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UNITED STATES DISTRICT COURT
EASTERN DISTRICT
SACRAMENTO DIVISION

In Re: PAYLESS SHOESOURCE, INC.,
CALIFORNIA SONG-BEVERLY CREDIT
CARD ACT LITIGATION

(This document relates to ALL ACTIONS)

Case No. 09-MD-02022 FCD (GGH)

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS SETTLEMENT
AND PROVISIONAL CLASS
CERTIFICATION**

Judge: Hon. Frank C. Damrell, Jr.
Location: Courtroom 2

MICHAEL SWANEY, on behalf of himself
and others similarly situated,

Plaintiff,

v.

PAYLESS SHOESOURCE, INC., a Missouri
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 08-CV-02672 FCD (GGH)

JESSICA R. CLARK, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PAYLESS SHOESOURCE, INC.; and DOES
1 through 100 inclusive,

Defendants.

Case No. 09-CV-01040 FCD (GGH)

**ORDER GRANTING PRELIM. APPROVAL
OF CLASS SETTLEMENT & PROV. CLASS
CERT.**

1 This matter is before the court on plaintiffs Michael Swaney’s and Jessica Clark’s
2 unopposed motion for preliminary approval of class settlement and provisional class certification
3 under Rule 23(e) of the Federal Rules of Civil Procedure. The court reviewed the motion,
4 including the Settlement Agreement and Release (“Agreement”). Based on this review and the
5 findings below, the court finds good cause to grant the motion.

6 **FINDINGS:**

- 7 1. The Agreement is fair, reasonable, and adequate;
- 8 2. The Full Notice, Summary Notice, Store Notice, Tear Away Pad, and Claim Form
9 (attached to the Agreement) comply with due process because the notices and form are
10 reasonably calculated to adequately apprise class members of (i) the pending lawsuit, (ii) the
11 proposed settlement, and (iii) their rights, including the right to either participate in the
12 settlement, exclude themselves from the settlement, or object to the settlement;
- 13 3. The Class (defined below) is so numerous that joinder of all Class members is
14 impracticable;
- 15 4. The claims of Michael Swaney and Jessica Clark (“Plaintiffs”) are typical of the
16 Class’ claims;
- 17 5. There are questions of law and fact common to the Class, which predominate over
18 any questions affecting only individual Class members; and
- 19 6. Class certification is superior to other available methods for the fair and efficient
20 adjudication of the controversy.

21 **IT IS ORDERED THAT:**

- 22 1. **Settlement Approval.** The Agreement, including the Full Notice, Summary
23 Notice, Store Notice, Tear Away Pad, and Claim Form, attached to the Agreement as Exhibits B
24 through F are preliminarily approved.
- 25 2. **Provision of Class Notice.** Defendant Payless ShoeSource, Inc. (“Payless”) will
26 notify class members of the settlement in the manner specified under Paragraph 3.3 of the
27 Agreement and will pay all costs associated with class administration and providing notice to
28 Class Members. No later than seven (7) calendar days before the filing date of Plaintiffs’

1 executed the Agreement. This Order will not waive or otherwise impact the Parties' rights or
2 arguments.

3 11. **No Admissions.** Nothing in this Order is, or may be construed as, an admission or
4 concession on any point of fact or law by or against any Party.

5 12. **Fairness Hearing.** On **December 3 2010, at 10:00 a.m.**, this Court will hold a
6 Fairness Hearing to determine whether the Agreement should be finally approved as fair,
7 reasonable, and adequate. All supporting papers must be filed no later than seven (7) calendar
8 days before the Fairness Hearing. This Court may order the Fairness Hearing to be postponed,
9 adjourned, or continued. If that occurs, Defendant will not be required to provide additional
10 notice to class members.

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12 DATED: June 21, 2010

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14 FRANK C. DAMRELL, JR.
15 UNITED STATES DISTRICT JUDGE
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