

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

VERNITA MIRACLE-POND and
SAMANTHA PARAF, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

SHUTTERFLY, INC.,

Defendant.

Case No. 2019-CH-07050

Judge: Raymond W. Mitchell

**ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT,
AWARDING ATTORNEYS' FEES AND SERVICE AWARDS
AND ENTERING FINAL JUDGMENT**

This matter coming before the Court on September 8, 2021, on the Motion for Entry of Final Judgment and Final Approval of Settlement (the "Motion"), the Court having reviewed and considered the Motion, the Class Action Settlement Agreement ("Settlement Agreement") between Plaintiffs Vernita Miracle Pond and Samantha Paraf, on behalf of themselves and the Settlement Class^[1], by and through Class Counsel, and Defendant Shutterfly, Inc. ("Defendant" or "Shutterfly"), including all exhibits and attachments to the Motion, the Settlement Agreement, and the Motion for Attorneys' Fees and Expenses and for Service Awards, and having conducted the Final Approval Hearing, and being cognizant of all other prior proceedings in this Action,

IT IS HEREBY ORDERED as follows:

1. This Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all parties thereto, including the Class.

^[1] Capitalized terms used in this Order that are not otherwise defined herein have the meaning assigned to them in the Settlement Agreement.

2. Pursuant to 735 ILCS 5/2-806, the Court grants final approval of the Settlement Agreement and finds that the Settlement is fair to the Class and was the result of arms' length negotiations between the Class, through Class Counsel, and Shutterfly. The Court concludes that the Settlement Agreement is fair, reasonable, and adequate and in the best interest of the Settlement Class.

FINAL CERTIFICATION OF SETTLEMENT CLASS

3. Pursuant to Illinois Code of Civil Procedure 735 ILCS 5/2-801, the Court hereby certifies the following Settlement Class:

All Illinois residents who appear in a photograph maintained on Shutterfly at any time between June 11, 2014 and the Effective Date. Excluded from the class are: (1) any Judge, Magistrate, or mediator presiding over this action and members of their families, (2) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest, (3) Class Counsel, and (4) the legal representatives, successors or assigns of any such excluded persons.

4. The Court finds that the Settlement Class satisfies the requirements of the Illinois Code of Civil Procedure 735 ILCS 5/2-801: the Settlement Class is comprised of approximately 950,000 individuals, and thus is sufficiently numerous; there are questions of law or fact common to the Settlement Class; Plaintiffs' claims are typical of those of Settlement Class Members; and Plaintiffs' and their counsel have and will continue to fairly and adequately protect the interests of the Settlement Class.

5. The Court hereby appoints Vernita Miracle Pond and Samantha Paraf as the representatives of the Class, and appoints Carey Rodriguez Milian, LLP, Ahdoot & Wolfson, PC, and Carlson Lynch, LLP as Class Counsel.

NOTICE AND ADMINISTRATION

6. Pursuant to this Court's Order granting preliminary approval of the Settlement, Postlethwaite & Netterville (P&N) served as Settlement Administrator. This Court finds that the Settlement Administrator performed all duties thus far required as set forth in the Settlement Agreement.

7. The Court finds that the Settlement Administrator has complied with the approved notice process as confirmed by its Declaration filed with the Court. The Court further finds that the Notice plan set forth in the Settlement as executed by the Settlement Administrator satisfied the requirements of Due Process and 735 ILCS 5/2-803. The Notice plan was reasonably calculated and constituted the best notice practicable to apprise Settlement Class Members of the nature of this litigation, the scope of the Settlement Class, the terms of the Settlement, the right of Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court finds and concludes that the Settlement Class Members have been provided the best notice practicable under the circumstances, and that the Notice plan was clearly designed to advise the Settlement Class Members of their rights.

EXCLUSIONS AND OBJECTIONS

8. The Settlement Administrator has certified, and the Court hereby finds, that no timely or otherwise valid objections to the Settlement Agreement or to Plaintiff's Motion for Attorneys' Fees and Expenses and for Service Awards were submitted. Furthermore, the Settlement Administrator has certified, and this Court hereby finds, that 21 valid or timely exclusions were submitted. All persons who have not made their objections to the Settlement in the time-period and manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT

9. The Court finds that the Action satisfies the applicable prerequisites for class action treatment under the Illinois Code of Civil Procedure, 735 ILCS 5/2-801. The Court finds that the settlement of the Action, on the terms and conditions set forth in the Settlement Agreement, is in all respects fundamentally fair, reasonable, adequate, and in the best interests of the Class Members, especially in light of the benefits to the Class Members, the relative strength of Plaintiffs' claims, the defenses raised by the Defendant, the complexity, expense and probable duration of further litigation, the risk and delay inherent in possible appeals, and the risk of collecting any judgment obtained on behalf of the Class. In the Preliminary Approval Order, the Court found that the Settlement Agreement appeared to be fair, reasonable, and adequate and fell within the appropriate range of possible approval. Essentially, the Settlement provides for each member of the Settlement Class, as that term is defined in the Settlement Agreement, to receive from the Defendants benefits described in the Settlement Agreement. The Settlement Agreement provides these benefits to the Settlement Class even though the Defendant has at all times disputed, and continue to dispute, Plaintiffs' allegations in this lawsuit and to deny any liability for any of the claims that have been or could have been alleged by Plaintiffs or other members of the Settlement Class.

