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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JOSE JACOBO, et al.,
Plaintiffs,
vs.
ROSS STORES, INC., et al.,
Defendants.

Case No. 2:15-cv-04701-MWF-AGRx

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND
CERTIFICATION OF SETTLEMENT
CLASS**

Courtroom: 5A – First Street
Judge: Hon. Michael W. Fitzgerald

1 This matter has come before the Court pursuant to Plaintiffs' Unopposed
2 Motion for Preliminary Approval of Class Action Settlement and Certification of
3 Settlement Class ("Amended Motion"), filed on September 24, 2018.

4 The Court, having considered the Motion, as well as the accompanying
5 memorandum of points and authorities, declarations of Christopher J. Morosoff,
6 Douglas Caiafa, Jose Jacobo, Theresa Metoyer, Julie N. Green (Regarding Proposed
7 Notice Plan), as well as the Settlement Agreement between Plaintiffs Jose Jacobo and
8 Theresa Metoyer ("Plaintiffs"), on the one hand, and Defendant Ross Stores, Inc.
9 ("Ross" or "Defendant"), on the other hand, having considered the arguments and
10 views of counsel for the Parties, and all of the files, records, and proceedings herein,
11 and it appearing to the Court that upon preliminary examination, the Settlement
12 appears fair, reasonable and adequate, and that a hearing should and will be held after
13 Class Notice has been provided to the Settlement Class to confirm that the Settlement
14 is fair, reasonable, and adequate, and to determine whether a Judgment approving the
15 Settlement and an Order dismissing the Action based upon the Settlement should be
16 entered;

17 **NOW, THEREFORE, IT IS HEREBY ORDERED:**

18 **I. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT:**

19 The terms of the Settlement Agreement including all exhibits thereto, which is
20 attached as Exhibit A to the Declaration of Douglas Caiafa, are preliminarily
21 approved as fair, reasonable and adequate, are sufficient to warrant sending notice to
22 the Class, and are subject to further consideration thereof at the Final Approval
23 Hearing referenced below.

24 This Order incorporates herein the Settlement Agreement, and all of its exhibits
25 and related documents. Unless otherwise provided herein, the terms defined in the
26 Settlement Agreement shall have the same meanings in this Order. The Settlement
27 Agreement was entered into only after months of extensive arm's length negotiations
28 by experienced counsel and with the assistance and oversight of mediator Kyungah

1 Suk. The Court finds that the Settlement is sufficiently within the range of
2 reasonableness so that notice of the Settlement should be given as provided in the
3 Settlement Agreement and this Order. The Court further finds that the Settlement
4 Agreement does not improperly grant preferential treatment to any Class
5 Representative, and it has no obvious deficiencies. In making these determinations,
6 the Court has considered the current posture of this litigation and the risks and
7 benefits to the Parties involved in both settlement of these claims and continuation of
8 the Litigation.

9 **II. CERTIFICATION OF SETTLEMENT CLASS:**

10 The Settlement is contingent on the Court certifying a Settlement Class for
11 settlement purposes only. The Court finds that all of the requirements of Rules 23(a)
12 are satisfied, and that the requirements of Rule 23(b)(3) are also met here.

13 Specifically, the Court finds that: (a) the number of Settlement Class Members
14 is so numerous that their joinder in one lawsuit would be impractical; (b) there are
15 questions of law or fact common to the Settlement Class; (c) the claims of the Class
16 Representatives are typical of the claims of the Settlement Class Members they seek
17 to represent; (d) the Class Representatives and Class Counsel – the Law Office of
18 Christopher J. Morosoff, and Douglas Caiafa, APLC – have fairly and adequately
19 represented the interests of the Settlement Class; and (e) the questions of law or fact
20 common to the Settlement Class predominate over any questions affecting individual
21 Settlement Class Members.

22 Accordingly, the Court hereby certifies the following Settlement Class:

23 All persons in the United States who purchased (and who did not receive a
24 refund or credit for all their purchases) from Ross any item with a price tag that
25 included a comparison price that was higher than the sales price during the
26 Settlement Class Period. Excluded from the Settlement Class are Ross's past and
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1 present officers, directors, employees, agents or affiliates, and any judge who
2 presides over the Litigation.

