

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

BLAIR DOUGLASS, on behalf of himself and all
others similarly situated individuals,

Plaintiff,

v.

OPTAVIA, LLC,

Defendant.

Civil Action No. 2:22-cv-00594-CCW

**JOINT SUPPLEMENT TO DEFENDANT'S
MOTION FOR EXTENSION OF TIME**

Plaintiff Blair Douglass, on behalf of himself and all others similarly situated, and Defendant Optavia, LLC file this joint supplement to Defendant's Motion for Extension of Time. (Doc. 19.) The parties state the following in support thereof.

1. On April 21, 2022, Plaintiff filed a class action complaint asserting claims under Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181 *et seq.*, and its implementing regulations ("ADA"). (Doc. 1.)
2. On May 25, 2022, Plaintiff filed a Motion To Certify The Class For Settlement Purposes And For Preliminary Approval Of Class Action Settlement ("Motion"). (Doc. 7.)
3. On September 14, 2022, the Court granted Plaintiff's Motion and set various deadlines for the parties to provide notice to the settlement class members, for objections, for a final fairness hearing, and other deadlines related thereto. ("Order") (Doc. 18.)
4. The first of these deadlines obligated Defendant to publish a settlement website within twenty-one days of the Order, or by October 5, 2022 ("Notice Deadline"). (Doc. 18, ¶ 7(a).)

5. On October 4, 2022, Defendant notified Plaintiff that the class action administrator that Defendant engaged could not finalize the settlement website by the Notice Deadline.

6. Plaintiff advised Defendant that he did not oppose Defendant moving the Court to extend the Order's deadlines.

7. As a result, Defendant filed a Motion For Extension Of Time ("Motion For Extension") on October 5, 2022. (Doc. 19.)

8. Defendant's Motion For Extension asks the Court to extend the Notice Deadline outlined in paragraphs 7 and 8 of the Order and to continue the Fairness Hearing provided in paragraph 15. (*Id.*)

9. By way of this joint supplement, the parties advise the Court that the remaining deadlines must also be extended to avoid prejudicing the Settlement Class Members. For example, pursuant to the Order, Settlement Class Members must file objections, if any, within sixty days of the Notice Deadline ("Objection Deadline"). The Settlement Class Members would be prejudiced if their window within which they may file objections is limited to less than sixty days, which is what would occur if the Court extended the Notice Deadline without also extending the Objection Deadline by at least the same number of days.

10. Accordingly, attached to this joint motion is a revised proposed order extending all of the deadlines the Order established originally.

11. Neither party will be prejudiced by these brief extensions, which will inure to the benefit of Settlement Class Members, who will have greater opportunity to consider the sufficiency of the Parties' class action settlement agreement.

12. Also, the Order provides that "[t]he Fairness Hearing may, from time to time and without further notice to the Settlement Class members (except those who have filed timely

objections or entered appearances), be continued, rescheduled, or adjourned by order of the Court.”

(Order at ¶ 16.)

Respectfully submitted,

Dated: October 7, 2022

/s/ Kevin Tucker

Kevin Tucker (He/Him) (PA 312144)

Kevin J. Abramowicz (He/Him) (PA 320659)

Chandler Steiger (She/Her) (PA328891)

Stephanie Moore (She/Her) (PA 329447)

EAST END TRIAL GROUP LLC

6901 Lynn Way, Suite 215

Pittsburgh, PA 15208

<https://eastendtrialgroup.com/>

Tel. (412) 877-5220

ktucker@eastendtrialgroup.com

kabramowicz@eastendtrialgroup.com

csteiger@eastendtrialgroup.com

smoore@eastendtrialgroup.com

*Counsel for Plaintiff Blair Douglass and
Settlement Class Members*

/s/ Robert A. Giacovas

Robert A. Giacovas

**LAZARE POTTER GIACOVAS &
MOYLE LLP**

747 Third Avenue, 16th Floor

New York, NY 10017

rgiacovas@lpgmlaw.com

Tel. (212) 758-9300

Counsel for Defendant Optavia, LLC

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2022, a copy of the foregoing was filed with the Clerk of the Court through the CM/ECF system which sent notice of such filing to all counsel of record.

Dated: October 6, 2022

/s/ Kevin W. Tucker

Kevin W. Tucker

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

BLAIR DOUGLASS, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

OPTAVIA LLC,

Defendant.

Civil Action No. 2:22-cv-00594-CCW

[PROPOSED] ORDER GRANTING THE MOTION FOR EXTENSION OF TIME

WHEREAS, the Court previously granted Plaintiff Blair Douglass's Motion To Certify The Class For Settlement Purposes And For Preliminary Approval Of Class Action Settlement pursuant to Fed. R. Civ. P. Rule 23(e) ("Order"). (Doc. 18.);

WHEREAS, on October 5, 2022, Defendant filed a Motion For Extension Of Time for the parties to comply with the Order's deadlines; and

WHEREAS, the Court has read and considered Defendant's Motion For Extension Of Time and the Parties' Joint Supplement To Defendant's Motion For Extension Of Time, and good cause appearing:

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. This Order incorporates by reference the definitions in the Settlement Agreement, (Doc. 12-1), and all terms defined therein shall have the same meaning in this Order as set forth in the Settlement Agreement.

