

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE**

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ERICH MROZ on behalf of himself and all  
others similarly situated,

Plaintiff,

Case No. 3:08-CV-00418

v.

Phillips/Shirley

ANDERSON MERCHANDISER L.P.,

Defendant.

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**ORDER GRANTING JOINT MOTION FOR ORDER: (1)  
PRELIMINARILY APPROVING SETTLEMENT AGREEMENT; (2)  
GRANTING CLASS CERTIFICATION FOR PURPOSES OF SETTLEMENT  
ONLY; (3) APPOINTING CLASS REPRESENTATIVE AND CLASS COUNSEL;  
(4) APPROVING FORM AND MANNER OF NOTICE TO CLASS; AND (5)  
SCHEDULING A FINAL FAIRNESS HEARING FOR THE FINAL  
CONSIDERATION AND APPROVAL OF THE SETTLEMENT**

The matter comes before the Court on the Parties' Joint Motion for an Order (1) preliminarily approving the class action settlement reached between the parties, (2) conditionally certifying a settlement class, (3) approving the notice of class action settlement, and (4) setting the final approval hearing (the "Preliminary Approval Motion"). The Court, having considered the Preliminary Approval Motion, the memorandum of law in support thereof, and the exhibits attached thereto, hereby ORDERS, ADJUDGES AND DECREES as follows:

1. The Preliminary Approval Motion is GRANTED and the Parties' Settlement Agreement is preliminarily approved;

2. This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning in this Order;

3. The Settlement Class is preliminarily certified for settlement purposes only. Should the settlement not become final, the fact that the Parties were willing to stipulate to class certification as part of the settlement shall have no bearing on, nor be admissible in connection with, the issue of whether a class should be certified in a non-settlement context;

4. The class action settlement contemplated by the Settlement Agreement is preliminarily approved based upon the terms set forth in the Settlement Agreement filed herewith. The class-action settlement appears to be fair, adequate, and reasonable to the Settlement Class. The class-action settlement contemplated by the Settlement Agreement falls within the range of reasonableness and appears to be presumptively valid, subject to any objections that may be raised at the Final Approval Hearing before this Court.

5. Class Counsel is authorized to act on behalf of the Settlement Class with respect to all acts or consents required by the Settlement Agreement, or which may be given pursuant to the Stipulation and the class-action settlement contemplated by the Stipulation, and such other acts reasonably necessary to consummate the class settlement. Plaintiff Eric Mroz is appointed as class representative for the class.

6. A hearing on the final approval of the settlement proposed in the Settlement Agreement (the "Final Approval Hearing") should be held on *January 14, 2011 at 10:00 a.m.* ~~2010~~ so that Class Members will have at least forty-five days from the mailing of the Notice to secure further information regarding the relief sought by the Joint Motion, to

object to the Settlement Agreement should they choose to do so, and/or to engage counsel to appear at the Final Approval Hearing.

7. The Notice Of Proposed Settlement Of WARN Class Action, Settlement Hearing, And Claims Procedure (“Notice”) in the form attached to the Preliminary Approval Motion as Exhibit B are approved as to form and content. The Notice shall be sent by first class mail to the Settlement Class in accordance with the terms of the Settlement Agreement. Mailing of the Notice in accordance with the terms of the Settlement Agreement and the schedule below meets the requirements of due process and provides the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

8. Accordingly, the Court sets the following deadlines:

a. Deadline for Class counsel to mail the Notices to Class Members: November 1, 2010.

b. Deadline for Class Counsel and Defendant to receive Class Members’ requests for exclusion: December 16, 2010 (*which is within 45 calendar days after Class Counsel originally mails the Notices*).

c. Deadline for Class Members to file objections with Court and serve on Class Counsel and Defendant: December 16, 2010 (*which is within 45 calendar days after Class Counsel originally mails the Notices*).

d. Date for Final Approval Hearing on the question of whether the proposed settlement, attorneys' fees and costs to Class Counsel, and the class representative service payment should be approved as fair, reasonable, and adequate:

*January 14, 2011. at 10:00 a.m.*

SO ORDERED this 20<sup>th</sup> day of Oct, 2010.

*Thomas H. Phillips*  
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JUDGE, UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE