

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

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JOY EBERLINE, CINDY  
ZIMMERMANN, and TRACY  
POXSON, individually and  
on behalf of all others  
similarly situated,

Plaintiffs,

Case No. 5:14-cv-10887-JEL-MJH

v.

Hon. Judith E. Levy  
Mag. Kimberly G. Altman

DOUGLAS J. HOLDINGS, INC.,  
*et. al.*

Defendants.

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**[PROPOSED]**

**ORDER CERTIFYING CLASS FOR SETTLEMENT PURPOSES;  
PRELIMINARILY APPROVING THE SETTLEMENT;  
APPROVING THE FORM AND MANNER OF  
CLASS NOTICE & DISTRIBUTION OF THE CLAIM FORM;  
APPOINT THE NAMED PLAINTIFFS AS CLASS REPRESENTATIVES;  
APPOINTING CLASS COUNSEL;  
APPOINT A SETTLEMENT ADMINISTRATOR; AND  
SETTING DATE FOR A FINAL APPROVAL HEARING**

THIS CAUSE HAVING COME TO BE HEARD on Plaintiffs' *Unopposed Motion for Certification and Preliminary Approval of Class And Collective Action Settlement*, the Court having considered the motion and brief in support, together with the proposed Settlement Agreement, class notice, claim form, and other relevant documents and submissions of the parties together with relevant legal

authorities submitted in support thereof and the Court otherwise being duly advised in the premises and **GOOD CAUSE** having been shown therefor, IT IS HEREBY ORDERED that the Plaintiffs' *Unopposed Motion for Certification and Preliminary Approval of Class And Collective Action Settlement* is GRANTED, as follows:

1. This Order incorporates by reference the definitions in the Settlement and Release Agreement (a copy of which is attached to as Exhibit 1 to Plaintiffs' *Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Certification and Preliminary Approval of Class and Collective Action Settlement*). All capitalized terms used in this Order will have the same meaning as set forth in the Settlement and Release Agreement, unless otherwise defined in this Order.

2. The Settlement Class shall be preliminarily certified pursuant to Federal Rule of Civil Procedure 23(a) and (b) and 29 U.S.C. § 216(b) for settlement purposes only and shall include (the "Class") any student who attended Defendant Douglas J. Institute, Inc.'s cosmetology programs in Michigan and participated in the Alpha, Beta, Gamma, and/or Salon Life courses at any time between January 1, 2012, and December 31, 2022.

3. The hybrid class and collective action Settlement set forth in the Settlement and Release Agreement, entered into among the parties and their counsel, is preliminarily approved as it appears to be proper, fall within the range of reasonableness, be the product of arm's-length and informed negotiations, treat all

Class Members fairly, and be presumptively valid, subject to any objections that may be raised at the Final Approval Hearing.

4. The Settlement and Release Agreement, together with its attached exhibits and/or referenced documents, sets forth the terms and conditions for the proposed settlement and dismissal with prejudice of the Litigation.

5. The Court approves, as to form and content, the proposed Class Action Notices (a copy of which is attached to as Exhibits 2 & 3 to Plaintiffs' *Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Certification and Preliminary Approval of Class and Collective Action Settlement*).

6. The Court will direct notice to the Class because giving notice is justified by Plaintiffs' showing that the Court will likely be able to approve the Settlement and Release Agreement under Federal Rule of Civil Procedure 23(a) and (b) and 29 U.S.C. § 216(b) and certify the class for purposes of judgment on the proposed Settlement and Release Agreement. Specifically, the Settlement and Release Agreement preliminarily appears to be (a) fair, reasonable, and adequate considering the relevant factual, legal, practical, and procedural considerations of the Litigation, (b) free of collusion to the detriment of the putative Class, and (c) within the range of possible final judicial approval, subject to further consideration thereof at the Final Fairness and Approval Hearing as described below. The Class appear likely to satisfy the prerequisites of Federal Rule of Civil Procedure 23(a)

and (b)(3) and 29 U.S.C. § 216(b). Accordingly, the Settlement and Release Agreement and the settlement are sufficient to warrant notice thereof and a full hearing on the settlement.

7. The Court finds that the method selected for communicating the class action Settlement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice and thereby satisfies due process. The Court further finds that the Class Notices and Claim Form constitute reasonable notice practicable under the circumstances and are in full compliance with the law. The Court also finds that the notifications fully and accurately inform the members of the Settlement Class of all material elements of the Settlement and Release Agreement; of their right to participate in the Settlement; of their right to be excluded from the Class; and of their right and opportunity to object to the Settlement.

