Exhibit E

CLASS ACTION SETTLEMENT AGREEMENT

This Agreement ("Agreement" or "Settlement Agreement") is entered into by and among Plaintiffs Mark Fantroy and Marlo George (collectively, "Plaintiffs"), on behalf of themselves and the Settlement Class (as defined herein), and Defendants Luxottica of America Inc., Costa Del Mar, Inc., and Oakley, Inc. ("Defendants") (together with Plaintiffs, the "Parties"). This Agreement is intended by the Parties to fully, finally and forever resolve, discharge, and settle all claims, controversies, alleged liabilities, and disputes between them, upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

RECITALS

A. WHEREAS, on April 6, 2023, Plaintiff Mark Fantroy filed a putative class action complaint in the United States District Court for the Eastern District of Missouri captioned, *Fantroy v. Oakley, Inc.*, Case No. 4:23-cv-00433 ("Complaint");

B. WHEREAS, on May 22, 2023, Claimant Marlo George, sent a demand letter to Defendants (together with the Complaint the "Action");

C. WHEREAS, the Action alleges that Defendants charged certain Missouri consumers more tax than was due to the State of Missouri on certain transactions related to sales made via internet websites and shipped from a location outside the State of Missouri to Missouri delivery addresses, and seeks to recover against Defendants, on behalf of Plaintiffs and a putative class of similarly situated individuals, under the Missouri Merchandising Practices Act ("MMPA") and theories of unjust enrichment and money had and received;

D. WHEREAS, beginning in and around the month of May 2023, the Parties actively began discussing settlement;

E. WHEREAS, in support of the Parties' settlement discussions and to allow the Parties to better assess the amount in dispute, Defendants began collecting and analyzing data related to tax charges for potential class members;

F. WHEREAS, in July 2023, the Parties discussed a general, non-binding framework for settling their dispute, and they agreed to negotiate and jointly draft this Settlement Agreement;

G. WHEREAS, the Parties intend that the amount of the Settlement described in this Agreement will be determined based on the amount of a tax refund that results from a refund claim that Defendants will file with the Missouri Department Of Revenue ("MDOR") seeking the return of the amount of excess tax Plaintiffs contend Defendants collected on certain sales made via its websites for shipment to Missouri delivery addresses, subject to the terms of this Settlement Agreement;

H. WHEREAS, Plaintiffs believe their claims asserted in the Action are strong on the merits and are appropriate for adjudication on a class basis, but Plaintiffs and their counsel recognize that Defendants have raised defenses in this Action that present a risk that Plaintiffs may not succeed in certifying a class, or on the merits, or both, and Plaintiffs and their counsel also have taken into account the uncertainty and risks inherent in any litigation, and especially in complex class action litigation; and because of these risks Plaintiffs desire to fully and finally compromise, settle, and resolve this Action pursuant to the terms set forth in this Settlement Agreement;

I. WHEREAS, Class Counsel (as defined herein) have evaluated the law and facts relating to the claims and defenses in this Action and concluded that the terms of this Settlement Agreement are fair, reasonable, and adequate to resolve the claims of the putative class, and that

it is in the best interests of the putative class members to settle the claims raised in this Action pursuant to the terms set forth in the Settlement Agreement;

J. WHEREAS, Defendants have denied, and continue to deny, any wrongdoing and maintain that they have meritorious defenses available to the Action, and further maintain that the claims asserted in the Action are not appropriate for adjudication on a class basis, but Defendants recognize there is a risk that Plaintiffs may succeed in certifying a class, or on the merits, or both; and Defendants also have taken into account the uncertainty and risks inherent in any litigation, and especially in complex class action litigation; and because of these risks Defendants desire to fully and finally compromise, settle, and resolve this Action pursuant to the terms set forth in this Settlement Agreement;

K. NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties, by and through their undersigned counsel that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties from the Agreement set forth herein, that the Action shall be finally and fully compromised, settled, released, and the Complaint shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

ADMINISTRATIVE REFUND PROCESS

1. Administrative Refund Claim

a. As provided for in Missouri Revised Statutes Section 144.190.1, 144.190.2, and 144.190.3, the Parties agree to request a refund on behalf of Defendants from the Missouri Department of Revenue ("MDOR") to obtain a refund of tax that Plaintiffs allege Defendants collected and submitted to the MDOR that was in

excess of the amount that should have been collected at the time of sale for all Qualifying Purchases (as defined below) (the "Refund Claims").