3 The Court hereby affirms appointment of the Law Office of Christopher J.
4 Morosoff and Douglas Caiafa, APLC, as Class Counsel for the Settlement Class.

5 The Court hereby affirms appointment of Jose Jacobo and Theresa Metoyer as
6 Class Representatives for the Settlement Class.

7 If the Settlement is not finally approved by the Court, or for any reason the
8 Final Order and Final Judgment are not entered as contemplated in the Settlement
9 Agreement, or the Settlement is terminated pursuant to its terms for any reason or the
10 Settlement Effective Date does not occur for any reason, then:

- 11 1. All orders and findings entered in connection with the Settlement Agreement
12 shall become null and void and have no force or effect whatsoever, shall not be
13 used or referred to for any purposes whatsoever, and shall not be admissible or
14 discoverable in this or any other proceeding;
- 15 2. The certification of the Settlement Class pursuant to this Order shall be vacated
16 automatically and the Action shall resume with the same procedural posture it
17 had prior to entry of this Order;
- 18 3. All of the Court's prior Orders, subject to this Order, remain in force and
19 effect.

20 **III. NOTICE TO CLASS MEMBERS:**

21 The Court has considered the form and manner of providing Notice as
22 contemplated in the Settlement Agreement and proposed in the Motion and finds that
23 the Notice and methodology as described in the Settlement Agreement and in the
24 Declaration of Julie N. Green filed in support of the Motion: (a) meet the
25 requirements of due process and Rules 23(c) and (e) of the Federal Rules of Civil
26 Procedure; (b) constitute the best notice practicable under the circumstances to all
27 persons entitled to notice; and (c) satisfy the Constitutional requirements regarding
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1 notice. In addition, the forms of Notice attached as Exhibits 2, 3 and 4 to the
2 Settlement Agreement (a) apprise Settlement Class Members of the pendency of the
3 Action, the terms of the proposed Settlement, and their rights and deadlines under the
4 Settlement; (b) are written in simple terminology; and (c) are readily understandable
5 by Settlement Class Members.

6 The Court approves, as to form and content, the Long Form Notice, the Email
7 Notice, and the Publication Notice. The Court further approves the establishment of
8 the Settlement Website as provided in the Settlement Agreement. The website shall
9 provide Class Members with access to important settlement documents, including
10 without limitation the full Class Notice, Claim Form and Opt-Out Form, as well as
11 instructions on how to submit a Claim Form.

12 The Court hereby orders that the Email Notice be sent to Settlement Class
13 Members no later than thirty (30) days following the date of this Order. The Court
14 further hereby orders that the Publication Notice be published in the manner
15 described in the Declaration of Julie N. Green no later than forty (40) days following
16 the date of this Order. All reasonable effort shall be made to accomplish the notice
17 process as expeditiously as possible.

18 The Court appoints CPT Group, Inc., as the Claims Administrator.
19 Responsibilities of the Claims Administrator are found in the Settlement Agreement.

20 **IV. REQUEST FOR EXCLUSION FROM THE SETTLEMENT CLASS:**

21 Any Settlement Class Member who wishes to exclude himself or herself from
22 this Settlement and from the release of claims pursuant to the Settlement shall submit
23 an Opt-Out Form. For an Opt-Out Form to be accepted, it must be timely and valid.
24 To be timely, it must be postmarked no later than ninety (90) days after the last date
25 Notice is disseminated. To be valid, the Opt-Out Form must be signed and dated.
26 Opt-Out Forms shall be available for download from the Settlement Website and,
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1 upon request by a Settlement Class Member, made available by the Claims
2 Administrator through email or United States First Class Mail.

3 Settlement Class Members who timely and validly exclude themselves from
4 the Settlement Class shall not be bound by the Settlement, or the Final Order and
5 Final Judgment. If a Settlement Class Member files an Opt-Out Form, he/she may not
6 assert an objection to the Settlement. The Claims Administrator shall provide copies
7 of any Opt-Out Forms to Class Counsel and Defendant's Counsel as provided in the
8 Settlement Agreement.