8. The Court directs that the Postcard Class Notice set forth in Exhibit 2 be mailed to each Class Member and that the expanded Class Notice set forth in Exhibit 3 be posted on the Settlement website, along with the full text of the Settlement and Release Agreement in Exhibit 1.

9. Within twenty-one (21) days of receiving the Class Data, the Settlement Administrator shall mail the Postcard Notice of the Settlement and Release

Agreement and the Final Approval and Fairness Hearing to the most recent known address for each Class Member.

10. The Court approves, as to form and content, the proposed Claim Form (a copy of which is attached to as Exhibit 4 to *Plaintiffs' Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Certification and Preliminary Approval of Class and Collective Action Settlement*).

11. The Court approves the proposed Claim Form in Exhibit 4 for use in administering the Settlement. For a Class Member to receive a payment from the net Settlement Amount, the Class Member must timely and accurately complete and submit a Claim Form to the Settlement Administrator, who must determine that the form is satisfactorily completed and that the individual is, in fact, a Class Member. Claim Forms can be completed online at the Settlement website or can be downloaded and printed from the Settlement website and then mailed to the Settlement Administrator. All Claim Forms must be completed online at the Settlement website within 90 days of the date on which the Notice of Settlement is required to be mailed and if mailed to the Settlement Administrator, must be postmarked within 90 days of the date on which the Notice of Settlement is required to be mailed.

12. Participating Class Members who possess a social security number or tax identification number are required to complete an IRS W4 and IRS W9 form.

These forms must be completed online at the Settlement website within 90 days of the date on which the Notice of Settlement is required to be mailed and if mailed to the Settlement Administrator, must be postmarked within 90 days of the date on which the Notice of Settlement is required to be mailed.

13. The Court approves the proposed procedure for submitting requests for exclusion from the members of the Settlement Class. Any member of the Settlement Class wishing to optout from the Settlement Agreement must complete, sign, and mail an Opt Out form to the Settlement Administrator. The Opt Out form can be downloaded and printed from the Settlement website. The form must be postmarked no later than 75 days after entry of the Preliminary Approval Order. Failure to opt out in strict compliance with the time and manner requirements set forth in the Settlement and Release Agreement shall result in waiver of the right to opt out. All potential Class Members who fail to properly and timely opt out shall be in the Settlement Class and, to the extent the Settlement and Release Agreement is ultimately approved, shall be bound by the settlement.

14. The Notice of Settlement shall designate the Settlement Administrator as the entity to whom opt-out requests shall be sent. The Settlement Administrator shall be responsible for the receipt of all responses from putative Class Members and shall preserve all opt-out requests and all other written communications from putative Class Members or any other person in response to the Notice of Settlement

until administration of the Settlement and Release Agreement is complete or pursuant to further Order of this Court. All written communications received from putative Class Members and all written responses to inquiries by them relating to the Settlement and Release Agreement and settlement shall be available at all reasonable times for inspection and copying by counsel for the Plaintiffs and Defendants, subject to further Order of the Court if issues of privilege or confidentiality arise.

15. The Court approves the proposed procedure for submitting Objections to the Settlement. Any member of the Settlement Class wishing to object. Any Class Member who will wishes to object to the fairness, reasonableness, or adequacy of the Settlement and Release Agreement or any portion of the settlement, including without limitation the amount of Class Counsel's requested fees and expenses must remain part of the Settlement Class and must serve on the Parties a timely and valid statement of Objection that complies with the Objection to Settlement procedure described in the Notice of Settlement and Paragraph 4 of the Settlement and Release Agreement. All objections must be in writing and postmarked no later than 75 days after entry of the Preliminary Approval Order. Counsel will file all objections received and any responses with the Clerk of Court no later than 7 days before the Final Fairness and Approval Hearing, as outlined in Paragraph 4(b) of the Settlement and Release Agreement. Class Counsel shall file all such Objections with the Court at least 14 days before the Final Approval Hearing. Any objecting Class Member

may appear at the Final Approval Hearing in person, with or without such Class Member's separate counsel. The scope of any objector's presentation of evidence or argument at the Final Fairness and Approval Hearing shall be limited to such objector's written objection. Any Class Member who fails to file and serve an objection in strict compliance with the deadlines and procedures, and containing the information required by the Notice of Settlement, shall be deemed to have forever waived and forfeited the right to object to the Settlement and Release Agreement or any part of the settlement or to raise or pursue an objection at the Final Fairness and Approval Hearing or at any point thereafter, including through appeal or as part of a separate proceeding.

