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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Jessica Pascual, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

DAVID MITCHELL, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

THE TAUNTON PRESS, INC., a Connecticut
corporation; and DOES 1-50, inclusive,

Defendants.

CASE NO. 37-2019-00029474-CU-BT-CTL

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND PROVIDING FOR
NOTICE

[IMAGED FILE]

Pending before the Court is the Motion for Preliminary Approval of Class Action Settlement (“Motion”) relating to the Settlement Agreement (sometimes referred to herein as the “Settlement”) between plaintiff David Mitchell (“Mitchell” or “plaintiff”) and defendant The Taunton Press, Inc. (“Taunton”). Having read and considered the moving papers, including the Settlement Agreement, the Court finds and orders as follows:

1. The Court has determined that a settlement structure that does not involve a claims process is in the best interests of the Class. Accordingly, pursuant to Sections II.B. and XI.B. of the Settlement Agreement, and the hearing that took place on July 31, 2020, the parties have agreed to modify Section VII of the Settlement Agreement so as to eliminate the claims process that was formerly contemplated. Pursuant to this modification, each Class Member who does not

1 submit a timely and valid request for exclusion will deemed to be a Participating Class Member.
2 With that modification, the Motion for Preliminary Approval of Class Action Settlement is
3 GRANTED.

4 2. The Court hereby conditionally certifies the following class ("Class") for
5 settlement purposes only: "All individuals in California who (a) were enrolled by Taunton in an
6 automatic renewal or continuous service program or offer on or before January 31, 2020 and
7 (b) made one or more payments in connection with such automatic renewal or continuous service
8 program or offer between June 10, 2015 and February 15, 2020. Excluded from the Class are all
9 employees of Taunton, all employees of plaintiff's counsel, and the judicial officers to whom this
10 case is assigned."

11 3. The Court appoints Dostart Hannink & Coveney LLP as Class Counsel. The Court
12 appoints plaintiff David Mitchell as the Class Representative. The Court designates CPT Group,
13 Inc. as the Settlement Administrator.

14 4. The Court preliminarily approves the Settlement, including the monetary relief,
15 injunctive relief/change of business practices, procedure for payment of Class Counsel's attorneys'
16 fees and litigation expenses to the extent ultimately awarded by the Court, and procedure for
17 payment of a service award to the Class Representative to the extent ultimately awarded by the
18 Court. It appears to the Court on a preliminary basis that the Settlement as modified is fair,
19 adequate, and reasonable as to all potential Class Members when balanced against the cost and
20 uncertainty associated with further litigation of liability, class certification, and damages issues. It
21 further appears that settlement of this action at this time will avoid substantial additional costs by
22 all parties, as well as the delay and risks that would be presented by the further prosecution of this
23 action. It also appears that the Settlement has been reached as a result of intensive, serious, and
24 non-collusive arm's-length negotiations.

25 The Court approves the emailed Summary Class Notice (Exhibit A to the Modification of
26 Settlement Agreement), the mailed Summary Class Notice (Exhibit B to the Modification of
27 Settlement Agreement), and the Long Form Notice (Exhibit C to the Modification of Settlement
28 Agreement), which reflects that there will not be a claims process. The notice procedure described

1 in the Settlement Agreement meets the requirements of Rule 3.766(d) of the California Rules of
2 Court and due process, and constitutes the best practicable notice under the circumstances for
3 purposes of the released claims. The Settlement Administrator is directed to disseminate the
4 emailed Summary Class Notice to Class Members via email (or, if no email address is available,
5 then via U.S. Mail, as described in the Settlement Agreement) no later than twenty-one (21) days
6 following the date of entry of this order, and to take all steps necessary to establish a settlement
7 website. Class Counsel is authorized to direct the Settlement Administrator to undertake
8 additional steps to disseminate the Summary Class Notice. The date on which the Summary Class
9 Notice is emailed or mailed is the "Notice Date."

10 6. As set forth in the Settlement Agreement, any individual who wishes to exclude
11 himself or herself from the Settlement Class shall mail, email, or deliver to the Settlement
12 Administrator a written request for exclusion no later than forty-nine (49) days following the
13 Notice Date. Class Members who do not timely request exclusion shall be bound by the
14 provisions of the Settlement Agreement and all orders or judgments that may be entered by the
15 Court.

16 7. Class Members may object to the Settlement or to any of its provisions either orally
17 or in writing. Any written objection shall be filed with the Clerk of this court and served upon
18 counsel for the parties and the Settlement Administrator no later than forty-nine (49) days
19 following the Notice Date. Any written objection shall be served upon Class Counsel (Dostart
20 Hannink & Coveney LLP, Attention Zach P. Dostart, 4180 La Jolla Village Drive, Suite 530, La
21 Jolla, CA 92037), Taunton's counsel (Blank Rome LLP, Attention Ana Tagvoryan, 2029 Century
22 Park East, 6th Floor, Los Angeles, CA 90067), and the Settlement Administrator (CPT Group,
23 Inc., 50 Corporate Park, Irvine, CA 92606). Alternatively, an objection may be made to the Court
24 orally at the final approval hearing.