b. The **Settlement Class** for purposes of the Settlement Agreement is defined as "all consumers who made at least one Qualifying Purchase from April 1, 2020 through April 12, 2023" (such period, the "Class Period"). A "**Qualifying Purchase**" for the purposes of the Settlement Agreement is defined as "a retail transaction for the purchase of tangible personal property from Luxottica of America Inc., Costa Del Mar, Inc., or Oakley, Inc. for which all of the following are true: (a) the transaction was made via one of the following websites: Glasses.com, LensCrafters.com, OakleySI.com, Oakley.com, Rayban.com, SunglassHut.com, CostaDelMar.com, and TargetOptical.com; (b) the transaction was completed between April 1, 2020 through April 12, 2023; (c) the purchased property was shipped by or on behalf of Defendants from a location outside the state of Missouri; (d) the purchaser's delivery address was within the state of Missouri; and (e) Defendants charged the purchaser an amount of tax on the transaction that exceeded the Vendor's Use Tax Amount for that transaction." Notwithstanding the foregoing sentence, any transaction on which the purchaser received a refund on the entire transaction or previously received a refund of tax charged, will be excluded from "Qualifying Purchases," and where a consumer received a partial refund on a transaction, only the portions of the transaction on which the purchaser did not receive a refund may be a "Qualifying Purchase," provided those portions, standing alone, meet the definition of "Qualifying Purchase" set forth herein. Excluded from the Settlement Class are: Defendants, any entity in

which Defendants have a controlling interest or which has a controlling interest in Defendants, and Defendants' legal representatives, predecessors, successors, assigns, and employees; Class Counsel and members of the immediate family of Class Counsel; the judge and staff to whom this case was assigned, and any member of the judge's immediate family; and any customers who returned the product for a full refund.

c. In advance of submitting the request for refund, Defendants agree to estimate the potential tax overcharges by identifying all Qualifying Purchases for the Class Period. For those transactions, Defendants will calculate the applicable use tax rate and compare that with the amount of tax ultimately charged on the transaction. Each instance in which the amount charged exceeded the amount due as use tax shall become part of the Refund Claim. This process shall be referred to herein as Defendants' "Internal Use Tax Audit."

d. Defendants shall retain all records from their Internal Use Tax Audit for purposes of submission to the Missouri Department of Revenue for the Refund Claims.

e. Any amount obtained through the Refund Claims shall be called the "Refund Proceeds," and subject to Court approval, shall serve, as set forth in more detail below, as the source of funding for any payments to the Settlement Class, attorneys' fees and costs awarded to Class Counsel, and settlement administration costs.

f. The Parties acknowledge that the MDOR may request a sample of transactional level detail (including, but not limited to, receipts or other documents) from

Defendants. Defendants agree to provide data requested by the MDOR that is in their possession.

g. Defendants represent that they will act and respond timely to the MDOR with proper and as complete responses as possible to perfect the Refund Claims.

h. Defendants will assign the right to any refund obtained from the Refund Claims to the Settlement Class. Plaintiffs identify Yitzchak Kopel, from Bursor & Fisher, P.A. ("Class Counsel"), as counsel that will interface with the MDOR on behalf of the Plaintiffs with respect to the Refund Claims. As soon as practicable, Defendants will introduce Class Counsel to the MDOR auditor and explain his role in the Refund Claims.

i. Defendants agree to communicate as soon as possible (knowing that timing is of the essence) with Class Counsel regarding any verbal or written communications with the MDOR about the Refund Claims, and will as soon as possible (knowing that timing is of the essence) provide copies of such communications to Class Counsel. Defendants agree to provide any proposed response to a request from the MDOR, including data, to Class Counsel to review with sufficient time for Class Counsel to comment and request changes. For purposes of this provision, five (5) business days before the due date set by the MDOR or the date Defendants intend to respond, if there is no due date, will be deemed sufficient time for review. Defendants will coordinate with Class Counsel before engaging in telephone calls with the MDOR auditor about the Refund Claims so that Class Counsel can participate. Defendants will notify the MDOR to "cc" Class Counsel on all correspondence and communications related to the Refund Claims between

Defendants and the MDOR. Defendants will "cc" Class Counsel on all communications it sends to the MDOR related to the Refund Claims.

