

Kristin J. Moody (SBN 206326)
 Alexander S. Vahdat (SBN 284963)
BERMAN TABACCO
 425 California Street, Suite 2300
 San Francisco, CA 94104
 Telephone: (415) 433-3200
 Facsimile: (415) 433-6282
 Email: kmoody@bermantabacco.com
 avahdat@bermantabacco.com

Local Counsel for Plaintiff and the Proposed Class

Patricia I. Avery (admitted *Pro Hac Vice*)
 Philip M. Black (SBN 308619)
WOLF POPPER LLP
 845 Third Avenue
 New York, NY 10022
 Telephone: (212) 759-4600
 Email: pavery@wolffpopper.com
 pblack@wolffpopper.com

Attorneys for Plaintiff and the Proposed Class

Joseph E. Addiego III (CA SBN 169522)
 Jean Fundakowski (CA SBN 328796)
DAVIS WRIGHT TREMAINE LLP
 50 California Street, 23rd Floor
 San Francisco, CA 94111
 Telephone: (415) 276-6500
 Facsimile: (415) 276-6599
 Email: joeaddiego@dwt.com
 jeanfundakowski@dwt.com

Attorneys for Defendant Streamlabs, LLC

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

ZARA LEVENTHAL, individually and on)
 behalf of all others similarly situated,)

Plaintiff,)

vs.)

STREAMLABS, LLC,)

Defendant.)

Case Number: 3:22-cv-01330-LB

**~~PROPOSED~~ ORDER CERTIFYING
 SETTLEMENT CLASS, GRANTING
 PRELIMINARY APPROVAL OF CLASS
 ACTION SETTLEMENT AND
 APPROVING FORM AND MANNER OF
 NOTICE OF SETTLEMENT**

WHEREAS, a class action captioned *Zara Leventhal, individually and on behalf of all*

1 *others similarly situated, v. Streamlabs, LLC*, Case No. 3:22-cv-01330-LB is pending before this
2 Court (the “Action”);

3 WHEREAS, Plaintiff Zara Leventhal (“Plaintiff”), on her own behalf and on behalf of the
4 Class (defined below) and defendant Streamlabs, LLC (“Defendant” or “Streamlabs”) have jointly
5 entered, by and through their respective counsel, into a Settlement of the claims asserted in the
6 Action, the terms of which are set forth in a Settlement Agreement, dated July 17, 2024 (the
7 “Settlement Agreement” or “Agreement”), subject to approval of the Court;

8 WHEREAS, Plaintiff has moved the Court for preliminary approval of a proposed class
9 action settlement with Streamlabs, the terms and conditions of which are set forth in the Settlement
10 Agreement filed with the Court;

11 WHEREAS, on March 2, 2022, Plaintiff filed her Class Action Complaint for violations of
12 the California Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §§1750 *et seq.*, and
13 violations of the California Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§17200 *et*
14 *seq.* (ECF 1).

15 WHEREAS, this Action alleges, on behalf of a nationwide class, that Streamlabs deceived
16 consumers into signing up for a subscription product, Streamlabs Pro, that has an automatic
17 monthly fee of \$5.99. Streamlabs allows content creators to stream their videos on platforms (such
18 as YouTube) and to collect donations from viewers through third-party payment processors (such
19 as PayPal. Streamlabs Pro allows donors to add GIFs or other effects (such as hearts, stars, or
20 confetti) to messages that accompany the viewers’ donations. Plaintiff alleged she added a GIF
21 and was automatically enrolled in Streamlabs Pro at a monthly fee of \$5.99. Plaintiff alleged that
22 the \$5.99 per month fee was deceptive because it suggested that it was a one-time fee and did not
23 disclose that the \$5.99 monthly fee would renew automatically, in violation of the CLRA and the
24 UCL.

25 WHEREAS, pursuant to California Civil Code §1782, Plaintiff served the Notice and
26 Demand required by the CLRA on Streamlabs, informing Streamlabs that its Streamlabs Pro auto-
27 renewal subscription was in violation of the CLRA, in particular California Civil Code §1770, and
28 demanded that Streamlabs rectify such violations on a class-wide basis (“CLRA Demand”).

