.B. Data expect distribution of
28 funds to be completed immediately upon resolution of the Motion to Authorize

1 Additional Claims Administration Costs.

2 THE PARTIES THEREFORE STIPULATE to the following:

3 1. A.B Data is authorized to distribute the Net Settlement Fund consistent
4 with the process described in this Status Report, and the Stipulation of Settlement,
5 Final Approval Order, and Final Judgment.

6 2. A.B. Data shall commence such distribution immediately upon final
7 calculation of the Net Settlement Fund.

8 3. If there is a balance remaining in the Net Settlement Fund after at least
9 120 days from the date of the initial distribution to Authorized Claimants, A.B. Data
10 will consult with counsel for the Settling Parties and conduct a second distribution
11 to Authorized Claimants if feasible and economical; otherwise, any remaining funds
12 will be directed to the *cy pres* recipient Consumer Federation of America pursuant
13 to Section 4.1 of the Stipulation of Settlement.

14 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

15 *Local Rule 5-4.3.4(a)(2)(i) Compliance: Filer attests that all other signatories*
16 *listed concur in the filing's content and have authorized this filing.*

17 DATED: September 13, 2024 Etan Mark
18 Donald J. Hayden
19 Mark Migdal & Hayden

20
21 By: /s/ Etan Mark
22 Etan Mark
23 Attorneys for Plaintiffs Patricia Rodgers,
24 Jennifer Ribalta, and Izaar Valdez
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: September 13, 2024

Mark T. Dooks
Paul S. Chan
Gopi K. Panchapakesan
Jon M. Jackson
Bird, Marella, Boxer, Wolpert, Nessim,
Dooks, Lincenberg & Rhow, P.C.

By: /s/ Jonathan Jackson
Jonathan Jackson
Attorneys for Defendant Herbalife
International of America, Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

MICHAEL LAVIGNE, *et al.*,
Plaintiffs,
vs.
HERBALIFE LTD., *et al.*,
Defendant.

CASE NO. 2:18-cv-07480-JAK (MRWx)
[Related Case 2:13-cv-02488-BRO-RZ]
**[PROPOSED] ORDER GRANTING
JOINT STIPULATION RE: FINAL
STATUS REPORT AND
DISTRIBUTION (DKT. ___)**
Assigned to Hon. John A. Kronstadt,
Courtroom 10B

1 Upon consideration of the parties’ Joint Stipulation re: Final Status Report and
2 Distribution, and for good cause appearing therefore,

3 IT IS HEREBY ORDERED THAT:

4 1. The Joint Stipulation re: Final Status Report and Distribution is hereby
5 GRANTED.

6 2. A.B. Data is authorized to distribute the Net Settlement Fund consistent
7 with the process described in the Joint Stipulation re: Final Status Report and
8 Distribution, and the Stipulation of Settlement, Final Approval Order, and Final
9 Judgment.

10 3. A.B. Data shall commence such distribution immediately upon final
11 calculation of the Net Settlement Fund.

12 4. If there is a balance remaining in the Net Settlement Fund after at least
13 120 days from the date of the initial distribution to Authorized Claimants, A.B. Data
14 will consult with counsel for the Settling Parties and conduct a second distribution to
15 Authorized Claimants if feasible and economical; otherwise, any remaining funds will
16 be directed to the *cy pres* recipient Consumer Federation of America pursuant to
17 Section 4.1 of the Stipulation of Settlement.

18 IT IS SO ORDERED.

19

20 DATED:

Hon. John A. Kronstadt
United States District Judge

21

22

23

24

25

26

27

28