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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VICTOR FUENTES, an individual,
JOSE AVILA, an individual,
MARIO NAVARRO, an individual,
and GEORGE GARCIA JR., an
individual; Individually and on
Behalf of All Similarly Situated
Individuals,

Plaintiffs,

vs.

MACY'S WEST STORES, INC.,
an Ohio corporation; JOSEPH
ELETTO TRANSFER, INC., a
New York corporation, and DOES
1-25,

Defendants.

Case No: CV 14-00790-ODW (FFMx)

[The Honorable Otis D. Wright II]

CLASS ACTION

**~~PROPOSED~~ ORDER FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
SETTING OF A FINAL APPROVAL
HEARING AND APPROVAL OF
NOTICE TO THE CLASS**

Date: March 16, 2015
Time: 1:30 p.m.
Courtroom: 11

Complaint Filed: November 19, 2013

Complaint Removed: January 31, 2014

Trial: None currently Scheduled

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

1 The Court, having fully reviewed the Class Representatives’ Motion for
2 Preliminary Approval of Class Action Settlement, the supporting Points and
3 Authorities, the Declaration of Thomas W. Falvey in support thereof, the fully-
4 executed Stipulation of Class Action Settlement containing a release (“Final
5 Settlement Agreement”) attached as Exhibit “1” to the Declaration of Thomas W.
6 Falvey, the proposed Notice of Class Action Settlement and Verified Claim Form
7 for the Putative Class Member helpers attached as Exhibits “A” and “A-1” to the
8 Final Settlement Agreement, and the third-party settlement administrator proposal
9 submitted by Simpluris, Inc. attached as Exhibit “2” to the Declaration of Thomas
10 W. Falvey, and in recognition of the Court’s duty to make a preliminary
11 determination as to the reasonableness of any proposed Class Action settlement,
12 and if preliminarily determined to be reasonable, to ensure proper notice is
13 provided to Putative Class Members in accordance with due process requirements;
14 and to conduct a Final Approval hearing as to the good faith, fairness, adequacy
15 and reasonableness of any proposed settlement, THE COURT HEREBY MAKES
16 THE FOLLOWING DETERMINATIONS AND ORDERS:

17 1. The Court finds, on a preliminary basis, that the Final Settlement Agreement
18 appears to be within the range of reasonableness of a settlement which could
19 ultimately be given final approval by this Court; the Court notes that Defendants
20 MACY’S WEST STORES, INC., an Ohio corporation; and JOSEPH ELETTO
21 TRANSFER, INC., a New York corporation, have agreed to pay the entire
22 Settlement Amount of \$4,000,000 (MACY’S WEST STORES, INC. paying
23 \$3,000,000 thereof, and JOSEPH ELETTO TRANSFER, INC., paying \$1,000,000
24 respectively) to the Putative Class Members, Class Representatives, Class
25 Counsel, the Claims Administrator, and the State of California Labor Workforce
26 and Development Agency, in full satisfaction of the claims as more specifically
27 described in the Final Settlement Agreement;

1 It further appears to the Court, on a preliminary basis, that the settlement is
2 fair and reasonable to Putative Class Members when balanced against the probable
3 outcome of further litigation, liability and damages issues, and potential appeals of
4 rulings. It further appears that significant formal and informal discovery,
5 investigation, research, and litigation has been conducted such that counsel for the
6 Parties at this time are able to reasonably evaluate their respective positions. It
7 further appears that settlement at this time will avoid substantial costs, delay and
8 risks that would be presented by the further prosecution of the litigation. It also
9 appears that the proposed Settlement has been reached as the result of intensive,
10 informed and non-collusive negotiations between the Parties;

11
12 **ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR**
13 **ORDER OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
14 **IS HEREBY GRANTED.**

15
16 2. The Court finds that the Notice of Proposed Class Action Settlement and
17 Exclusion Form fully advises Putative Class Members of the proposed settlement,
18 of preliminary Court approval of the proposed Settlement, exclusion timing and
19 procedures, dispute resolution procedures, and of the Final Approval Hearing.
20 These documents fairly and adequately advise Putative Class Members of the
21 terms of the proposed Settlement and the benefits available to Putative Class
22 Members thereunder, as well as their right to exclude themselves from the Class
23 and procedures for doing so, and of the Final Approval Hearing and the right of
24 Putative Class Members to file documentation in objection and to appear in
25 connection with said hearing; the Court further finds that said Notice clearly
26 comports with all constitutional requirements including those of due process;

1 ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY
2 APPROVES THE PROPOSED NOTICE OF PROPOSED CLASS ACTION
3 SETTLEMENT.
4