1 WHEREAS, on May 12, 2022, Streamlabs sent a response to Plaintiff's CLRA Demand,
2 and on May 26, 2022, Streamlabs sent a second response to Plaintiff's CLRA Demand, in which
3 Streamlabs maintained Plaintiff's complaint and her CLRA Demand did not state a claim, and
4 described changes to Streamlabs' website made in March 2022 and on May 17, 2022, partly in
5 response to Plaintiff's CLRA Demand Letter and also in a good faith effort to ensure the pages
6 meet CLRA standards as permitted by Civil Code § 1782(e).

7 WHEREAS, the parties negotiated a proposed form of protective order regarding the
8 treatment of confidential documents, which was entered by the Court on June 17, 2022. (ECF 28.)

9 WHEREAS, on July 5, 2022, Plaintiff filed an Amended Class Action Complaint (the
10 "Complaint") (ECF 31) alleging violations of the CLRA and the UCL. Defendant filed a motion to
11 dismiss the Complaint (ECF 32, 41, 43), which Plaintiff opposed (ECF 39). The Court denied
12 Defendant's motion to dismiss in its entirety on December 23, 2022 (ECF 54).

13 WHEREAS, Plaintiff served interrogatories and requests for production on February 23,
14 2023. Defendant responded initially on March 27, 2023. Following multiple written and oral meet
15 and confer conferences, Defendant provided supplemental responses on May 31, 2023, along with
16 a production of certain documents. After additional follow-up meet and confers, on September 18,
17 2023, Streamlabs served Second Supplemental Responses to the Plaintiff's First Set of
18 Interrogatories, Second Supplemental Responses to Plaintiff's First Set of Requests for Production,
19 and produced additional documents. Streamlabs also produced a privilege log. Plaintiff sent a draft
20 of a discovery dispute letter to Defendant on September 27, 2023 and requested a meet and confer
21 regarding it if the mediation proceedings then being scheduled were unsuccessful.

22 WHEREAS, the parties jointly selected a mediator from JAMS, John Bates ("Mediator"),
23 prepared mediation statements for the mediator, and participated in a mediation session before the
24 JAMS mediator on September 28, 2023. The mediation was unsuccessful and the Parties continued with
25 their discovery efforts.

26 WHEREAS, the Mediator continued his efforts, however, and the Parties were able to reach
27 a mediated resolution of the Action, providing for a cash settlement for the class of \$4.4 million,
28 plus the costs of providing notice to the Settlement Class members and the costs of administration

1 of the Settlement.

2 WHEREAS, Streamlabs denies all of Plaintiff's allegations and charges of wrongdoing or
3 liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that
4 could have been alleged, in the Action. Streamlabs also denies that any person has suffered damage
5 or harm by reason of any alleged conduct, statement, act or omission on the part of Streamlabs.
6 Streamlabs further denies that the Action meets the requisites for certification as a class action
7 under Rule 23 of the Federal Rules of Civil Procedure, except for purposes of settlement, or that
8 the evidence is sufficient to support a finding of liability on any of the claims in the Action.

9 WHEREAS, the terms of the settlement are summarized in the proposed Long Form Notice
10 to Settlement Class Members, which is attached as Exhibit 2 to the Settlement Agreement and
11 which will be on the Settlement website. In brief, Streamlabs has agreed to the entry of a court
12 order preliminarily approving the Settlement Agreement and providing for Notice to be provided
13 to the Settlement Class Members.

14 WHEREAS, as part of the settlement, Plaintiff's Counsel may apply to this Court for an
15 award of attorneys' fees, costs, and expenses. Plaintiff's Counsel will seek, and Streamlabs has
16 agreed not to oppose, a fee and expense award not to exceed one million one hundred thousand
17 dollars (\$1,100,000.00). Plaintiff's Counsel may also apply to this Court for, and Streamlabs has
18 agreed not to oppose, payment of an Incentive Award to the Plaintiff. These applications must be
19 approved by the Court, and the Court will defer any ruling on the appropriateness of such awards
20 until the Final Approval hearing.

