

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**RETROFITNESS, LLC and  
RETRO IP, LLC** )  
 )  
 )  
 **Plaintiffs,** )  
 **v.** )  
 )  
 **IRVING PARK HEALTH CLUB, LLC,** )  
 **and CHARLES H. CUI,** )  
 )  
 **Defendants.** )

**No. 1:24-cv-07416**

**Hon. Mary M. Rowland, U.S.D.J.**

**CONSENT JUDGMENT**

WHEREAS, Plaintiffs Retrofitness, LLC, and Retro IP, LLC (collectively “Retrofitness” or “Plaintiffs”) filed their complaint on August 19, 2024, alleging that Defendants, Irving Park Health Club, LLC and Charles H. Cui, (collectively, “Defendants”) violated, among other laws, the Lanham Act and breach of a franchise agreement;

WHEREAS, the parties have agreed to resolve their claims without the need for litigation;

WHEREAS, Defendants have consented to entry of this Consent Judgment without trial or adjudication of any issue of fact or law and to waive any appeal if the Consent Judgment is entered as submitted by the parties;

WHEREAS, Defendants, by entering into this Consent Judgment, do not admit the allegations of the Complaint other than those facts deemed necessary to the jurisdiction of this Court;

WHEREAS, the intention of the Plaintiffs in effecting this settlement is to remediate harms allegedly resulting from the alleged unlawful conduct of the Defendants; and

WHEREAS, Defendants have agreed to waive service of the complaint and summons and hereby acknowledges the same;

NOW THEREFORE, without trial or adjudication of issue of fact or law, without this Consent Judgment constituting evidence against Defendant, and upon consent of Defendant, the Court finds that there is good and sufficient cause to enter this Consent Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

### **I. JURISDICTION**

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 as Plaintiff's claims against defendant are based upon trademark and trade dress infringement under the Lanham Act, 15 U.S.C. § 1051 *et seq.*

2. This Court also has jurisdiction over Plaintiffs' breach of contract claims pursuant to 28 U.S.C. § 1367(a) because those claims are so related to the claims arising under federal law that they form part of the same case and controversy.

3. This Court has personal jurisdiction over all Defendants because each of them resides in the State of Illinois, and because they are engaging in the wrongdoing at issue in this lawsuit in the State of Illinois, as described below.

4. Venue is proper in this judicial district as a substantial part of the events or omissions giving rise to the claims asserted in his Complaint occurred in this judicial district.

### **II. INJUNCTIVE RELIEF**

5. Defendants, their parties' officers, agents, servants, employees and any other persons who are in active concert or participation with Defendants are hereby RESTRAINED AND ENJOINED from:

- a. using Plaintiffs' trademarks and/or trade dress, including, but not limited to, those marks embodied in U.S. Reg. Nos. 3054371; 3222252; 3224745; 3205997; 3304486; 3630669; and 4011942 or any confusingly similar marks, the System, or any advertising, signs, stationery, or forms that bear identifying marks or colors that might give others the impression that Defendants are operating a RETROFITNESS® outlet;
  - i. within five (5) days of the entry of this Order, remove any and all signage bearing any Retrofitness trademarks from the interior and exterior of 4901 West Irving Park Road, Chicago, Illinois 60641;
  - ii. Within ten (10) days of the entry of this Order, remove all Retrofitness trademarks from and/or destroy any equipment;
  - iii. Within twelve (12) business days of the entry of this Order, provide Plaintiffs with a declaration under penalty of perjury that the actions under 5(a)(i) and (ii) were completed.
- b. taking any action or making any statement that might give others the impression that Defendants are or ever were affiliated with the RETROFITNESS® Franchise Network;
- c. sell, or in any way divulge, the client list of Defendants' RETROFITNESS® outlet;  
and
- d. for two (2) years after the date of this Consent Judgment, operate, own, or be employed by, be an independent contract for, or otherwise affiliated with, or have a beneficial interest in any entity that is competitive with any RETROFITNESS® outlet and that is located: (a) at 4901 West Irving Park Road, Chicago, Illinois

60641; or (b) within a radius of ten (10) miles of any RETROFITNESS® location and/or 4901 West Irving Park Road, Chicago, Illinois 60641;

- i. For the purposes of this Consent Judgment, entities that are competitive with RETROFITNESS® outlets include without limitation: any gym, any business which offers fitness training facility services, fitness training services, health club memberships, physical training programs, any companies offering exercise, health and wellness, and fitness facilities and training and ancillary merchandise as Retrofitness may authorize from time to time to members, through the usage of fitness equipment, locker/shower facilities, spa facilities, tanning, personal training, juice bar, vitamin/supplement sales, and/or other fitness and health-related products or services similar to those offered by Retrofitness outlets.

6. Defendants will comply with all post-termination obligations contained in the franchise agreement entered into by the parties on or around August 15, 2013 (the “Franchise Agreement”) including, but not limited to, Sections 8.6 and 10.3(b), (c), (d), (e), (i) and (k).

7. This Consent Order does not preclude Plaintiffs from pursuing Defendants for monetary damages.

8. Plaintiffs may file a Motion for Attorney’s Fees pursuant to Section 11.11 of the Franchise Agreement and 15 U.S.C. § 1117(a). Defendants agree that Plaintiffs are the prevailing parties.

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**SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2024

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Hon. Mary M. Rowland, U.S.D.J.


For Plaintiffs Retrofitness, LLC, and Retro IP, LLC

Dated: August 29, 2024

/s/ Andrew P. Bleiman  
Andrew P. Bleiman, Esq.  
MARKS & KLEIN, LLC  
1363 Shermer Road, Suite 318  
Northbrook, Illinois 60062

For Defendant Irving Park Health Club, LLC and Charles H. Cui, individually

Dated: August 29, 2024

  
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Erica Crohn Minchella, Esq.  
7538 St. Louis Ave.  
Skokie, IL 60076