j. If in the future, the MDOR auditor or anyone with authority at the MDOR determines that Defendants must prepare amended returns to perfect the Refund Claims, then Defendants agree to prepare such amended returns at their own cost within the time reasonably requested by the MDOR, as may be extended by agreement of the MDOR.

k. To the extent that the MDOR auditor or anyone else at the MDOR challenges Plaintiffs' substantive position for the Refund Claims, then Class Counsel will address that challenge. Defendants will not take a position adverse to the merits of Plaintiffs' legal position for the refund in the Refund Claims.

l. If the MDOR denies the Refund Claims (in part or in full), and such denial exceeds $25,000 of the requested refund amount, then Defendants agree to file an appeal of the denials to the Administrative Hearing Commission ("AHC") if Class Counsel requests that Defendants appeal, and a non-frivolous basis for appeal exists. If this matter is appealed to the AHC, then Defendants, on the one hand, and Class Counsel on the other hand, shall cooperate fully with each other, including the furnishing or making available during normal business hours of records, personnel, books of account, powers of attorney or other materials necessary or helpful for the preparation or conduct of the appeal and to adequately develop a factual record before the AHC. If the AHC denies the Refund Claims (in part or in full), and such denial exceeds $50,000 of the requested refund amount, Defendants agree to file an appeal of the denials to the Missouri Supreme

Court if Class Counsel requests that the Defendants appeal. Class Counsel will be responsible for drafting any appeal documents, and for any other action necessary for these appeals (and associated fees and costs), including, but not limited to, record preparation, briefing, and oral argument.

m. Upon the execution of this Settlement Agreement, Plaintiffs will file an amended complaint to (i) add as named defendants Luxottica of America Inc. and Costa Del Mar, Inc.; (ii) add Marlo George as a plaintiff class representative; and (3) amend the allegations to include the Qualifying Purchases. Plaintiffs will simultaneously file a motion to stay this litigation until after Defendants have received a response from the MDOR. The stay will incorporate check-ins with the Court every 90 days.

PRELIMINARY APPROVAL PROCESS

2. **Dismissal of the Action:** If the Refund Claims are denied by MDOR, after the time for any appeals set forth above, then the Parties will seek an order from the Court dismissing the Action with prejudice and Plaintiffs hereby waive any right to challenge, appeal, or otherwise contest such dismissal with prejudice.

3. **Preliminary Approval:** If the Refund Claims are approved by MDOR, then Plaintiffs shall submit a motion for a Preliminary Approval Order by such date as agreed to by the Parties but no later than thirty (30) days after obtaining the refund(s). Class Counsel will provide Defendants with a draft of the motion for preliminary approval ten (10) days in advance of its filing. Defendants shall not unreasonably oppose such motion.

4. **Settlement Class:** If the Refund Claims are approved by MDOR, in whole or in part, then the Parties agree to the conditional certification, for settlement purposes only, of the Settlement Class.

The Settlement Class, and this entire Settlement Agreement, shall be approved by the Court on a schedule to be agreed to by the Parties.

a) **Notice and Settlement Administration:** Notice and settlement administration will be provided by Kroll, a well-established class action settlement administrator (the "Settlement Administrator"). The costs of implementing and administering Notice and settlement administration will be paid from the Refund Proceeds, if any. Under no circumstances will Defendants pay the costs of implementing and administering Notice or settlement administration.

b) **Notice and Notice Plan:** Class Counsel is responsible for preparing a Notice and Notice Plan, subject to Defendants' review and approval. Notice will be provided no later than thirty (30) days after an order granting preliminary approval. Notice will be provided electronically to members of the Settlement Class (except for where no last known email address is available, via U.S. Mail).

c) **Settlement Administrator Duties and Responsibilities:** The Settlement Administrator shall create a non-reversionary cash fund that shall be established by or on behalf of Defendants in the total amount of the Refund Proceeds ("Settlement Fund"). No later than thirty (30) days after an order granting preliminary approval, Defendants shall provide an electronic list from its records that includes, to the extent available, the names and last known email, or for any email not available the U.S. Mail addresses, belonging to members of the

Settlement Class. This electronic document shall be called the "Class List," and shall be provided to the Settlement Administrator with a copy to Class Counsel for the purpose of giving Notice to the class members and shall not be used for any other purpose.

