

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**MALIK PAYANO, JUAN C. SUAREZ,
MAKESA KEKE FOFANA, MINDY LIU,
JUAN GARCIA, JORGE E. FLORES JR.,
AMANDA DIMEGLIO, SABINA
ADROVIC, ABIGAIL HAYNES, ANGELA
DISPENZA, STEPHANIE CONSTANZO,
ARONA COHEN, and MARTINA
HALAGA on behalf of themselves and others
similarly situated,**

CIVIL ACTION NO.: 15-CV-10178

Plaintiffs,

v.

**BURBERRY LIMITED a/k/a BURBERRYS
LIMITED,**

Defendant.

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**ORDER GRANTING PRELIMINARY APPROVAL OF
CLASS AND COLLECTIVE ACTION SETTLEMENT**

WHEREAS, the above-captioned matter (the “Litigation”) is currently pending before this court; and

WHEREAS, Plaintiffs have made an application, pursuant to Fed. R. Civ. P. 23(e) and 29 U.S.C. § 216(b) for an order preliminarily approving the settlement of the claims alleged in the Lawsuit, in accordance with a Joint Stipulation of Settlement and Release dated July 12, 2017 (the “Agreement”), which, together with the exhibits annexed to the Declaration of Denise A. Schulman, sets forth the terms and conditions for a proposed settlement (the “Settlement”) of the Litigation against Defendant and for dismissal of the Litigation against Defendant with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement and the above-referenced exhibits; and

WHEREAS, all terms contained and not otherwise defined herein shall have the same meanings set forth in the Agreement;

IT IS ON THIS 7TH DAY OF AUGUST, 2017, HEREBY ORDERED AS FOLLOWS:

1. The Court finds on a preliminary basis that the settlement memorialized in the Agreement, filed with the Court, falls within the range of fairness and reasonableness and, therefore, meets the requirements for preliminary approval, such that Notice to the Class, as set forth in the Agreement, is appropriate.
2. The Court grants preliminary approval of the Agreement.
3. For the reasons set forth in the submissions in support of the Plaintiffs' Motion Preliminary Approval, this Court conditionally finds that the numerosity, commonality, typicality, and adequacy requirements of Rule 23(a), and the predominance and superiority requirements of Rule 23(b)(3) have been met warranting class certification for purposes of approving the Settlement only. Additionally, for the reasons set forth in the same submissions, this Court conditionally finds that a collective action under 29 U.S.C. § 216(b) is appropriate for all claims arising under the FLSA for purposes of approving the Settlement only.
4. Pursuant to Fed. R. Civ. P. 23 and 29 U.S.C. § 216(b), the Court conditionally certifies, for settlement purposes only, the following class (the "Class"): All persons employed by Defendant as hourly sales associates, sales leads, service leads, beauty consultants, beauty specialists, digital advisors, and/or key holders at any Manhattan Store and/or Westchester Store at any time from December 31, 2009 to July 17, 2017; (2) all persons employed by Defendant as hourly shipper/receivers, runner/support, sales support, stock

associates, stock leads, and/or stockroom associates at any Manhattan Store, Westchester Store and/or Long Island Store at any time from June 1, 2010 to July 17, 2017; and (3) all persons employed by Defendant as hourly shipper/receivers, runner/support, sales support, stock associates, stock leads, stockroom associates, sales associates, sales leads, service leads, beauty consultants, beauty specialists, digital advisors, and/or key holders at any Outlet Store at any time from February 1, 2011 to July 17, 2017. This certification solely for settlement purposes shall not be construed to be an admission or determination as to the certifiability of any collective action, class or sub-class for any other purpose, in this Litigation or otherwise.

5. The Court appoints, for settlement purposes only, Malik Payano, Juan C. Suarez, Makesa Keke Fofana, Mindy Liu, Juan Garcia, Jorge E. Flores Jr., Amanda Dimeglio, Sabina Adrovic, Abigail Haynes, Angela Dispenza, Stephanie Constanzo, Arona Cohen, Martina Halaga, Brian Brown, Argenis Cerda, Thomas C. Rivera, and Sergio Torres as representatives of the Class and Collective Action. The Class Representatives, together with Class Counsel, are hereby authorized to act on behalf of themselves and members of the Settlement Class, including all Participating Claimants, with respect to the Litigation and Settlement Agreement.
6. The Court appoints, for settlement purposes only, the following attorneys as Class Counsel: D. Maimon Kirschenbam and Denise A. Schulman of Joseph & Kirschenbaum LLP and David Harrison of Harrison, Harrison & Associates, LTD.
7. The Court approves KCC as the Claims Administrator to perform duties in accordance with the Agreement.
8. The Court finds that the procedures for notifying the Class about the Settlement as

described in the Agreement provide the best notice practicable under the circumstances and therefore meet the requirements of due process under the United States Constitution and New York law, and directs the distribution of the Class Notice and Claim Form in accordance with the Agreement.

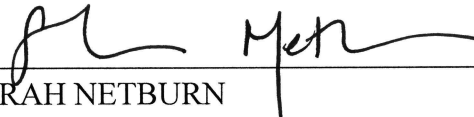
9. The Court approves, as to form and content, the proposed Class Notice, reminder notices, and Claim Form, which are attached to the Agreement as Exhibits 1 to 4 and finds that those documents fully and accurately inform Class Members of all material elements of the Litigation and the proposed Settlement.
10. The Fairness Hearing Shall be held before this Court, on **NOVEMBER 15, 2017 at 10:00 AM** at the United States District Court, Southern District of New York, U.S. Courthouse, Courtroom 219, 40 Foley Square, New York, NY 10007, to determine whether the proposed settlement of the Litigation on the terms and conditions provided for in the Agreement is fair, just, reasonable, adequate and in the best interests of the Class, and should be approved by the Court; whether an Order and Final Judgment of Dismissal, as provided in the Agreement, should be entered; and to determine the amount, if any, of attorneys' fees and costs, settlement administration costs, and service awards that should be awarded.
11. On or before the date that is seven (7) days before the final approval hearing, Class Counsel shall move the Court for final approval of the Settlement, and submit a memorandum of law in support of Plaintiffs' application for attorneys' fees and costs, settlement administration costs, and service awards. **Plaintiffs' counsel must also address, in the memorandum of law, their entitlement to fees based on the total settlement fund and, separately, in connection with the added value by settling the Outlet Fund**

Members' claims. Specifically, the Court seeks information related to Counsel's lodestar, and the multiplier it seeks based on the total settlement fund and, separately the multiplier based on the Outlet Fund.

12. In the event that the Effective Date occurs, Claimants will be deemed to have forever released and discharged the released claims as provided in the Settlement Agreement. In the event that the Effective Date does not occur for any reason whatsoever, this Order and the Settlement Agreement shall be deemed null and void and shall have no effect whatsoever in this Litigation or in any other litigation or proceeding.

13. The Clerk of Court is respectfully requested to terminate the motion at ECF No. 74.

IT IS SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: August 7, 2017
New York, New York