

FILED
Clerk of the Superior Court

MAY 29 2025

By: A. Wagoner

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

CHRISTINA CALCAGNO, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

KIPLING APPAREL CORP., a Delaware
corporation, and DOES 1 – 50, inclusive,

Defendants.

Case 25CU000125N

[E-FILE]

CLASS ACTION

~~[PROPOSED]~~ ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS SETTLEMENT AND
PROVISIONAL CLASS CERTIFICATION

On May 2, 2025, this Court heard Plaintiff Christina Calcagno's unopposed motion for preliminary approval of class settlement and provisional class certification. This Court reviewed the motion, including the Settlement Agreement and Release (the "Settlement Agreement"). Based on this review and the findings below, the Court finds good cause to grant the motion.¹

FINDINGS:

1. The Settlement Agreement appears to be the product of serious, informed, non-collusive, arm's-length negotiations with Defendant Kipling Apparel Corp., ("Kipling"), and falls within the range of possible approval as fair, reasonable and adequate.

2. The Full Notice, Email Notice, Digital Publication Notice, and Claim Form (attached to the Settlement Agreement), (a) constitute the best such forms and notice practicable under the circumstances; (b) the method for providing notice to Settlement Class Members set forth in the

¹ Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

1 Settlement Agreement constitutes valid, due, and sufficient notice to all members of the Settlement Class;
2 (c) the notice is reasonably calculated, under the circumstances, to apprise the Settlement Class of the
3 pendency of the Action and of their right to object to or to exclude themselves from the proposed
4 Settlement; and (d) the Notices and Notice plan set forth in the Agreement comply fully with the
5 requirements of California Code of Civil Procedure § 382, California Rules of Court, rules 3.766 and
6 3.769, the California and United States Constitutions, and other applicable law.

7 3. For Settlement purposes only, the Settlement Class is so numerous that joinder of all
8 Settlement Class Members is impracticable.

9 4. For Settlement purposes only, Plaintiff's claims are typical of Settlement Class claims.

10 5. For Settlement purposes only, there are questions of law and fact common to the Settlement
11 Class, which predominate over any questions affecting only individual Class Members.

12 6. For Settlement purposes only, class certification is superior to other available methods for
13 the fair and efficient adjudication of the controversy.

14 **IT IS ORDERED THAT:**

15 1. **Settlement Approval.** The Settlement Agreement, including the Full Notice, Email
16 Notice, Digital Publication Notice and Claim Form, attached to the Settlement Agreement as Exhibits B-
17 E are preliminarily approved.

18 2. **Provision of Class Notice.** Class Counsel through the Claims Administrator will notify
19 Settlement Class Members of the Settlement in the manner specified under Section 3.3 of the Settlement
20 Agreement.²

21 3. **Claim for a Voucher.**

22 a) **Claim-in-Settlement-Class Members.** Settlement Class Members who are not
23 Direct Benefit Settlement Class Members must submit a complete, valid, and sufficient Claim
24 Form on or before the Response Deadline in order to be included in the distribution of the ten
25 (\$10.00) Vouchers. The Claim Form shall require the Settlement Class Member to confirm via a
26 valid signed affidavit as follows: "Between December 8, 2019 and [date of preliminary approval],
27

28 ² The Parties may make non-substantive edits to the form of the Class Notice of Proposed Settlement of
Class Action without further order from the Court. Similarly, the Parties may make non-substantive edits
to the form of the proposed orders attached to the Settlement Agreement as Exhibits A and F.

1 I made one or more purchases at Kipling's California outlet stores in part because the purchases
2 were advertised as discounted prices. I declare under penalty of perjury under the laws of the State
3 of California that the foregoing is true and correct." Settlement Class Members who submit a
4 complete, valid and sufficient Claim Form and do not request to exclude himself or herself from
5 the Settlement will receive via email a Voucher no later than sixty (60) calendar days after the
6 Final Settlement Date.

7 **b) Direct Benefit Settlement Class Members.** Direct Benefit Settlement Class
8 Members who have not validly excluded themselves from the Settlement, will receive a Direct
9 Benefit Voucher (\$10.00) via email no later than sixty (60) calendar days after the Final Settlement
10 Date.

11 4. The Claims Administrator shall review all submitted Claim Forms for completeness,
12 legibility, validity, accuracy, and timeliness. The Claims Administrator may employ adequate and
13 reasonable procedures and standards to prevent the approval of duplicative and fraudulent Claims. The
14 Claims Administrator may contact any Claimant to request additional information and documentation,
15 including, but not limited to, information and documentation sufficient to allow the Claims Administrator
16 to: (a) verify that the information set forth in or attached to a Claim Form is accurate and the Claimant is
17 a Settlement Class Member; and (b) determine the validity of any Claim and/or whether any Claim is
18 duplicative or fraudulent.

19 5. **Objection to Settlement.** Settlement Class Members who have not submitted a timely
20 written exclusion request pursuant to Paragraph 7 below and who want to object to the Settlement
21 Agreement must file written objections with the Court, with copies delivered to the Claims Administrator,
22 Class Counsel, and Kipling's Counsel no later than ninety (90) calendar days after issuance of the Class
23 Notices. The delivery date is deemed to be the date the objection is deposited in the U.S. Mail as evidenced
24 by the postmark. It shall be the objector's responsibility to ensure receipt of any objection by the Claims
25 Administrator, Kipling's Counsel and Class Counsel on or before the deadline. The objection must
26 include: (a) the name and case number of the Action; (b) the objecting Settlement Class Member's full
27 name, address, telephone number, email address, and the contact information for any attorney retained by
28 the objector in connection with the objection or otherwise in connection with the Action; (c) the words