21 Having considered all matters submitted to it at the hearing on the motion and otherwise,
22 including the complete record of this Action, and good cause appearing therefore, the Court
23 grants preliminary approval of the Settlement and hereby finds and concludes as follows:

24 1. The capitalized terms not otherwise defined herein shall have the same meaning as
25 defined in the Settlement Agreement except as may otherwise be ordered.

26 2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.
27 §1332(d), and has personal jurisdiction over the Parties and the Settlement Class Members. Venue
28 is proper in this District.

1 3. The Court preliminarily approves the Settlement Agreement as within the range of
2 possible final approval, and as meriting submission to the Settlement Class for its consideration.
3 The Settlement Agreement was reached as a result of arm's length negotiations by the Parties and
4 their counsel through an experienced JAMS mediator, John B. Bates. Additionally, before entering
5 into the Settlement Agreement, Plaintiff's Counsel conducted a comprehensive examination and
6 investigation of the facts and law. The Parties also briefed a motion to dismiss the Complaint,
7 which this Court denied in its entirety. Thus, Plaintiff and her counsel had sufficient information
8 to evaluate the strengths and weaknesses of the case and to conduct informed settlement
9 discussions.

10 4. The Court hereby provisionally certifies, for settlement purposes only, a Settlement
11 Class pursuant to Rules 23(b)(2) and 23(b)(3), consisting of:

12 All Persons in the United States who, during the period March 3, 2018 through May
13 17, 2022, were enrolled in a Streamlabs Pro automatic renewal subscription after
14 adding a GIF or effect to their donation, and were then billed a monthly fee for the
subscription (after their first charge for their initial GIF or effect).

15 The following Persons are excluded from the Settlement Class: (1) all officers, directors, and
16 employees of Streamlabs and members of their families; (2) all officers, directors, and employees
17 of Logitech and members of their families; (3) the Mediator, and any member of his immediate
18 family; (4) any government entity; (5) any Settlement Class Members who have received refunds
19 of all the monies that they paid for their Streamlabs Pro subscriptions; and (6) any Persons who
20 timely opt out of the Settlement Class. The Settlement Class does not include Persons who were
21 billed only the initial \$5.99 for their GIF or effect.

22 5. The Court preliminarily finds and concludes, for settlement purposes only, that the
23 Settlement Class, as defined above, meets the requirements for class certification under Federal
24 Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3). Specifically, the Court finds that (1) the
25 Settlement Class Members are sufficiently numerous such that joinder is impracticable; (2) there
26 are common questions of law and fact; (3) Plaintiff's claims are typical of those of the Settlement
27 Class Members; (4) Plaintiff and Settlement Class Counsel have fairly and adequately represented,
28 and will continue to fairly and adequately represent, the interests of the Settlement Class Members;

1 and (5) for purposes of settlement, the Settlement Class meets the predominance and superiority
2 requirements of Rule 23(b)(3). Injunctive relief also is appropriate respecting the class as a whole
3 under Rule 23(b)(2).

4 6. Certification of the Settlement Class shall be solely for settlement purposes and
5 without prejudice to the Parties in the event the settlement is not finally approved by this Court or
6 otherwise does not take effect, and the Parties preserve all rights and defenses regarding class
7 certification in the event the settlement is not finally approved by this Court or otherwise does not
8 take effect.

9 7. The Court conditionally designates the law firms of Wolf Popper LLP and Berman
10 Tabacco, as Settlement Class Counsel and Plaintiff Zara Leventhal as class representative for
11 purposes of this settlement. The Court designates, and approves, Angeion Group to serve as Claim
12 Administrator.