d) **Opt Out:** A member of the Settlement Class may request to be excluded from the Settlement by sending a written request postmarked (or submitted electronically) on or before the deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a member of the Settlement Class must timely send a written request for exclusion to the Settlement Administrator as specified in the Notice, providing his/her name and address, a signature, the name of the case, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked (or submitted electronically) within the time specified, shall be invalid, and the person that submitted such a request shall be a member of the Settlement Class and shall be bound as a Settlement Class member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. The request for exclusion must be personally signed by the person requesting exclusion. So-called "mass" or "class" opt-outs shall not be allowed.

e) **Objections:** A member of the Settlement Class may object to the Settlement by sending a written objection postmarked (or submitted electronically) on or before the deadline approved by the Court and specified in the Notice. To object, a member of the Settlement Class must timely send (or submit electronically) a written objection to the Settlement Administrator as specified in the Notice, providing his/her name and address, a signature, the name of the case, and the basis for his or her objection, and at the same time file any notice of an intention to appear at the Final Approval hearing by (a) filing with the Court copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Settlement Class Member represented by counsel, files any objection through the Court's electronic filing system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel and Defendants' Counsel.

f) **Final Approval:** After the time for Notice, Opt-Outs, and Objections has expired in accordance with the schedule set by the Court in the preliminary approval order, Plaintiffs will file a motion for final approval of the Settlement Agreement. Plaintiffs shall afford Defendants a reasonable opportunity to review and suggest revisions to the motion for final approval and related draft filings.

g) **Distribution of Class Payments:** Within 10 days following the Effective Date, the Refund Proceeds will be distributed from the Settlement Fund to the Settlement Class members *pro rata*, net of attorneys' fees and costs, cost of notice and administration, and payments to class representatives, subject to Court approval. Settlement Class members are not required to file a Claim Form in

order to receive an automatic, *pro rata* Settlement payment. Unless a Settlement Class member previously requested a check be mailed, notice of payment will automatically be provided to Settlement Class members' last known email address.

h) **Undistributed Refund Proceeds:** Any portion of the Settlement Fund remaining after expiration of the time for Settlement Class to cash-in their payment, and less any fees, costs, and expenses due under this Settlement Agreement (as approved by the Court), will not be retained by Defendants (the "Undistributed Refund Proceeds"). Any Undistributed Refund Proceeds will be paid to The OneSight Foundation, subject to Court approval.

RELEASE OF LIABILITY

5. Plaintiffs and the Settlement Class hereby unconditionally, irrevocably, forever and fully release, waive, acquit, and discharge Defendants as well as any and all of their respective past, present, and/or future successors, assigns, predecessors, and legal representatives, and each of them (the "Releasees"), of and from any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, damages, expenses, costs, attorneys' fees and or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, arising out of any facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions, or failures to act regarding the alleged tax overcharges at issue in the Action.

Defendants do not admit liability, and are cooperating in the Administrative Refund Claim only to permit the MDOR to render a decision in a timely fashion. Neither this Settlement

Agreement, nor any actions taken to carry out the settlement, are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or the validity of any claim, defense, agreement to class certification, or of any point of fact or law on the part of any party. Plaintiffs and the Settlement Class are not entitled to any relief from Defendants other than as expressly stated in this Agreement.

MISCELLANEOUS PROVISIONS

6. Plaintiffs' Attorneys' Fees and Costs: Plaintiffs' and the Settlement Class's attorneys' fees will be paid only out of the Settlement Fund, if any. With no consideration given or received, Class Counsel will limit its petition for attorneys' fees to no more than one-third (33.33%) of the Refund Proceeds. Reasonable costs and expenses shall be paid out of the Settlement Fund, subject to Court approval.

Subject to the Court's approval, Class Counsel's fees, costs, and expenses awarded by the Court shall be paid from the Settlement Sum to Class Counsel within five (5) business days after entry of the Final Approval Order and Judgment, notwithstanding the existence of any timely-filed objections thereto, or potential for appeal therefrom, or collateral attack on the settlement or any part thereof. In the event the Court's Final Approval Order and Judgment is reversed, vacated or modified on motion for reconsideration or on appeal such that the amount of fees, costs, and expenses are reduced or the Settlement is not approved as set forth in this Agreement: 1) in the case of a reduction of the fees, costs, and expenses, Class Counsel shall be jointly and severally liable and agrees to repay within five (5) calendar days of the event that results in reduction of the award any excess amount of fees, costs, and expenses plus interest; or 2) in the case of the settlement not being approved or being reversed on appeal, Class Counsel shall be jointly and severally liable and agrees to repay in full all fees, costs, and expenses plus interest

within five (5) calendar days of the event that results in the settlement not being approved or being reversed on appeal. Class Counsel hereby agrees to be subject to the jurisdiction of this Court for the purposes of enforcing this provision. Payment of the fee award shall be made by the Settlement Administrator via wire transfer to Bursor & Fisher, P.A., in accordance with wire instructions to be provided to the Settlement Administrator by Bursor & Fisher, P.A., and completion of necessary forms, including but not limited to W-9 forms.