16. If, for any reason, the Settlement and Release Agreement is not finally approved or does not become effective, this Order, including but not limited to the conditional certification, shall be null and void and automatically deemed vacated. Neither the Settlement and Release Agreement nor anything related to the negotiation, consideration, or approval of it shall be used, referred to, proffered, or admissible for any purpose in this Litigation or any other action or proceeding. In such event, the parties and the putative Class shall be returned to the same litigation position that they were in prior to seeking preliminary approval of the Settlement and Release Agreement, and they shall be free to raise all claims, defenses, and arguments as they would have been able to had they never negotiated or sought



approval of the Settlement and Release Agreement, including opposing class certification on any and all grounds (including but not limited to Rule 23(a) and (b)(3)). The parties must also promptly schedule a status conference to establish a new scheduling order for the continuation of the Litigation.

17. The Court appoints the named Plaintiffs, Joy Eberline, Cindy Zimmerman, and Tracy Poxson, as class representatives. The named Plaintiffs have interests in common with each of the members of the Settlement Class and have demonstrated that they will vigorously prosecute the interests of the class through qualified counsel.

18. The Court appoints John Philo (jphilo@sugarlaw.org), Sugar Law Center for Economic & Social Justice, 4605 Cass Avenue, 2nd Floor, Detroit, Michigan 48201, and Kathryn Bruner James (kjames@goodmanhurwitz.com), Goodman Hurwitz & James PC, 1394 E. Jefferson Avenue, Detroit, Michigan 48207 as Class Counsel, finding that Class Counsel are well-qualified and experienced in wage and hour and class action litigation.

19. Kroll Settlement Administration, LLC is hereby appointed as Settlement Administrator to provide Notice of Settlement to Class Members as described in the Settlement and Release Agreement and to administer the process of

soliciting, receiving, reviewing, approving, or denying claims, and distributing funds.

20. Within ten days of the filing of the Motion for Preliminary Approval, Defendants' counsel shall send notice to the United States Attorney General and the Attorney General for the State of Michigan. Each such notice shall contain the information required under 28 U.S.C. § 1715. At least seven (7) days before the Final Fairness and Approval Hearing, Defendants' counsel shall file a report with the Court confirming that these notices were timely sent.

21. Within 14 days of the deadline for Claims Reporting as described in the Settlement and Release Agreement, Class Counsel shall file a motion with the Court requesting a Final Fairness and Approval Hearing; all reply briefs must be filed no later than 7 calendar days before the Final Fairness and Approval Hearing.

22. All other events contemplated under the Settlement and Release Agreement to occur after this Order and before the Final Fairness and Approval Hearing described in this Order shall occur as proposed in the Motion for Preliminary Approval, to the extent not inconsistent herewith.

23. The Court orders that the Final Approval Hearing is set for **November \_\_\_\_\_, 2023 at \_\_\_\_\_** in the Courtroom of the Honorable Judge Judith E. Levy at the United States District Court for the Eastern District of Michigan, Ann Arbor Division, 107 Federal Building, 200 E. Liberty Street, Ann Arbor, MI 48104, to

consider the fairness, reasonableness, and adequacy of the proposed Settlement and Release Agreement, the entry of any final order or judgment in the action, any application for attorneys' fees and costs, and other related matters. The Final Fairness and Approval Hearing may be postponed, adjourned, conducted virtually, or continued by further Order of this Court without further notice to the putative Class.

24. All proceedings in the action other than such as may be necessary to carry out the terms and conditions of the Settlement and Release Agreement or the responsibilities related or incidental thereto are stayed and suspended until further notice of this Court. Pending final determination of the fairness, reasonableness, and adequacy of the proposed Settlement and Release Agreement, no putative Class Member, other than those who timely and properly have opted out of the Class, may either directly or indirectly prosecute, institute, or commence any individual or class action with respect to the subject matter of this Litigation.

SO ORDERED on May \_\_\_\_\_, 2023.

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The Honorable Judith E. Levy  
United States District Court Judge