13 8. Since the Settlement Agreement is within the range of reasonableness and possible
14 final approval, notice shall be provided to the Settlement Class pursuant to the Settlement
15 Agreement as set forth in the Notice Plan. The Claim Administrator shall also provide notice in
16 compliance with 28 U.S.C. § 1715. As set forth in the Notice Plan, the Claim Administrator shall
17 do the following:

- 18 a. At least seven days prior to the Notice Date, the Claim Administrator shall establish
19 the Settlement Website, which shall contain information about the Action;
20 information about the Settlement Class Members' rights; answers to frequently
21 asked questions; the address and telephone number(s) for the Claim Administrator
22 and addresses and telephone numbers for Plaintiff's Counsel and Streamlabs'
23 Counsel; the Long Form Notice in both downloadable PDF format and HTML
24 format with a clickable table of contents; a downloadable and online version of the
25 Claim Form; a downloadable and online version of the form by which Settlement
26 Class Members may opt out of the Settlement Class; the Complaint; the Settlement
27 Agreement; and the signed order of Preliminary Approval. The Claim
28 Administrator shall add to the Settlement Website all other material filings by the

Parties or the Court regarding the settlement, including Plaintiff's application for attorneys' fees, costs, expenses, and/or Incentive Award, the motion for Final Approval, and any orders with respect to such applications and motions.

b. The Claim Administrator shall initiate the process of providing the Email Notice via email to identified Settlement Class Members in accordance with the Notice Plan as soon as practicable after the Notice Date.

c. The Claim Administrator shall initiate the process of publishing the Online Advertisement Notices in accordance with the Notice Plan as soon as practicable under the Notice Date, so that overall notice of the settlement (including the Online Notice and the Email Notice) is reasonably calculated to apprise the Settlement Class Members of the settlement.

d. The Claim Administrator shall set up the toll-free telephone number as further described in the Notice Plan.

9. A Final Approval hearing shall be held before this Court on 1/30/2025 at 9:30 a.m., *[at least 100 days after the Notice Date]* in Courtroom B, 15th Floor, at the United States District Court for the Northern District of California, San Francisco, CA, to address: (a) whether the proposed settlement should be finally approved as fair, reasonable, and adequate, and whether the Final Approval Order should be entered; and (b) whether Class Counsel's applications for attorneys' fees, costs, expenses and payment of an Incentive Award to Plaintiff should be approved.

10. The Court approves, as to form and content, Notices that are substantially similar to the forms attached as Exhibits 1 to 2 to the Settlement Agreement, as well as a Claim Form that is substantially similar to the form attached thereto as Exhibit 3. The Claim Form and all the notices are written in plain English and are easy to comprehend. The Parties shall have discretion to jointly make non-material minor revisions to the claim form and Notices before publishing. Responsibility for settlement administration, including, but not limited to, notice and related procedures, shall be performed by the Claim Administrator, subject to the oversight of the Parties and this Court as described in the Settlement Agreement.

1 11. The Court finds that the Parties' plan for providing notice is reasonably calculated
2 to provide notice to the Settlement Class of the pendency of the Action, certification of the
3 Settlement Class, the terms of the Settlement Agreement, and the Final Approval hearing, and
4 complies fully with the requirements of the California and United States Constitutions, Rule 23 of
5 the Federal Rules of Civil Procedure, and any other applicable law. The Parties and the Claim
6 Administrator shall comply with the Notice Plan as set forth in the Settlement Agreement.

7 12. Any member of the Settlement Class who desires to be excluded from the Settlement
8 Class, and therefore not be bound by the terms of the Settlement Agreement, must submit a request
9 for exclusion to the Claim Administrator, pursuant to the instructions set forth in the Long Form
10 Notice. The request must be submitted online by no later than 1/9/2025 [*21 days after filing of*
11 *Motion for Final Approval*], or if mailed, it must be received (not just postmarked) by no later than
12 1/9/2025 [*21 days after filing of Motion for Final Approval*]. No one shall be permitted to
13 exercise any exclusion rights on behalf of any other Person, whether as an agent or representative
14 of another or otherwise, except upon proof of a legal power of attorney,
15 conservatorship, trusteeship, or other legal authorization, and no one may exclude other Persons
16 within the Settlement Class as a group, class, or in the aggregate.

