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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Baerbel McKinney-Drobnis, Joseph B.
Piccola, and Camille Berlese, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

MESSAGE ENVY FRANCHISING, LLC, a
Delaware Limited Liability Company,

Defendants.

CASE NO. 3:16-CV-6450-MMC (KAW)

**~~PROPOSED~~ ORDER APPROVING
STIPULATION TO CHANGE HEARING
DATE AND BRIEFING SCHEDULE
FOR FINAL SETTLEMENT
APPROVAL; DIRECTING CLASS
COUNSEL TO PROVIDE NOTICE TO
ANY CLASS MEMBER WHO
OBJECTED; DIRECTING PARTIES TO
REVISE LONG-FORM NOTICE**

Courtroom: 7 – 19th Floor
Judge: Hon. Maxine M. Chesney

**[PROPOSED] ORDER APPROVING STIPULATION TO CHANGE HEARING DATE
AND BRIEFING SCHEDULE FOR FINAL SETTLEMENT APPROVAL**

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3 Upon consideration of the Stipulation to Change Hearing Date and Briefing Schedule for
4 Final Settlement Approval (“Stipulation”) filed by Plaintiffs Baerbel McKinney-Drobnis, Joseph
5 B. Piccola, and Camille Berlese (collectively, “Plaintiffs”) and Defendant Massage Envy
6 Franchising, LLC (“MEF”) (MEF and Plaintiffs together, the “Parties”), and with good cause
7 appearing, **IT IS HEREBY ORDERED:**

8 The Stipulation is **APPROVED**, as follows:

9 1. No later than October 4, 2019, MEF shall provide the Settlement Administrator a
10 list of Omitted Class Members and the information regarding those Omitted Class Members a
11 required by Paragraph 22.c and 22.d of the Court’s Preliminary Approval Order.

12 2. No later than October 18, 2019, the Settlement Administrator shall complete initial
13 Class Notice to the Omitted Class Members via email for those Omitted Class Members for whom
14 an email address is available and via First Class U.S. Mail to all other Omitted Class Members.

15 3. All Voucher Requests from Omitted Class Members must be submitted online on
16 the Settlement Website or emailed, faxed, or mailed to the Settlement Administrator postmarked
17 on or before December 17, 2019 (60 days after completion of Class Notice).

18 4. All objections from Omitted Class Members must be mailed to the Settlement
19 Administrator on or before December 17, 2019.

20 5. All requests for exclusion from Omitted Class Members must be emailed or mailed
21 by First Class U.S. Mail to the Settlement Administrator postmarked on or before December 17,
22 2019.

23 6. No later than January 10, 2020, the Settlement Administrator shall provide to Class
24 Counsel and MEF’s Counsel a list of Omitted Class Members who submitted valid and timely
25 exclusion requests.

26 7. No later than January 10, 2020, Class Counsel shall file with the Court and serve
27 upon MEF’s Counsel any written objections received by the Settlement Administrator from
28 Omitted Class Members.

1 8. No later than January 10, 2020, the Settlement Administrator shall provide Class
2 Counsel and MEF's Counsel with a Declaration of Compliance to be filed with the Court in
3 connection with the Final Approval motion.

4 9. No later than January 31, 2020, Class Counsel shall file the Class Representatives'
5 Motion for Final Settlement Approval.

6 10. The Final Approval hearing previously scheduled for November 1, 2019 shall be
7 held before the Court on February 28, 2020 at 9:00 a.m. at the United States District Court for the
8 Northern District of California, San Francisco Courthouse, Courtroom 7 – 19th Floor, 450 Golden
9 Gate Avenue, San Francisco, CA 94102, to determine all necessary matters concerning the
10 Settlement Agreement, including whether the proposed Settlement is fair, adequate, and reasonable,
11 whether the Court should grant Final Approval, whether there should be any Fee and Expense
12 Award and/or Incentive Award, and the amounts of any such awards.

13 11. Any objecting Omitted Class Member may appear, in person or by counsel, at the
14 Final Approval Hearing to show cause why the Settlement and the Settlement Agreement should
15 not be approved as fair, adequate, and reasonable, or to object to any request for a Fee and Expense
16 Award and/or Incentive Award. To appear in person or by counsel, the objecting Omitted Class
17 Member must file with the Court and serve upon all counsel designated in the Class Notice, a Notice
18 of Intention to Appear on or before January 31, 2020. The Notice of Intention to Appear must
19 include the required information in accordance with the Settlement Agreement, the Class Notice,
20 and the Settlement Website.

21 12. Any Omitted Class Member who fails to timely submit a proper Notice of Intention
22 to Appear will not be heard during the Final Approval Hearing.

23 13. Within ten (10) days of this Order, Class Counsel shall provide notice of the
24 rescheduled Final Approval hearing date to all Class Members who filed a Notice of Intention to
25 Appear at the November 1, 2019 hearing, as well as to any Class Member who submitted an
26 objection to the Settlement Administrator or who filed an objection with the Clerk of Court.

1 14. The parties are DIRECTED to make the following revisions to the proposed
2 revised long-form notice:

3 (a) In the first sentence under the section titled "When Would I Receive My
4 Voucher Statement Benefit?," change the Final Approval Hearing date from "November
5 1, 2009" to "February 28, 2010"; and

6 (b) In the last paragraph under the section titled "May I Speak At The Final
7 Approval Hearing?," change the deadline for filing a Notice of Intention to Appear from
8 "October 18, 2009" to "January 31, 2020."

9 **IT IS SO ORDERED.**

10 Dated: October 2, 2019


HON. MAXINE M. CHESNEY