25 8. The parties shall file any motion for final approval, and Class Counsel shall file its
26 motion for attorneys' fees, litigation expenses, and for a service award to the Class Representative,
27 on the dates required under the Local Rules and under controlling law.

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1 9. A Final Approval Hearing shall be held in this Court, 330 West Broadway, San
2 Diego, California, Department 65, on Feb. 26, 2021, at 8:30 a.m., at which time
3 the Court will determine whether the Settlement should be granted final approval. At that time,
4 the Court will also consider Class Counsel's motion for attorneys' fees, litigation expenses, and a
5 proposed service award to the Class Representative. The Court reserves the right to adjourn or
6 continue the date of the Final Approval Hearing without further notice to Class Members.

7 10. Plaintiff is authorized to file a Second Amended Complaint that includes the Class
8 definition set forth above in Paragraph 2. Within three (3) court days after the filing of said
9 Second Amended Complaint, Taunton shall file an Answer.

10 11. If the Settlement is not granted final approval by the Court, (i) the Second
11 Amended Complaint shall be stricken; (ii) the Answer to the Second Amended Complaint shall be
12 withdrawn; and (iii) the parties will return to the status quo *ante*, including the Demurrer to the
13 First Amended Complaint, which will be placed back on the Court's calendar for hearing, as if no
14 Agreement had been negotiated or entered into, including reversal of provisional certification of
15 the Class.

16 12. The Court reserves the right to adjourn or continue the date of the Final Approval
17 Hearing and all dates provided for in the Settlement without further notice to Class Members, and
18 retains jurisdiction to consider all further matters arising out of or connected with the proposed
19 Settlement.

20 13. The Court hereby adopts the following dates for performance of the specified
21 activities leading to the Final Approval Hearing:

22 <u>Sept 8</u> , 2020 23 (14 days after Preliminary 24 Approval)	Deadline for Taunton to wire transfer Two Hundred Thousand Dollars (\$200,000.00) to the Settlement Administrator.
25 <u>Sept 21</u> , 2020 26 (21 days after Preliminary Approval)	Deadline for the Settlement Administrator to email or mail the Summary Class Notice to Class Members. This is the "Notice Date."

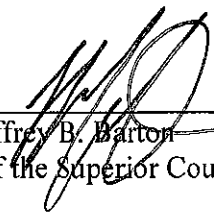
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1 2 3 4	<u>Sept 15</u> , 2020 (by Notice Date, which is 21 days after Preliminary Approval)	Deadline for Settlement Administrator to establish a Settlement Website on which it will make available the Second Amended Complaint, the Settlement Agreement, the Summary Class Notice, the Long Form Class Notice, this Order Granting Preliminary Approval, and any other materials agreed to by the parties.
5 6 7	<u>Sept 8</u> , 2020 (14 days after Notice Date)	Deadline for the Settlement Administrator to mail the mailed Summary Class Notice to any Class Members for whom the emailed Summary Class Notice was "bounced back" as indicating that the email address is no longer valid.
8 9	<u>Nov. 14</u> , 2020 (49 days after Notice Date)	Exclusion/Objection Deadline; Last day for Class Members to request exclusion from the Class; last day for Class Members to file and serve any written objections to the Settlement
10 11 12	<u>Nov. 24</u> , 2020 (10 court days after Exclusion/Objection Deadline)	Settlement Administrator to make available to Class Counsel and Taunton's counsel a written report listing the name and contact information of each Excluded Class Member and any person who has objected to the Settlement.
13 14	<u>Feb 26, 2021</u> , at 8:30 a.m.	Final Approval Hearing

15 14. The parties are ordered to carry out the Settlement in the manner provided in the
16 Settlement Agreement and this Order.

17 IT IS SO ORDERED.

18 DATED: 8-20-20

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22 Hon. Jeffrey B. Barton
23 Judge of the Superior Court

22 923793.4

1 **PROOF OF SERVICE**

2 **Mitchell v. Taunton Press, Inc., Case No. 37-2019-00029474-CU-BT-CTL**

3 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

4 At the time of service, I was over 18 years of age and **not a party to this action**. I am
5 employed in the County of San Diego, State of California. My business address is 4180 La Jolla
6 Village Drive, Suite 530, La Jolla, CA 92037-1474.

6 On August 12, 2020, I served true copies of the following document described as

7 **[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF**
8 **CLASS ACTION SETTLEMENT AND PROVIDING FOR NOTICE**

8 on the interested parties in this action as follows:

9 Ana Tagvoryan
10 atagvoryan@blankrome.com
Harrison Brown
11 hbrown@blankrome.com
Erika R. Schulz
12 eschulz@blankrome.com
BLANK ROME LLP
13 2029 Century Park East, 6th Floor
Los Angeles, CA 90067
14 Telephone: (424) 239-3400
Fax: (424) 239-3434

15 *Counsel for Defendant*

16 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document to
17 be sent from e-mail address cklobucar@sdlaw.com to the persons at the e-mail addresses listed
18 above. I did not receive, within a reasonable time after the transmission, any electronic message or
19 other indication that the transmission was unsuccessful.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing
20 is true and correct.

20 Executed on August 12, 2020, at La Jolla, California.

21
22 *Catherine S. Klobucar*
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Catherine S. Klobucar
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