7. **Incentive Payments to Class Representatives:** Class Counsel intends to file a motion for Court approval of incentive awards for the Class Representatives, to be paid out of the Settlement Fund, if any. With no consideration having been given or received for this limitation, the Class Representatives will seek no more than $5,000 each ($10,000 total) as incentive awards. Such awards shall be paid in the form of checks to the Class Representatives that is sent care of Class Counsel within ten (10) days after entry of the Court's Final Approval of the Settlement.

8. **Effective Date:** The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

a) The Parties and their counsel have executed this Agreement;

b) The Court has entered the Preliminary Approval Order;

c) The Court has entered an order finally approving the Agreement, following notice to the Settlement Class and a Final Approval Hearing, as provided in the Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

d) The final judgment becomes Final.[1] Alternatively, in the event that the Court enters an order and final judgment in a form other than that provided above ("Alternative Judgment") and that has the consent of the Parties, such Alternative Judgment becomes Final.

9. **Acknowledgements:** Each of the Parties acknowledges and agrees that:

a) This Agreement is entered into and executed voluntarily by each of the Parties hereto and without any duress or undue influence on the part of, or on behalf of, any such Party.

b) Each of the Parties hereto has been represented by counsel of its/his/her own choice, or has had the opportunity to be represented by counsel and to seek advice in connection with the negotiations for, and in the preparation of, this Agreement and that he, she, or it has read this Agreement and that he, she, or it is fully aware of its contents and legal effects. This is an agreement of settlement and compromise, made in recognition that the Parties may have different or incorrect understanding, information, and/or contentions, as to the facts and/or the law, and with each Party compromising and settling any potential differences in the Parties' respective understandings, information, and contentions as to the facts and/or the

[1] "Final" means one business day following the latest of the following events: (1) the date upon which the time expires for filing or noticing any appeal of the Court's Final Judgment approving the Settlement Agreement; (2) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petition for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (3) if there is an appeal that involves the fee award in addition to other issues, date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

law. As such, the Parties agree that no misunderstanding shall be grounds for rescission hereof.

c) The drafting and negotiation of this Agreement has been undertaken by all Parties hereto and their respective counsel. For all purposes, this Agreement shall be deemed to have been drafted jointly by all of the Parties hereto with no presumption in favor of one party over another in the event of any ambiguity.

10. **Severability:** If any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, then the validity and enforceability of the remaining provisions shall not be affected thereby.

11. **Governing Law:** This Settlement Agreement shall be governed by and construed in accordance with the laws of the state of Missouri.

12. **Headings and Captions:** The headings and captions used herein are used for the purpose of convenience only and are not meant to have legal effect.

13. **Counterparts:** This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

14. **Binding Effect:** This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Releasees.

15. **Integration Clause:** This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, and undertakings with respect to the matters set forth herein. No

representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties and their respective successors-in-interest.

IT IS SO AGREED TO BY THE PARTIES:

Dated: 05/23/2024

MARK FANTROY

By: mf
Mark Fantroy (May 23, 2024 16:30 CDT)

Mark Fantroy, individually and as representative of the Class

Dated: 05/23/2024

MARLO GEORGE

By: Marlo George

Marlo George, individually and as representative of the Class

Dated: May 14, 2024

LUXOTTICA OF AMERICA INC.

By: 

Name: Sara Francescutto

Title: CFO North America

Dated: May 14, 2024

OAKLEY, INC.

By: 

Name: Sara Francescutto

Title: CFO North America

Dated: May 14, 2024

COSTA DEL MAR, INC.

By: 

Name: Sara Francescutto

Title: CFO North America

APPROVED AS TO FORM:

Dated: 05/24/2024

BURSOR & FISHER, P.A.

By: YITZ KOPEL

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Dated: May 14, 2024

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