

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE 31ST
)
MR. JUSTICE GLUSTEIN) DAY OF OCTOBER, 2024

B E T W E E N :

LYNN WINTERCORN, PETER NEWMAN, EMILY FLAMMINI and ALEX KEPIC

Plaintiffs

- and -

GLOBAL LEARNING GROUP INC.,
GLOBAL LEARNING TRUST SERVICES INC., as TRUSTEE OF GLOBAL LEARNING
TRUST (2004), ROBERT LEWIS, IDI STRATEGIES INC., JDS CORPORATION.,
ESCROWAGENT INC., JAMES PENTURN, RICHARD E. GLATT, DENIS JOBIN, ALLAN
BEACH, MORRIS KEPES & WINTERS LLP, FASKEN MARTINEAU DUMOULIN LLP,
CASSELS BROCK & BLACKWELL LLP, WISE, BLACKMAN LLP, EVANS & EVANS
INC., GRAHAM TURNER, ROBERT KEPES and MORRIS & MORRIS LLP

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Turner Settlement and Flammini Removal)**

THIS MOTION, made by the Plaintiffs for an Order approving the settlement agreement between the Plaintiffs and the Defendant Graham Turner (the “**Settling Defendant**”), and for an order removing Emily Flammini as a representative plaintiff, was heard this day, at Osgoode Hall, 130 Queen St W, Toronto, Ontario.

ON READING the notice of motion, the affidavit of Margaret Waddell sworn on July 2, 2024, the affidavit of Lynn Wintercorn affirmed on July 31, 2024, and the affidavit of Emily

Flammini affirmed June 28, 2024, and the Plaintiffs' factum and authorities, and upon being advised of the consent to this Order by the Settling Defendant, and on being advised that the remaining defendants (the "**Non-Settling Defendants**") take no position on this motion,

Settlement approval

1. **THIS COURT ORDERS AND DECLARES** that, as the opt-out period for this class action (the "**Action**") has expired, this Order is binding upon all of the Class Members and each of their respective heirs, executors, administrators and assigns, including those who are minors or mentally incapable, and that the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* with respect to this Order are hereby dispensed with.

2. **THIS COURT DECLARES** that notice to the Class of the hearing for approval of the settlement agreement dated June 9, 2024 and the amendment to the settlement agreement dated October 2, 2024 (together, the "**Settlement Agreement**") made between the Plaintiffs and the Settling Defendant was not required under s. 19 of the *Class Proceedings Act, 1992*, and is hereby dispensed with.

3. **THIS COURT ORDERS** that the Settlement Agreement, a copy of which is attached hereto as **Schedule "A"**, is fair, reasonable and in the best interests of the Class and is hereby approved, and shall be implemented in accordance with its terms, except to the extent that this Order varies, or is otherwise inconsistent with those terms, in which case this Order takes precedence over the terms of the Settlement Agreement.

4. **THIS COURT ORDERS** that the Settlement Agreement is incorporated by reference into this Order and that unless otherwise defined in this Order, capitalized terms in this Order shall have the meanings set out in the Settlement Agreement.

5. **THIS COURT ORDERS AND DECLARES** that, subject to the terms of the Settlement Agreement, the Class forever and absolutely releases the Settling Defendant, including, where applicable, his past and present partners, associates, employees, servants, administrators, insurers (only insofar as the insurers are insurers of the Settling Defendant and not to the extent that they are also insurers of any Non-Settling Defendant), affiliates, heirs, executors, successors, assigns, trustees, and personal representatives, as the case may be or any of them, from any and all manner of claims, demands, complaints, actions, suits, causes of action, Québec civil law and statutory liabilities, debts, dues, accounts, bonds, covenants, contracts, and causes of action which have been asserted or which could have been asserted in the Action, damages whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, penalties, monies, losses, interest in losses, professional or lawyers' fees, and any injuries howsoever arising, that the Class ever had, now have, or hereafter can, shall, could, or may have against the Settling Defendant relating in any way to any to the Class' participation in the Gift Program and resulting liabilities, interest or penalties arising from any assessments or reassessments under the *Income Tax Act* (Canada), *Excise Tax Act* (Canada) or similar provincial legislation (the "**Released Claims**").

6. **THIS COURT ORDERS AND DECLARES** that the aforementioned release shall operate conclusively as an estoppel in the event of any claim, action, complaint or proceeding which might be brought in the future by any member of the Class in respect of the Released Claims, and that each member of the Class is forever barred and enjoined from continuing, commencing, instituting or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively or derivatively, asserting against the Settling Defendant any claims that relate to or constitute any Released Claims.

7. **THIS COURT ORDERS** that all claims for contribution or indemnity or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to or arising from the Released Claims which were or could have been brought in this Action or that have been, or could have been, asserted by a separate action by any Non-Settling Defendant or by any other person or party against the Settling Defendant, or by the Settling Defendant against any Non-Settling Defendant or previously settled Defendant, shall be barred, prohibited and enjoined, unless such a claim is made in respect of a claim by a person who has validly opted out of the Action.