17 13. No later than three (3) days after 1/9/2025 [*21 days after filing of Motion for*
18 *Final Approval*], the Claim Administrator shall prepare and deliver to the Parties a list of the
19 names of the Persons who, pursuant to the Long Form Notice, have excluded themselves from
20 the Settlement Class in a valid and timely manner. Plaintiff's Counsel shall file that list with the
21 Court no later than fourteen (14) days prior to Final Approval. The Court retains jurisdiction to
22 resolve any disputed exclusion requests. No later than three (3) days after the opt-out deadline i.e.
23 (28 days prior to the Final Approval Hearing), the Claim Administrator shall also provide a
24 declaration under penalty of perjury to the Court that the Notice provides sufficient reach and
25 frequency to alert Settlement Class Members to the pendency of the Action and their rights
26 thereunder

27 14. Any Settlement Class Member who does not submit a valid and timely request for
28 exclusion may submit a written objection to the Settlement Agreement. The objection must satisfy

1 the requirements described in the Long Form Notice. The objection must be sent to the Claim
2 Administrator or to Plaintiff's Counsel and Streamlabs' Counsel at the addresses shown on the
3 settlement website, who will then file the objection, request to appear, and any supporting papers
4 with the Court promptly upon receipt of the objection. The objection must be submitted online by
5 no later than 1/9/2025 *21 days after filing of Motion for Final Approval*], or if mailed, it must be
6 received (not just postmarked) by no later than 1/9/2025 *[21 days after filing of Motion for*
7 *Final Approval]*.

8 15. Any Settlement Class Member wishing to object or opt out who fails to properly or
9 timely file or serve any of the requested information and/or documents will be precluded from
10 doing so.

11 16. Any Settlement Class Member shall have the right to appear and be heard at the
12 Final Approval hearing, either personally or through an attorney retained at the Settlement Class
13 Member's own expense, provided they file a request to be heard and/or objection as described in
14 the Long Form Notice. However, if the Settlement Class Member wishes to object to the settlement
15 at the Final Approval hearing (either personally or through counsel), the Settlement Class Member
16 must submit a written objection as set forth in the prior paragraph of this Order.

17 17. Plaintiff shall file her motions for Final Approval and for any award of attorneys'
18 fees, costs, expenses, and Incentive Award no later than 49 days prior to the Final Approval hearing.
19 Plaintiff's Counsel shall file any reply briefs in support of such motions within fourteen (14) days
20 after any Settlement Class Member files its opposition to such motion. The parties shall also file
21 any responses to any Settlement Class Member objections or requests to intervene and any replies
22 in support of final settlement approval no later than 1/16/2025 *[14 days prior to Final*
23 *Approval hearing]*. These motions and all supporting documentation shall promptly be posted to
24 the settlement website.

25 18. In the event that certification of the Settlement Class, Preliminary Approval, or Final
26 Approval of the settlement, or any other order necessary to effectuate the Settlement Agreement is
27 denied, or the Settlement Agreement is not finally approved, or is terminated or cancelled or fails
28 to become effective for any reason whatsoever, or if this Court or a reviewing court takes any action

1 to impair or reduce the scope or effectiveness of the Release set forth in Part X or to impose greater
2 financial or other burdens on Streamlabs than those contemplated in the Settlement Agreement, or
3 if Final Approval is reversed on appeal, the Action shall revert to its status as it existed prior to the
4 date of the Settlement Agreement, and the Claim Administrator shall return to Streamlabs any
5 amounts Streamlabs had already deposited that are not required to pay for notice and
6 administration. In the event of such a reversion, no class shall be deemed to have been certified,
7 and the proposed or actual certification of a Settlement Class shall not be urged or considered as a
8 factor in any subsequent litigation over the certification of a litigation class or classes. Additionally,
9 in the event of such a reversion, the Settlement Agreement shall be void *ab initio*, shall have no
10 force or effect, and shall impose no obligations on the Parties except as set forth in the Settlement
11 Agreement. Alternatively, in the event that certification of the Settlement Class, Preliminary
12 Approval or Final Approval of the settlement, or any other order necessary to effectuate the
13 Settlement Agreement is denied, or the Settlement Agreement is not finally approved, or is
14 terminated or cancelled or fails to become effective for any reason whatsoever, or if this Court or a
15 reviewing court takes any action to impair or reduce the scope or effectiveness of the Release set
16 forth in Part X or to impose greater financial or other burdens on Streamlabs than those
17 contemplated in the Settlement Agreement, or if Final Approval is reversed on appeal, the Parties
18 may, but are not required to, modify the Settlement Agreement. Such a modification shall be
19 binding only if it is in writing and executed by Plaintiff's Counsel and Streamlabs' Counsel.