1 “Notice of Objection” or “Formal Objection”; (d) in clear and concise terms, the legal and factual
2 arguments supporting the objection; (e) facts supporting the objector’s status as a Settlement Class
3 Member (e.g., the date of his/her and description of the item(s) purchased); (f) the objecting Settlement
4 Class Member’s signature and the date; and (h) the following language immediately above the objecting
5 Settlement Class Member’s signature and date: “I declare under penalty of perjury under the laws of the
6 State of California that the foregoing statements regarding class membership are true and correct to the
7 best of my knowledge.” Any Settlement Class Member who submits a written objection, as described in
8 this section, has the option to appear at the Fairness Hearing, either in person or through personal counsel
9 hired at the Settlement Class Member’s expense, to object to the fairness, reasonableness, or adequacy of
10 the Settlement Agreement or the proposed Settlement, or to the award of attorneys’ fees. Settlement Class
11 Members, or their attorneys, intending to make an appearance at the Fairness Hearing, however, must
12 include on a timely and valid objection a statement substantially similar to “Notice of Intention to Appear.”
13 If the objecting Settlement Class Member intends to appear at the Fairness Hearing through counsel, he
14 or she must also identify the attorney(s) representing the objector who will appear at the Fairness Hearing
15 and include the attorney(s) name, address, phone number, email address, and the state bar(s) to which
16 counsel is admitted. If the objecting Settlement Class Member intends to request the Court allow the
17 Settlement Class Member to call witnesses at the Fairness Hearing, such request must be made in the
18 Settlement Class Member’s written objection, which must also contain a list of any such witnesses and a
19 summary of each witness’s expected testimony. Only Settlement Class Members who submit timely
20 objections containing Notices of Intention to Appear or their counsel may speak at the Fairness Hearing.

21 **6. Failure to Object to Settlement.** Settlement Class Members who fail to object to the
22 Settlement Agreement in the manner specified in paragraph 5 above will: (a) be deemed to have waived
23 their right to object to the Settlement Agreement; (b) be foreclosed from objecting (whether by a
24 subsequent objection, intervention, appeal, or any other process) to the Settlement Agreement; and (c) not
25 be entitled to speak at the Fairness Hearing.

26 **7. Requesting Exclusion.** Settlement Class Members who want to be excluded from the
27 Settlement Class must send a signed letter or postcard to the Claims Administrator stating: (a) the name
28 and case number of the Action; (b) the full name, address, telephone number, and email address of the

1 person requesting exclusion; and (c) a statement that the person does not wish to participate in the
2 Settlement, postmarked no later than ninety (90) calendar days after issuance of the Class Notices.

3 8. **Provisional Certification.** The Settlement Class is provisionally certified as All persons,
4 within the United States, who, within the Class Period, purchased from Kipling's California Outlet Stores,
5 one or more products at discounts from an advertised reference price and who have not received a refund
6 or credit. Excluded from the Settlement Class are Kipling's Counsel, Kipling's officers, directors and
7 employees, and the judge presiding over the Action.

8 9. **Conditional Appointment of Class Representative, Class Counsel, and Claims**
9 **Administrator.** Plaintiff Christina Calcagno is conditionally certified as the Settlement Class
10 representative to implement the Parties' Settlement in accordance with the Settlement Agreement. The
11 law firm of Lynch Carpenter, LLP is conditionally appointed as Class Counsel. Plaintiff and Class Counsel
12 must fairly and adequately protect the interests of the Settlement Class. Simpluris, Inc. is appointed as
13 the Claims Administrator.

14 10. **Termination.** If the Settlement Agreement terminates for any reason, the following will
15 occur: (a) class certification will be automatically vacated; (b) Plaintiff will stop functioning as Settlement
16 Class representative; (c) Class Counsel will stop functioning as Class Counsel; (d) this Action will revert
17 to its previous status in all respects as it existed immediately before the Parties executed the Settlement
18 Agreement, with the exception of Plaintiff's filing of the Complaint; and (e) the Parties will meet and
19 confer regarding pleading deadlines, a discovery schedule, and a case timeline, and all case deadlines will
20 be stayed until the Court holds a Case Management Conference and issues an appropriate schedule. This
21 Order will not waive or otherwise impact the Parties' rights or arguments.

22 11. **No Admissions.** Nothing in this Order is, or may be construed as, an admission or
23 concession on any point of fact or law by or against any Party.

24 12. **Stay of Dates and Deadlines.** All discovery and pretrial proceedings and deadlines are
25 stayed and suspended until further notice from the Court, except for such actions as are necessary to
26 implement the Settlement Agreement and this Order.

13. **Further Procedures.** Counsel for the Parties are hereby authorized to agree to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

14. **Fairness Hearing.** On August (month) 25 (day), 2025, at 1:30 pm, this Court will hold a Fairness Hearing to determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. Based on the date of this Order and the date of the Fairness Hearing, the following are the certain associated dates in this Settlement:

Event	Timing
Last day for Class Counsel, through the Claims Administrator, to send Email Notice, start operating Settlement Website, and issue the Digital Publication Notice, and for Defendant to issue the In-Store Publication Notice	30 calendar days after entry of this Order
Last day for Plaintiff to file fee petition	60 calendar days after entry of this Order
Last day for Settlement Class Members to submit a Claim Form, request exclusion, or object to the Settlement	90 calendar days after issuance of Class Notice
Last day for Parties to file briefs in support of the Final Order and Judgment, and to respond to any objections to the Settlement	14 days before Fairness Hearing

This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting, Kipling will not be required to provide any additional notice to Settlement Class Members.

DATED: 5/29/25


San Diego Superior Court Judge