2. Defendant's Motion For Extension Of Time is GRANTED.

3. As soon as practicable, but no later than **October 21, 2022** (“Amended Notice Deadline”), Optavia shall, at its expense:

(a) Cause the Long-Form Notice accompanying the Settlement Agreement as Agreement Exhibit 1 to be published on, and make the following documents filed in the Lawsuit available for download on, the Settlement Website, located at <https://www.optaviaADAsettlement.com>:¹

- i. the class action complaint;
- ii. Plaintiff’s motion to certify class for settlement purposes and for preliminary approval of class action settlement, and supporting documents; and
- iii. the Court’s preliminary approval orders, as well as any supporting memorandum.

(b) Add an invisible link at the beginning of Defendant’s Website, located at <https://www.optavia.com>, that directs visitors using screen reader auxiliary aids to the Settlement Website. The link shall include alternative text which reads “Click to view our ADA class action settlement notice regarding the accessibility of our website.”

(c) Post a link to the Settlement Website on Optavia’s social media accounts, including <https://www.facebook.com/OPTAVIA>, <https://www.instagram.com/OPTAVIA/>, and https://twitter.com/OPTAVIA_tweets. The post shall be in a form and substance of the language provided immediately below (it is agreed and understood that the exact language is subject to change) and shall tag and direct questions about the stipulated class action settlement notice to Class Counsel at their accounts on each respective platform.

¹ The Settlement Website and the documents identified in Section 1(a) shall be fully accessible by individuals who screen reader auxiliary aids.

OPTAVIA is committed to making all of our digital content accessible to our Coach and Client Community. OPTAVIA has entered into a Class Action settlement whereby it is committing to ADA compliance of its website to ensure that it is accessible to all those seeking Lifelong Transformation, One Healthy Habit at a Time. Please visit <https://www.optaviaADAsettlement.com> to learn more about Optavia's agreement to make its digital content accessible to screen reader users. Have questions? Contact East End Trial Group at [<https://www.facebook.com/EastEndTrialGroup/> or <https://www.instagram.com/eastendtrialgroup/> or <https://twitter.com/eastendtrial>].

4. Also by the **October 21, 2022** Amended Notice Deadline, Class Counsel shall, at its expense, request that at least the following organizations publish notice in the form provided immediately below in their respective electronic newsletters and social media accounts such that the notice is sent out within sixty (60) days of this Order: ACHIEVA, American Council of the Blind, American Foundation for the Blind, Blinded American Veterans Foundation, Blinded Veterans Association, Foundation Fighting Blindness, Guide Dogs for the Blind, National Association of Blind Merchants, National Council on Disability, and National Federation of the Blind.

A proposed settlement has been reached that would resolve the class action lawsuit *Douglass v. Optavia LLC*, Case No. 2:22-cv-00594-CCW (W.D. Pa.). The lawsuit alleges that Optavia LLC violated the Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.*, by failing to take the necessary steps to ensure its website does not discriminate against blind or visually disabled consumers who use screen reader auxiliary aids to access digital content. Under the settlement, Optavia LLC agrees to make its website, mobile app, and any new website or mobile app it develops or acquires accessible to screen reader users. For a more complete summary of the terms of the proposed settlement, please visit <https://www.optaviaADAsettlement.com> or contact Class Counsel at <https://eastendtrialgroup.com>.

5. No less than five (5) days before the Fairness Hearing scheduled in the Lawsuit, Optavia shall file a declaration from the stipulated class action settlement administrator that summarizes the work the administrator performed and the number of visitors to the Settlement Website.

6. Within forty-five (45) days of the Amended Notice Deadline, or by **December 5, 2022**, Plaintiff shall move for reasonable attorneys' fees and costs.

7. Within sixty (60) days of the Amended Notice Deadline, or by **December 20, 2022**, Defendant or Defendant's counsel shall file a declaration evidencing Defendant's compliance with this Order.

8. Within sixty (60) days of the Amended Notice Deadline, or by **December 20, 2022**, Class Counsel shall file a declaration evidencing its compliance with this Order.

9. Within sixty (60) days of the Amended Notice Deadline, or by **December 20, 2022**, any Settlement Class Member may object to the Settlement Agreement by filing written objections with the Clerk of the Court ("Amended Objection Deadline"). Only such objecting Settlement Class Members shall have the right, and only if they expressly seek it in their objection, to present objections orally at the Fairness Hearing.

10. Within seven (7) days of the Amended Objection Deadline, or by **December 27, 2022**, the Parties shall respond to any timely-filed objections.

11. The Fairness Hearing currently scheduled for December 15, 2022 shall now be held on _____, 2023 at _____ EST, which is at least ninety (90) days after the Amended Notice Deadline, or sometime after January 19, 2023, in the United States District Court for the Western District of Pennsylvania, located at Joseph F. Weis, Jr. U.S. Courthouse, 700 Grant Street, Courtroom 9B, Pittsburgh, PA 15219, to determine whether the Settlement Agreement shall be granted final approval, and to address any related matters.

12. The Fairness Hearing may, from time to time and without further notice to the Settlement Class members (except those who have filed timely objections or entered appearances), be continued or adjourned by order of the Court.

13. No less than fourteen (14) days before the rescheduled Fairness Hearing in the Lawsuit, or by _____, 2023, Plaintiff shall file his motion for final approval of the settlement as to the Settlement Class.

14. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement Agreement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

IT IS SO ORDERED

DATED this ____ day of October, 2022.

BY THE COURT:

CHRISTY CRISWELL WIEGAND
United States District Judge