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**Order Granting Preliminary Approval of Settlement
filed**



NEW FILE

CLARKSON LAW FIRM, P.C.
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Los Angeles, CA 90069

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 23 2020

BY 
JESSICA MORALES, DEPUTY

IN THE SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

MARY MATESKI, ALISA CLAWSON,
individually, an on behalf of all others
similarly situated,

Plaintiffs,

v.

JUST BORN, INC., and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. CIVDS1926742

(Assigned to Hon. David Cohn, S-26)

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT

CLARKSON LAW FIRM, P.C.
9255 Sunset Blvd., Ste. 804
Los Angeles, CA 90069

1 WHEREAS, Plaintiffs in the above-captioned action, Mary Mateski, Alisa Clawson and
2 Stephanie Escobar (“Plaintiffs”), and Just Born, Inc. (“Defendant”) (collectively, the “Parties”)
3 have reached a proposed settlement and compromise of the disputes between them in the above
4 actions as set forth in the Class Action Settlement Agreement (the “Settlement”);

5 WHEREAS, the Parties have applied to the Court for preliminary approval of the
6 Settlement;

7 AND NOW, the Court, having read and considered the Settlement and accompanying
8 documents and the Motion for Preliminary Approval of Class Action Settlement and supporting
9 papers, and all capitalized terms used herein having the meaning defined in the Settlement, IT IS
10 HEREBY ORDERED AS FOLLOWS:

11 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
12 Settlement.

13 2. Subject to further consideration by the Court at the time of the Final Approval
14 Hearing, the Court preliminarily approves the Settlement as fair, reasonable, and adequate to the
15 Settlement Class, as falling within the range of possible final approval, and as meriting
16 submission to the Settlement Class for its consideration.

17 3. For purposes of the Settlement only, the Court certifies the Settlement Class, as
18 described below:

19 All persons in the United States of America who purchased
20 one or more MIKE AND IKE® and/or HOT TAMALES®
21 candy products manufactured by Defendant and packaged
22 in an opaque cardboard box and purchased by consumers
23 from February 3, 2013 through the date when the Court
24 enters the Preliminary Approval Order of the Settlement.
25 Excluded from the Settlement Class are: (1) the Honorable
26 David Cohn; (2) any member of his immediate family; (3)
27 Defendant; (4) any of Defendant’s subsidiaries, parents,
28 affiliates, and officers, directors, employees, legal

1 representatives, heirs, successors, or assigns; (5) counsel
2 for the Parties; and (6) any persons who timely opt-out of
3 the Settlement Class.

4 4. The Court preliminary finds for purposes of considering this Settlement, that the
5 requirements of Cal. Code Civ. Proc. § 382 are satisfied, including requirements for the existence
6 of an ascertainable class, a community interest, and manageability of the Settlement Class, that
7 common issues of law and fact predominate, and that a settlement class is superior to alternative
8 means of resolving the claims and disputes at issue in this action.

9 5. The Court orders that Mary Mateski, Alisa Clawson, and Stephanie Escobar are
10 appointed as the Representative Plaintiffs. The Court also orders that Clarkson Law Firm, P.C. is
11 appointed Class Counsel. The Court preliminarily finds that the Representative Plaintiffs and
12 Class Counsel fairly and adequately represent and protect the interests of the absent Settlement
13 Class Members in accordance with Cal. Code Civ. Proc. § 382.

14 6. A Final Approval Hearing shall be held before this Court in Department S-26 of
15 the San Bernardino Superior Court, to address: (a) whether the proposed Settlement should be
16 finally approved as fair, reasonable and adequate, and whether the Final Approval Order and
17 Judgment should be entered; and (b) whether Class Counsel's application for attorneys' fees,
18 costs, expenses and service award should be approved. Consideration of any application for an
19 award of attorneys' fees, costs, expenses and service award shall be separate from consideration
20 of whether or not the proposed Settlement should be approved, and from each other, and shall be
21 embodied in separate orders. The Court will not decide the amount of any service award or Class
22 Counsel's attorneys' fees until the Final Approval Hearing.

23 7. With the exception of such proceedings as are necessary to implement, effectuate,
24 and grant final approval to the terms of the Settlement Agreement, all proceedings are stayed in
25 this Action and all Settlement Class Members are enjoined from commencing or continuing any
26 action or proceeding in any court or tribunal asserting any claims encompassed by the Settlement
27 Agreement, unless the Settlement Class Member timely files a valid Request for Exclusion as
28 defined in the Settlement Agreement.

