



NATIONAL ARBITRATION AND MEDIATION

TERESA MEDINA AND MORGAN THOMSON,

Claimants,

v.

SPENCER GIFTS D/B/A SPIRIT HALLOWEEN,

Respondent.

NAM ID No. 238718

Arbitrator David B. Van Etten

ARBITRATOR-AUTHORIZED NOTICE

If you applied for a job at Spirit Halloween in California between January 29, 2019, to August 15, 2020, you may be entitled to a payment from a Class Action Settlement.

An arbitrator authorized this notice. This is not a solicitation from a lawyer.

Applicants for employment at Respondent Spencer Gifts d/b/a Spirit Halloween ("Spirit Halloween" or "Respondent") brought a class action lawsuit under the Federal Fair Credit Reporting Act and California Investigative Consumer Reporting Agencies Act against Spirit Halloween. Claimants allege that the company failed to make legally compliant disclosures before obtaining background checks on applicants and employees. The Parties in the lawsuit have reached a Settlement, subject to Arbitrator approval.

- Under this Settlement, you may be entitled to a share of a \$1,805,000 settlement.
Visit the Settlement Website at www.spencer-settlement.com for additional details about the Settlement. You may also get additional information by calling (800) 523-5773 or by writing to the Settlement Administrator, as laid out in Section 5.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

Table with 2 columns: Option (SUBMIT A CLAIM FORM, DO NOTHING, EXCLUDE YOURSELF, OBJECT) and Description of the option and its requirements.

These rights and options – and deadlines – are explained in this notice

The Arbitrator in charge of this case still has to decide whether to give final approval to the Settlement. Settlement payments will be made if the Arbitrator approves the Settlement and after appeals, if any, are resolved. Please be patient.

## BASIC INFORMATION

### 1. Why did I receive this notice and what is this lawsuit about?

Applicants for employment at Spirit Halloween (“Claimants”) brought claims in arbitration against Spirit Halloween under Section 1681(b)(2) of the Federal Fair Credit Reporting Act (“FCRA”) and Section 1786.16(a)(2) of the California Investigative Consumer Reporting Agencies Act (“ICRAA”).

Claimants allege that Spirit Halloween used a form that is not compliant with either ICRAA or FCRA to disclose to applicants and employees that they were required to submit to a background check as part of Spirit Halloween’s evaluation of applicants’ criminal history information. Claimants allege the form violated ICRAA and FCRA because it was not standalone and clear.

Spirit Halloween’s records show that you applied for employment at Spirit Halloween sometime between January 29, 2019, and August 15, 2020, and you were provided with the non-compliant form.

The Arbitrator ordered that you be sent this Notice because the proposed Settlement may apply to you, and you have a right to know about it and all your options before the Arbitrator decides whether to approve the Settlement.

### 2. Why is there a settlement?

The Arbitrator did not decide in favor of Claimants or Respondent as to this class dispute. Both sides believe they would have prevailed, but agreed to a settlement. That way, they avoid the costs, delays, and uncertainties associated with a trial, and the people affected will get compensation. Claimants and Class Counsel think the Settlement is the best result for all Class Members and that the terms and conditions of the Settlement are fair, reasonable, and adequate.

## WHO IS IN THE SETTLEMENT

### 3. How do I know if I am part of the Settlement?

You are automatically a member of the National FCRA Class if you applied for employment with Spirit Halloween Spencer between January 29, 2019, and August 15, 2020.

You are automatically a member of the California ICRAA Class if you applied for employment with Spirit Halloween Spencer in California between January 29, 2019, and August 15, 2020.

If you aren’t sure about whether you qualify as a Class Member, you can contact the Settlement Administrator at the address, e-mail address, or phone number identified in Section 5 of this Notice.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 4. What does the Settlement provide?

You are receiving this Notice because Spirit Halloween’s records indicate that you are eligible to participate in the Settlement as a National FCRA Class Member and, if you applied to a job in California and/or worked for Spirit Halloween in California, as a California ICRAA Class Member. Class Members who timely submit Claim Forms will receive a share of the settlement fund, the amount of which will be determined by how many Class Members submit Claim Forms. Shares will be calculated by awarding one point to each National FCRA Class Member who timely submits a claim and awarding an additional two points to each California ICRAA Class Member who timely submits a claim. Class Members will each receive a proportional share based on the number of points they are awarded.

Under the Settlement, Spirit Halloween has agreed to pay a total of \$1,805,000.00 (the “Gross Settlement Amount”). Subject to approval by the Arbitrator, the Gross Settlement Amount will be used to pay attorneys’ fees of up to \$601,666.67 (one-third of the Gross Settlement Amount), plus reimbursement of actual litigation expenses and costs. Subject to Arbitrator approval, the Gross Settlement Amount will also be used to pay Service Awards of \$10,000.00 each (\$20,000.00 total) to the two Named Plaintiffs for bringing the lawsuit, their service to the Class, and reaching this Settlement, and for the costs and expenses of the Settlement Administrator.

You can access the settlement agreement on the case website or request a copy from the Settlement Administrator.

## **5. How do I submit my Claim Form?**

To be eligible to receive a payment from this Settlement, you **must** submit a Claim Form via e-mail, fax, mail or online at [www.spencer-settlement.com](http://www.spencer-settlement.com) to be received by the Settlement Administrator (or postmarked if mailed) no later than **December 27, 2022**.