20 19. Streamlabs shall pay all reasonable fees, costs and expenses associated with
21 providing notice to the Class Members, the administration of the Settlement, including, without
22 limitation, any Taxes due, and the reasonable administrative expenses incurred and fees charged by
23 the Claims Administrator in connection with responding to and processing the submitted claims
24 and distributing the Net Settlement Fund to Authorized Claimants. In the event that the Settlement
25 is terminated, as provided for in the Settlement Agreement, notice and administration costs paid or
26 incurred in connection with this paragraph shall not be returned to the person(s) who paid the
27 Settlement Amount and Plaintiff, Plaintiff's Counsel, and Defense Counsel shall have no liability
28 therefor.

1 20. Pending final determination of whether the Settlement Agreement should be finally
2 approved, Plaintiff and all Settlement Class Members (and any persons purporting to act on their
3 behalf) are barred and enjoined from filing, commencing, prosecuting, maintaining, or enforcing
4 any action against the Released Parties insofar as such action asserts Released Claims, directly or
5 indirectly, in any judicial, administrative, arbitral, or other forum. This bar and injunction is
6 necessary to protect and effectuate the Settlement Agreement and this Preliminary Approval order,
7 and this Court's authority to effectuate the Settlement Agreement, and is ordered in aid of this
8 Court's jurisdiction.

9 21. This Preliminary Approval order, the Settlement Agreement, and all negotiations,
10 statements, agreements, and proceedings relating to the settlement, and any matters arising in
11 connection with settlement negotiations, proceedings, or agreements, shall not constitute or be
12 described as, construed as, offered, or received against Streamlabs or the other Released Parties as
13 evidence or an admission of (i) the truth of any allegations made by the Plaintiff, (ii) liability or
14 fault of any kind, or (iii) that this Action or any other action may be properly certified as a class
15 action for litigation, non-settlement purposes. This Preliminary Approval order, the Settlement
16 Agreement, and all negotiations, statements, agreements, and proceedings relating to the settlement,
17 and any matters arising in connection with settlement negotiations, proceedings, or agreements,
18 also shall not constitute or be described as, construed as, offered, or received against Plaintiff as
19 evidence or an admission of any weakness or infirmity of any claim or allegation made by Plaintiff
20 in this Action.

21 22. The Court may, for good cause, extend any of the deadlines set forth in this Order
22 without further notice to the Settlement Class Members. The Final Approval hearing may, from
23 time to time and without further notice to the Settlement Class Members, be continued by order of
24 the Court. However, any continuance by the Court will be noted on the Settlement Website.

25 23. The Parties shall have the right, by agreement and subject to the Court's approval,
26 to grant any reasonable extension of time that might be needed to carry out any of the provisions
27 of the Settlement Agreement.

28 24. The following chart summarizes the dates and deadline set by this Order:

Notice Date	9/19/2024
Claim Filing Deadline	3/31/2025
Last day for Settlement Class Counsel to file motion for final approval and for an award of Settlement Class Counsel attorneys' fees, costs, and expenses and/or Incentive Award	12/19/2024
Deadline to Opt Out or Object	1/9/2025
Last day for Claim Administrator to certify to the Court that it has complied with the requirements set forth in the Notice Plan	1/16/2025
Last day for Plaintiff's Counsel to file list of Settlement Class Members who have excluded themselves from the Settlement Class	1/16/2025
Last day for Parties to file responses to any Settlement Class Member objections or requests to intervene and any replies in support of final settlement approval.	1/16/2025
Final Approval hearing	1/30/2025 at 9:30 AM

WHEREAS ;

IT IS SO ORDERED this __29th__ day of _August __, 2024.

Hon. Laurel Beeler, U.S.M.J.