1 8. The Court approves, as to form and content, the notices and claim form
2 substantially in the form attached to the Settlement Agreement.

3 9. The Court finds that the Parties' plan for providing notice to the Settlement Class
4 (the "Notice Plan") described in the Settlement Agreement constitutes the best notice practicable
5 under the circumstances and constitutes due and sufficient notice to the Settlement Class, the
6 terms of the Settlement Agreement, and the Final Approval Hearing, and complies fully with the
7 requirements of the California Rules of Court, the California Code of Civil Procedure, the
8 California Civil Code, the Constitution of the State of California, the United States Constitution,
9 and any other applicable law.

10 10. The Court further finds that the Notice Plan adequately informs members of the
11 Settlement Class of their right to exclude themselves from the Settlement Class so as not to be
12 bound by the terms of the Settlement Agreement. Any member of the Class who desires to be
13 excluded from the Settlement Class, and therefore not bound by the terms of the Settlement
14 Agreement, must submit a timely and valid written Request for Exclusion pursuant to the
15 instructions set forth in the Notice.

16 11. The Court appoints Digital Settlement Group, LLC as the Claims Administrator.

17 12. Any member of the Class who elects to be excluded shall not be entitled to
18 receive any of the benefits of the Settlement Agreement, shall not be bound by the release of any
19 claims pursuant to the Settlement Agreement, and shall not be entitled to object to the Settlement
20 Agreement or appear at the Final Approval Hearing. The names of all Persons timely submitting
21 valid Requests for Exclusion shall be provided to the Court.

22 13. Service of all papers on counsel for the Parties shall be made as follows: for Class
23 Counsel, to Ryan J. Clarkson at Clarkson Law Firm, P.C., 9255 Sunset Blvd., Suite 804, Los
24 Angeles, California 90069. Only Settlement Class Members who have submitted valid and
25 timely written objections to the Settlement, together with supporting papers, shall be entitled to
26 be heard at the Final Approval Hearing.

27 14. Any Settlement Class Member who does not make a valid written objection as set
28 forth by the Settlement shall be deemed to have waived such objection and forever shall be

1 foreclosed from making any objection to the fairness or adequacy of the proposed settlement as
 2 incorporated in the Settlement Agreement, the payment of attorneys' fees and costs, service
 3 award or the Final Approval Order and Judgment.

4 15. Any Settlement Class Member who does not submit a valid Opt Out as forth by
 5 the Settlement shall not be excluded from the Settlement Class.

6 16. Any Settlement Class Member who is not excluded from the Settlement Class
 7 shall be deemed to have released the Settled Claims.

8 17. The Claims Administrator shall post the Settlement on the Settlement Website.
 9 The Settlement shall include the approved class definition set forth in Paragraph 3 above and the
 10 final notices and claim form.

11 18. In the event that the proposed Settlement is not approved by the Court, or in the
 12 event that the Settlement becomes null and void pursuant to its terms, this Order and all orders
 13 entered in connection therewith shall become null and void, shall be of no further force and
 14 effect, and shall not be used or referred to for any purposes whatsoever in this civil action or in
 15 any other case or controversy; in such event the Settlement and all negotiations and proceedings
 16 directly related thereto shall be deemed to be without prejudice to the rights of any and all of the
 17 Parties, who shall be restored to their respective positions as of the date and time immediately
 18 preceding the execution of the Settlement.

Event	Proposed Date
Notice Period Begins	20 calendar days after entry of the Preliminary Approval Order
Notice Period Ends	60 days after Publication Period Begins
Objection/Opt-out Deadline	60 days after notice period ends
Claims Deadline	90 days after notice period ends
Briefs in support of Final Approval, Award of Attorneys' Fees & Costs Due	21 days following Claims Deadline
Responses to Any Objections Due	At least 2 business days before the Final Approval Hearing
Final Approval Hearing	30 days following Claims Deadline 12-15-20 at 10:00 am

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 27 19. The Court may, for good cause, extend any of the deadlines set forth in this Order
 28 without further notice to the Settlement Class Members. The Final Approval Hearing may, from

1 time to time and without further notice to the Settlement Class, be continued by order of the
2 Court.

3 20. The Final Approval Hearing may be adjourned or continued without further
4 notice to the Class.

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6 **IT IS SO ORDERED.**

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8 Dated: 7/23/20

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Honorable David Cohn

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