9 Any Settlement Class Member who does not properly and timely exclude
10 himself/herself from the Settlement Class shall remain a Settlement Class Member
11 and shall be bound by all the terms and provisions of the Settlement Agreement and
12 the Final Order and Final Judgment, whether or not such Class Member objects to the
13 Settlement or submits a Claim Form.

14 **V. OBJECTIONS:**

15 A Settlement Class Member who wishes to object to the Settlement must notify
16 the District Court of his or her objection, in writing, no later than ninety (90) days of
17 the last date Notice is disseminated. To be considered valid, an objection must be in
18 writing, must include the objector's name and address, and must include the basis for
19 the objection (including why the objector believes the Settlement is not in the best
20 interests of the Settlement Class), along with any and all documents that support the
21 objection. The objection must also indicate whether or not the objector intends to
22 appear at the hearing on the motion for final approval of the Settlement. The
23 objection must be filed with the Court on or before the deadline. Objections that fail
24 to satisfy these requirements or to satisfy any other requirements found in the Class
25 Notice shall not be considered by the Court.

26 Settlement Class Members who do not file a timely written objection in
27 accordance with the procedures set forth in the Settlement Agreement and the Class
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1 Notice shall be deemed to have waived any objections to the Settlement and shall
2 forever be foreclosed from making any objection (whether by appeal or otherwise) to
3 the Settlement, or any aspect of the Settlement, including, without limitation, the
4 fairness, reasonableness, or adequacy of the Settlement, the form and manner of Class
5 Notice, or any award of Attorneys' Fees and Costs, reimbursement of costs and
6 expenses and/or any Class Representative Payment.

7 **VI. FINAL APPROVAL HEARING:**

8 The Final Approval Hearing will be held on **April 15, 2019**, at 10:00 a.m.
9 (Pacific Standard Time) before this Court, at the United States District Court, Central
10 District of California, Courtroom 5-A, 350 W. First Street, Los Angeles, California
11 90012, to consider, *inter alia*, the following: (a) whether the Settlement should be
12 finally approved as fair, reasonable and adequate; (b) Class Counsel's application for
13 attorneys' fees and expenses; and (c) Plaintiffs' request for Class Representative
14 Payments.

15 The date and time of the Final Approval Hearing shall be subject to
16 continuation or adjournment by the Court without further notice to the Settlement
17 Class Members other than that which may be posted at the Court, on the Court's
18 website, and/or on the Settlement Website.

19 **VII. STAY OF LITIGATION:**

20 Pending the Final Approval Hearing and the Court's decision whether to
21 finally approve the Settlement, all proceedings in the Action, other than proceedings
22 necessary to carry out or enforce the Settlement Agreement or this Order, are stayed
23 and suspended, until further order from this Court.

24 **VIII. OTHER PROVISIONS:**

25 The Parties are authorized to take all necessary and appropriate steps to
26 establish the means necessary to implement the Settlement Agreement.

1 The deadlines set forth in this Order, including, but not limited to, the Final
2 Approval Hearing, may be extended by Order of the Court, for good cause shown,
3 without further notice to the Settlement Class Members – except that notice of any
4 such extensions shall be included on the Settlement Website. Settlement Class
5 Members should check the Settlement Website regularly for updates and further
6 details regarding extensions of these deadlines.

7 Class Counsel and Defendant’s Counsel are hereby authorized to use all
8 reasonable procedures in connection with approval and administration of the
9 Settlement that are not materially inconsistent with this Order or the Settlement
10 Agreement, including making, without further approval of the Court, minor changes
11 to the Settlement Agreement, to the form or content of the Class Notice or to any
12 other exhibits that the parties jointly agree are reasonable or necessary.

13 This Court shall maintain continuing jurisdiction over these settlement
14 proceedings to assure the effectuation thereof for the benefit of the Settlement Class.

15
16 **IT IS SO ORDERED**

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19 Dated: _____, 2018

20 HON. MICHAEL W. FITZGERALD
United States District Judge