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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MOHAMMAD KAZEMI, individually and on)
behalf of a class of similarly situated individuals,)

Plaintiff,)

v.)

PAYLESS SHOESOURCE, INC., a Missouri)
corporation, COLLECTIVE BRANDS, INC.,)
a Delaware corporation, and VOICE-MAIL)
BROADCASTING CORPORATION d/b/a)
VOICE & MOBILE BROADCAST)
CORPORATION a/k/a VMBC,)

Defendants.)

Case No. 09-cv-5142 MHP
CLASS ACTION
STIPULATION TO
CONTINUE FILING DATE
FOR PLAINTIFF'S MOTION
FOR CLASS
CERTIFICATION PENDING
SETTLEMENT

STIP. TO CONTINUE FILING DATE OF PLAINTIFF'S MOTION FOR CLASS CERT.

1 Plaintiff Mohammad Kazemi (“Plaintiff”) and Defendants Payless ShoeSource, Inc.
2 (“Payless”), Collective Brands, Inc., and Voice-mail Broadcasting Corporation (“VMBC”)
3 (collectively “Defendants”), by and through their respective counsel, hereby enter into the
4 following Stipulation seeking a continuance of the filing date for Plaintiff’s motion for class
5 certification pending the parties’ settlement of Plaintiff’s claims. This Stipulation is made
6 and entered into by the parties based on the following facts:

7 Plaintiff’s motion for class certification was initially scheduled to be filed on
8 September 13, 2010. On September 1, 2010 the parties filed a stipulation with the Court
9 requesting an extension of the deadline for Plaintiff’s motion until January 14, 2011, pending
10 a mediation to be held by the parties on November 15 and 16, 2010 before the Honorable
11 Nicholas Politan. The Court signed that stipulation into Order on September 2, 2010.

12 On November 15 and 16, 2010 the parties participated in two full days of mediation.
13 At the mediation Plaintiff and defendant Payless reached an agreement in principle on the
14 settlement of the lawsuit.. The agreement in principle was set forth in a memorandum of
15 understanding signed by both Plaintiff and a company official for Payless. The parties
16 further agreed that should a settlement based on the terms of the agreement in principle
17 become final, Plaintiff’s claims and those of the putative class would be dismissed as to all
18 parties.

19 Despite their best efforts, the Thanksgiving, Christmas and New Years holidays
20 introduced some degree of delay and difficulty into the coordination and preparation of such
21 documents and the parties remained in the process of negotiating and preparing a final
22 settlement agreement that set forth specific terms and language agreeable to all parties.

23 On January 7, 2011, the parties filed a stipulation with the Court requesting an
24 extension of the deadline for Plaintiff’s motion until February 1, 2011. The Court signed that
25 stipulation into Order on January 7, 2011.

26
27 STIP. TO CONTINUE FILING DATE OF PLAINTIFF’S MOTION FOR CLASS CERT.

28 Case No. 09-cv-5142 MHP

1 Plaintiff's counsel and counsel for Payless have since worked diligently in the
2 preparation of a final settlement agreement, as well as several supporting documents
3 including multiple forms of class notice. Despite their best efforts, there has been some
4 additional delay and difficulty in the coordination and preparation of such documents. The
5 parties remain in the process of negotiating and preparing a final settlement agreement that
6 sets forth specific terms and language agreeable to all parties, and are convinced that a final
7 settlement agreement, as well as supporting documents, will be completed no later than
8 February 24, 2011.

9 In light of the pending settlement agreement, the parties believe it makes sense to
10 further defer briefing of class certification while the parties attempt to finalize the settlement
11 agreement and supporting documents. The parties therefore request a modest additional
12 extension of the deadline for the finalization and execution of the settlement agreement until
13 February 24, 2011. Should, against expectations, the filing of Plaintiff's motion for class
14 certification ultimately be found necessary, the parties suggest a schedule for class
15 certification as follows: Plaintiff's motion for class certification to be filed no later than
16 March 31, 2011, Defendants' response would be due by April 28, 2011 and Plaintiff's reply
17 would be due by May 19, 2011. The parties, however, do not expect that to eventuate.

18 No trial date has yet been set that will be impacted by the parties' request.

19 Accordingly, the undersigned parties **HEREBY STIPULATE AND AGREE** as
20 follows:

- 21 1. The parties shall have until February 24, 2011 to finalize and execute a
22 settlement agreement.
- 23 2. If a settlement has not been executed by then, Plaintiffs' motion for class
24 certification shall be filed no later than March 31, 2011.
- 25 3. Defendants' opposition to Plaintiff's motion for class certification shall be due no
26 later than April 28, 2011.

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3. Plaintiff reply shall be due no later than May 19, 2011.

IT IS SO STIPULATED.

Dated: January 31, 2011

Respectfully submitted,
JACOBS KOLTON, CHTD.

By: /s/ Bryan G. Kolton
Bryan G. Kolton

Attorneys for Plaintiff
and the Putative Class and Sub-Class

VENABLE LLP

By: /s/ Ian D. Volner
Ian D. Volner

Attorney for Defendants
Payless Shoesource, Inc. and Collective
Brands, Inc.

COPILEVITZ AND CANTER, LLC

By: /s/ William E. Raney
William E. Raney

Attorney for Defendant
Voice-Mail Broadcasting Corporation
d/b/a Voice & Mobile Broadcast
Corporation a/k/a VMBC

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~~Proposed~~ **ORDER**

GOOD CAUSE HAVING BEEN SHOWN, the parties shall have until February 24, 2011 to finalize and execute a settlement agreement. If a settlement has not been executed by then, Plaintiffs' motion for class certification shall be filed no later than March 31, 2011. Defendants' opposition shall be due no later than April 28, 2011 and Plaintiff's reply shall be due no later than May 19, 2011.

IT IS SO ORDERED.

Dated: 2/1/2011

