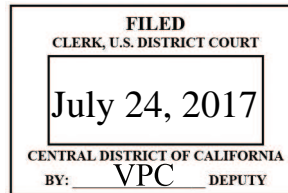


JS-6



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JAMES HOROSNY, et al,  
  
 Plaintiffs,  
  
 vs.  
  
 BURLINGTON COAT FACTORY OF CALIFORNIA, LLC, et al,  
  
 Defendants.

CASE NO.: 2:15-cv-05005-SJO-MRWx  
**CLASS ACTION**

~~PROPOSED~~ **ORDER AND JUDGMENT:**  
**(1) CONFIRMING CERTIFICATION OF SETTLEMENT CLASS;**  
**(2) GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT**  
**(3) APPROVING CLASS REPRESENTATIVE ENHANCMENT PAYMENTS**  
**(4) AWARDED CLASS COUNSEL FEES AND COSTS**  
**(5) APPROVING SETTLEMENT ADMINISTRATOR FEES**  
**(6) ENTERING FINAL JUDGMENT**

Courtroom: 10C  
 (First Street Courthouse)  
 Date: July 24, 2017  
 Time: 10:00 a.m.  
 Judge: Hon. S. James Otero

1 This matter has come before the Court pursuant to Plaintiffs' Unopposed Motion  
2 for Final Approval of Class Action Settlement ("Motion for Final Approval") and  
3 Plaintiffs' Motion for Attorneys' Fees and Costs, Costs of Administration, and  
4 Representative Enhancement Payments (ECF Doc. 78) ("Motion for Attorneys' Fee")  
5 (collectively, the "Motions").

6 The Court, having considered the Motion for Final Approval, the Motion for  
7 Attorneys' Fees, as well as the accompanying memoranda of points and authorities,  
8 declarations of Christopher J. Morosoff, Douglas Caiafa, Lana Lucchesi, as well as the  
9 Amended Settlement Agreement between Plaintiffs James Horosny and Jennifer Price  
10 ("Plaintiffs") and Defendant Burlington Coat Factory of California, LLC ("Burlington" or  
11 "Defendant"), and all of the files, records, and proceedings herein, and it appearing to the  
12 Court after considering the papers and the arguments in connection with the Motions, that  
13 the Settlement is fair, reasonable and adequate, and that adequate notice of the Settlement  
14 has been provided to the Settlement Class in compliance with due process, and that a  
15 Judgment approving the Settlement and an Order dismissing the Action based upon the  
16 Settlement should be entered;

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

- 18 1. The Court has jurisdiction over this action and the Parties' Proposed Settlement  
19 under 28. U.S.C. §§ 1332(d) and 1453 pursuant to the Class Action Fairness Act  
20 since the amount in controversy exceeds \$5,000,000 and because of the complete  
21 diversity between Plaintiffs and Defendant.
- 22 2. For the reasons stated in the Order Preliminarily Approving Class Action  
23 Settlement and Certifying Settlement Class (ECF Doc. 77) ("Preliminary Approval  
24 Order"), the Court finds that the action meets all the requirements for class  
25 certification, and it is hereby ordered that the Settlement Class is finally approved  
26 and certified as a class for purposes of settlement of this action.
- 27 3. The Parties' Amended Settlement Agreement ("ASA") (attached as Exhibit A to  
28 the Declaration Douglas Caiafa) is granted final approval as it meets the criteria for

1 final settlement approval. The Settlement falls within the range of possible  
2 approval as fair, adequate, and reasonable, and appears to be the product of arm's-  
3 length and informed negotiation and to treat all Class Members fairly.

4 4. Notice to Class Members of the Settlement as described in the ASA and the  
5 Preliminary Approval Order, including the Merchandise Certificate and Postcard  
6 Notice, Class Notice, Summary In-Store Notice, Summary Publication Notice,  
7 Email Notice and Opt Out Notice (attached as Exhibits A, B, C, E, F and G to the  
8 ASA), were sufficient to inform Class Members of the terms of the Settlement;  
9 their rights under the Settlement; their rights to object to the Settlement; their right  
10 to receive a Merchandise Certificate with a cash option, or elect not to participate  
11 in the Settlement; the processes for receiving a Merchandise Certificate with a cash  
12 option, electing not to participate in the Settlement, or objecting to the Settlement;  
13 and the date and location of the final approval hearing. Therefore, the Court finds  
14 and determines that the Notice to Class Members was complete and  
15 constitutionally sound, because individual notices were mailed and/or emailed to  
16 all Class Members whose identities and addresses are reasonably known to the  
17 Parties, and Notice was published in accordance with this Court's Preliminary  
18 Approval Order, and such notice was the best notice practicable.

19 5. Class Members were provided with the opportunity to comment on, or object to the  
20 Settlement, as well as to elect not to participate in the Settlement. Only 51 Class  
21 Members elected to not participate in the Settlement, and no Class Member  
22 objected to the Settlement.

23 6. KCC is awarded \$1,137,000 for their services as Settlement Administrator,  
24 pursuant to the terms set forth in the ASA.

25 7. Class Representatives James Horosny and Jennifer Price are each awarded the sum  
26 of \$5,000 as a Class Representative Payment pursuant to the terms set forth in the  
27 ASA.  
28

- 1 8. Class Counsel is awarded \$927,500, as attorneys' fees and costs pursuant to the  
2 terms set forth in the ASA.
- 3 9. By means of this Final Order and Judgment, this Court hereby enters Final  
4 Judgment in this action, as defined in Rule 54, Federal Rules of Civil Procedure.
- 5 10. This action is dismissed with prejudice, each side to bear its own costs and  
6 attorneys' fees except as provided by the ASA and this Final Order and Judgment.
- 7 11. The Court hereby reserves its exclusive, general and continuing jurisdiction over  
8 the ASA as needed or appropriate in order to administer, supervise, implement,  
9 interpret or enforce the Settlement in accordance with its terms.

10  
11  
12 Dated: July 24, 2017

*S. James Otero*

Hon. S. JAMES OTERO  
UNITED STATES DISTRICT COURT

13  
14  
15  
16  
17  
18  
19  
20 JS-6