8. **THIS COURT ORDERS** that all claims of the Class of any nature whatsoever arising out of or relating in any way to the professional services provided by, or any actions or omissions of, the Settling Defendant to the Defendants Global Learning Group Inc., Global Learning Trust Services Inc. as Trustees of Global Learning Trust (2004), and Robert Lewis relating to or arising from the Gift Program which could have been brought in the Action or in a separate proceeding are barred, prohibited and enjoined.

9. **THIS COURT ORDERS** that if a Non-Settling Defendant would have the right to make a claim for contribution and indemnity against the Settling Defendant:

- (a) the Plaintiffs and/or members of the Class Members shall not claim or be entitled to recover from the Non-Settling Defendants that portion of any damages, costs or interest awarded in respect of any claim(s) that correspond to the proportionate liability of the Settling Defendant as proven at trial; and
- (b) the Court shall have full authority to determine the proportionate liability at the trial or other disposition of the Action as if the Settling Defendant was a party to the Action and any such finding by the Court in respect of the Settling Defendant's

proportionate liability shall only apply in this Action and shall not be binding upon the Settling Defendant in any other proceedings.

10. **THIS COURT ORDERS** that, for greater certainty, to the extent that the Settling Defendant is found to have any liability to any of the Non-Settling Defendants for contribution and indemnity arising from or related to amounts for which the Non-Settling Defendants are found liable to the Class, the Class members' recovery from the Non-Settling Defendants shall be reduced by the amount(s) for which the Settling Defendant is found liable to the Non-Settling Defendants.

11. **THIS COURT ORDERS** that, if requested by one or more Non-Settling Defendants, the Settling Defendant will attend before an official examiner in Toronto, Ontario, or virtually, to be examined under oath by the requesting Non-Settling Defendant(s), on a date and at a time to be agreed or as ordered by the case management judge. The examination of the Settling Defendant will not exceed a total of four (4) hours. During the examination, the Settling Defendant will not be required to provide undertakings, without prejudice to the Non-Settling Defendants' rights to seek an order of the Court compelling production of any documents or information from the Settling Defendant. The Settling Defendant will not be required to provide answers in respect of matters that are subject to solicitor-client privilege or any other privilege, unless directed to do so by order of the Court. No later than sixty (60) days before the scheduled date of the examination of the Settling Defendant, the requesting Non-Settling Defendant(s) will pay to Dewart Gleason LLP in trust the sum of \$2,000 on account of the Settling Defendant's legal fees for the examination. The Non-Settling Defendants will be entitled to read into the trial record any of the evidence given on the examination of the Settling Defendant as though the Settling Defendant remained a defendant in the Action.

12. **THIS COURT ORDERS** that, if requested by the Plaintiffs or the Non-Settling Defendants, the Settling Defendant will attend as a witness at the trial of this Action without the need to be served with a summons to witness, and the Plaintiffs and Non-Settling Defendants may cross-examine him.

13. **THIS COURT ORDERS AND DECLARES** that, should it be necessary, this Court has full authority to determine the proportionate liability of the Settling Defendant at the trial or other disposition of the Action, whether or not the Settling Defendant appears at the trial or other disposition of this proceeding, and the proportionate liability of the Settling Defendant shall be determined as if the Settling Defendant is party to the Action and any determination by the Court in respect of the proportionate liability shall only apply in the Action and shall not be binding on the Settling Defendant in any other proceedings.

14. **THIS COURT ORDERS** that the Action shall be dismissed against the Settling Defendant, with prejudice and without costs once the Settling Defendant has fulfilled his obligations under the Settlement Agreement and this Order.

15. **THIS COURT ORDERS** that notice of settlement approval shall be in accordance with the Notice Plan attached hereto as **Schedule "B"**.

Removal of Emily Flammini as representative plaintiff

16. **THIS COURT ORDERS** that Emily Flammini is removed as a representative plaintiff in this Action, without prejudice to her rights as a member of the certified Class.

17. **THIS COURT ORDERS** that the transcript of the cross-examination of Emily Flammini held on March 17, 2019 is deemed to be a transcript of Ms. Flammini's examination for discovery

and the Non-Settling Defendants may read evidence from that examination into the trial record as though she remained a plaintiff in this Action.

18. **THIS COURT ORDERS** that the withdrawal of Ms. Flammini as a plaintiff is without prejudice to the right of the Non-Settling Defendants to assert a claim for costs in relation to Ms. Flammini for the period during which she acted as a representative plaintiff.

19. **THIS COURT ORDERS** that the title of the proceeding shall be amended to:

LYNN WINTERCORN, PETER NEWMAN and ALEX KEPIC

Plaintiffs

- and -

GLOBAL LEARNING GROUP INC.,
GLOBAL LEARNING TRUST SERVICES INC., as TRUSTEE OF GLOBAL LEARNING
TRUST (2004), ROBERT LEWIS, IDI STRATEGIES INC., JDS CORPORATION.,
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INC., GRAHAM TURNER, ROBERT KEPES and MORRIS & MORRIS LLP

Defendants

Proceeding under the *Class Proceedings Act, 1992*

20. **THIS COURT ORDERS** that there shall be no costs of this motion.


_____ **Glustein J.**

LYNN WINTERCORN et al.
Plaintiffs

-and-

GLOBAL LEARNING GROUP INC. et al.
Defendants

Court File No.: CV-17-583573-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**ORDER
(Turner Settlement and Flammini Removal)**

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