You may print and mail, deliver or fax the completed form to the Settlement Administrator at:

Phoenix Settlement Administrators  
P.O. Box 7208  
Orange, CA 92863  
Telephone: (800) 523-5773  
Facsimile: (949) 209-2503  
Email: [notice@spencer-settlement.com](mailto:notice@spencer-settlement.com)

## **6. How will my payment be taxed?**

Your payment will be allocated as a non-wage payment, and reported on an IRS Form 1099-MISC. Neither Class Counsel nor Respondent makes any representations concerning the tax consequences of this Settlement and you are advised to seek your own personal tax advice regarding the tax implications of the Settlement.

## **7. By not excluding myself from this Settlement, what legal claims am I releasing?**

If the Arbitrator grants final approval of the Settlement, then all National FCRA Class Members who do not opt-out of the Settlement are giving up (also called “releasing”) their right to sue Spirit Halloween for all claims under the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681, *et seq.* that accrued during the period of January 29, 2019 to August 15, 2020 and all California ICRAA Class Members who do not opt-out of the Settlement are giving up (also called “releasing”) their right to sue Spirit Halloween for all claims under the California Investigative Consumer Reporting Agencies Act (“ICRAA”) that accrued during the period of January 29, 2019, to August 15, 2020.

Class Members will give up these rights whether or not they choose to submit a Claim Form to be eligible to receive a settlement payment. In other words, unless you opt-out of the lawsuit, you will be covered by the release, even if you do not submit a Claim Form to be eligible to receive a settlement payment.

### **THE LAWYERS REPRESENTING YOU**

## **8. Do I have a lawyer in this case?**

The Arbitrator has appointed the lawyers at Outten & Golden LLP to represent you and all Class Members. Together, these lawyers are called “Class Counsel.” Unless you elect to exclude yourself from the Settlement, you will continue to be represented by Class Counsel in connection with the implementation of the Settlement throughout the duration of the terms of the Settlement at no cost to you.

If you have questions about the proposed Settlement, you can get free legal help by contacting Class Counsel:

Christopher M. McNerney  
Amy Maurer  
Outten & Golden LLP  
685 Third Avenue, 25th Floor  
New York, NY 10017  
212-245-1000  
[spencersettlement@outtengolden.com](mailto:spencersettlement@outtengolden.com)

Jahan C. Sagafi  
Outten & Golden LLP  
One California Street  
12th Floor  
San Francisco, CA 94111  
(415) 223-7847  
[spencersettlement@outtengolden.com](mailto:spencersettlement@outtengolden.com)

## **9. How will the lawyers be paid?**

Class Counsel will ask the Arbitrator to approve payment of up to \$601,666.67 for their attorneys' fees (i.e. one third of the Gross Settlement Amount) plus reimbursement of actual litigation expenses and costs. The Arbitrator may award less than these requested amounts.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you want to be able to sue Spirit Halloween under the ICRAA or FCRA on your own, then you must exclude yourself from the Class. The process is also sometimes referred to as "opting out."

## **10. How do I opt out of the Settlement?**

To exclude yourself from the Settlement, you must send a letter by First Class U.S. Mail stating the following: "I opt out of the Spencer Settlement." Be sure to include your name, address, email address, telephone number, and your signature. Your exclusion request must be postmarked no later than **December 12, 2022**, and must be mailed to:

Phoenix Settlement Administrators  
P.O. Box 7208  
Orange, CA 92863  
Telephone: (800) 523-5773  
Facsimile: (949) 209-2503  
Email: notice@spencer-settlement.com

If you asked to be excluded, you will not receive a settlement payment, and you cannot object to the Settlement, but you will be able to separately sue Spirit Halloween. If you wish to exclude yourself in order to file an individual lawsuit against Spirit Halloween, you should speak to a lawyer as soon as possible because your claims are subject to statutes of limitations.

### **OBJECTING TO THE SETTLEMENT**

You can tell the Arbitrator that you do not agree with the settlement or some part of it.

## **11. How do I tell the Arbitrator that I do not like the Settlement?**

You can object to the Settlement if you do not like any part of it. To object, you must send a letter via First Class U.S. Mail saying that you object to the Settlement Administrator. Be sure to include your name, address, email address, email address, telephone number, and all reasons why you object to the Settlement. Any reasons not included in your settlement will not be considered. Mail the objection to:

Phoenix Settlement Administrators  
P.O. Box 7208  
Orange, CA 92863  
Telephone: (800) 523-5773  
Facsimile: (949) 209-2503  
Email: notice@spencer-settlement.com

Your letter must be postmarked no later than **December 12, 2022**.

### **THE ARBITRATOR'S FAIRNESS HEARING**

The Fairness Hearing will be held by video conference on February 16, 2023 at 11:00 a.m. Pacific Time. Information to access the video conference will be provided on the case website three days before the hearing. You do not need to attend the hearing, but you may attend if you would like at your own expense. Please be advised that the Arbitrator may choose to conduct the Fairness Hearing via telephone or video conference in lieu of an in-person hearing. Please visit the case website in advance of the Fairness Hearing to confirm whether the hearing will take place in person or via telephone or video conference.

At this hearing the Arbitrator will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Arbitrator will consider them. After the hearing, the Arbitrator will decide whether to approve the Settlement. We do not know how long the Arbitrator's decision will take.

DATED: October 28, 2022