CLASS COUNSEL'S FEES AND SERVICE AWARDS

10. The Court hereby awards a Service Award of \$5,000 to Plaintiff Vernita Miracle Pond and \$5,000 to Plaintiff Samantha Paraf in compensation for the time, effort, and risk they undertook as representatives of the Class. These awards shall be paid within the time period and manner as set forth in the Settlement Agreement.

11. The Court hereby grants Plaintiffs' Motion for Attorneys' Fees and Expenses and for Service Awards. Class Counsel is hereby awarded \$2,362,500 in reasonable attorneys' fees, and \$51,440.78 in reasonable costs incurred in litigating this Action, in the manner specified in the Settlement Agreement. Class Counsel's Fees and Expenses shall be paid within the time period and manner as set forth in the Settlement Agreement.

RELEASE OF CLAIMS

12. This Final Judgment hereby incorporates and gives full effect to the Release set forth in the Settlement Agreement. By virtue of this Final Judgment, all members of the Class who did not validly and timely submit Requests for Exclusion in the manner provided in the Settlement Agreement shall, by operation of this Final Judgment, have fully, finally and forever released, relinquished and discharged the Defendant and the Released Parties as set forth in Section 1.26 of the Settlement Agreement from the Released Claims as set forth in Section 1.25 of the Settlement Agreement. Furthermore, all members of the Class who did not validly and timely submit exclusions in the manner provided in the Settlement Agreement are hereby permanently barred and enjoined from (1) filing, commencing, prosecuting, maintaining, intervening in, participating in, conducting or continuing, either directly or in any other capacity, either individually or as a class, any action or proceeding in any court, agency, arbitration, tribunal or jurisdiction, asserting any claims released pursuant to the Settlement Agreement, or seeking an award of fees and costs of any kind or nature whatsoever and pursuant to any

authority or theory whatsoever, relating to or arising from the Action and/or as a result of or in addition to those provided by the Settlement Agreement; and (2) organizing Settlement Class Members who have not excluded themselves from the Settlement Class into a separate class for purposes of pursuing as a purported class action any lawsuit or arbitration or other proceeding (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action) based on, relating to or arising out of the claims and causes of action or the facts and circumstances giving rise to the Litigation and/or the Released Claims, except that Settlement Class Members are not precluded from participating in any investigation or suit initiated by a state or federal agency. Any Person who knowingly violates such injunction shall pay the attorneys' fees and costs incurred by Defendants and/or any other Released Persons and Class Counsel as a result of the violation.

AMENDMENTS AND MODIFICATIONS

13. Class Counsel and Defendant are hereby authorized, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement and its implementing documents (including all Exhibits to the Settlement Agreement) that (1) shall be consistent in all material respects with this Final Judgment, and (2) do not limit the rights of Settlement Class Members.

PRECLUSIVE EFFECT

14. The Settlement Agreement and this Final Judgment are binding on and shall have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Release maintained by or on behalf of Plaintiffs and all Settlement Class Members, as well as their respective present, former and future administrators, agents, assigns, attorneys, executors, heirs, partners, predecessors-in-interest and successors.

INCORPORATION OF SETTLEMENT AGREEMENT INTO FINAL JUDGMENT

15. **The provisions of the Settlement Agreement and the relief provided to the Settlement Class therein are hereby fully incorporated into this Final Judgment.**

ENTRY OF FINAL JUDGMENT

16. Finding that there is no just reason for delay, the Court orders that this Order for Final Approval of Class Action Settlement, Awarding Attorneys' Fees, Service Awards and Entry of Final Judgment shall constitute a final judgment. The Clerk of the Court is directed to enter this Order on the docket forthwith. The above-captioned action is hereby dismissed in its entirety *with prejudice*. Without affecting the finality of the Judgment hereby entered, the Court reserves jurisdiction over the implementation of the Settlement Agreement, including enforcement and administration of the Settlement Agreement and this Final Judgment.

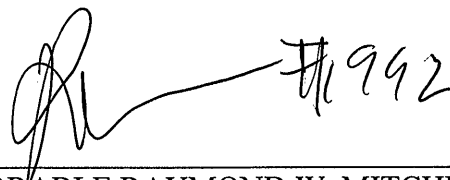
Judge Raymond W. Mitchell

SEP 09 2021

IRIS Y. MARTINEZ
Circuit Court - 1992

IT IS SO ORDERED.

DATED: September 9, 2021



HONORABLE RAYMOND W. MITCHELL