5 3. The mailing to the present and last known addresses of the Putative Class
6 Members constitutes an effective method of notifying Putative Class Members of
7 their rights with respect to the Settlement; ACCORDINGLY, IT IS HEREBY
8 ORDERED as follows:

9 (a) Within five (5) days, Defendant JOSEPH ELETTO TRANSFER,
10 INC. shall forward to the appointed Claims Administrator, Simpluris, Inc., a
11 database (in an electronic spreadsheet format) of all Putative Class Members,
12 including the names, last known addresses, telephone numbers, dates of
13 employment, social security numbers, and respective total days worked during the
14 Class Period (November 19, 2009 through the date of this Order);

15 (b) Within fourteen (14) days, the Claims Administrator, Simpluris, Inc.,
16 shall mail to each member of the Settlement Class, by first class, postage pre-paid,
17 the Notice of Class Action Settlement, Exclusion Form, and a postage-paid
18 envelope addressed to the Claims Administrator. All mailings shall be made to the
19 present and/or last known mailing address of the Putative Class Members based on
20 Defendants' records, as well as addresses that may be located by the Claims
21 Administrator, who will conduct standard address searches in cases of returned
22 mail. The Court finds that the mailing of notices to Putative Class Members as set
23 forth in this paragraph is the best means practicable by which to reach Putative
24 Class Members and is reasonable and adequate pursuant to all constitutional and
25 statutory requirements including all due process requirements;

26 (c) At most 90 days prior to the Final Approval Hearing, Defendants will
27 provide confirmation that they have provided notice to all appropriate Federal and
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1 State officials pursuant to 28 U.S.C. § 1715.

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3 4. IT IS FURTHER ORDERED that all:

4 (a) Requests for Exclusion must be mailed to the Claims Administrator,
5 postmarked on or before the 45th day after the Notice Packet was mailed to the
6 relevant Putative Class Member, excepting Putative Class Members who had
7 Notice Packets re-mailed, who shall have until the 45th day after the Notice Packet
8 was re-mailed to them;

9 (b) Objections must be filed with the Court as described in the Class
10 Notice and also served on Class Counsel and on Defense Counsel at most twenty-
11 one (21) days before the Final Approval Hearing;

12
13 5. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held
14 before the undersigned at 1:30 p.m., on ^{June 30,} ~~July 27,~~ 2015, at the above-entitled court
15 located at 312 North Spring Street, Los Angeles, California 90012 to consider the
16 fairness, adequacy and reasonableness of the proposed Settlement preliminarily
17 approved by this Order of Preliminary Approval, and to consider the application of
18 Class Counsel for an award of reasonable attorneys' fees, litigation expenses,
19 Class Representative Service Payments, and for costs of claims administration
20 incurred;

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22 6. IT IS FURTHER ORDERED that all briefs in support of final approval of
23 the Settlement and for Award of Attorneys' Fees, Costs, Class Representative
24 Service Awards, and Putative Class Member Service Awards shall be served and
25 filed with the Court within 90 days of this Order.

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1 7. IT IS FURTHER ORDERED that pending final determination of whether
2 this proposed Settlement should be granted final approval, no Putative Class
3 Member, either directly or representatively, or in any other capacity, shall
4 commence or prosecute any action or proceeding asserting any of the Putative
5 Class Members' Released Claims, as defined in the Settlement Agreement, against
6 Defendants in any court or tribunal;

7
8 8. IT IS FURTHER ORDERED that any party to this case, including Putative
9 Class Members, may appear at the Final Approval Hearing in person or by
10 counsel, and may be heard to the extent allowed by the Court, in support of or in
11 opposition to, the Court's determination of the good faith, fairness, reasonableness
12 and adequacy of the proposed Settlement, the requested attorneys' fees and
13 litigation expenses, and any Order of Final Approval and Judgment regarding such
14 Settlement, fees and expenses; provided, however, that no person, except Class
15 Counsel and counsel for Defendants, shall be heard in opposition to such matters
16 unless such person has complied with the conditions set forth in the Notice of
17 Proposed Class Action Settlement which conditions are incorporated therein;

18
19 9. IT IS FURTHER ORDERED that in the event of the occurrence of the
20 Effective Date, as defined in the Settlement Agreement, all Putative Class
21 Members, except those who have requested exclusion from the settlement, and
22 their successors shall conclusively be deemed to have given full releases of any
23 and all Released Claims as defined in the Settlement Agreement against
24 Defendants, their former and present parents, subsidiaries, affiliated corporations
25 and entities, and each of their respective officers, officials, directors, employees,
26 partners, shareholders and agents, any other successors, assigns or legal
27 representatives ("Released Parties") and all such Putative Class Members and their
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1 successors shall be permanently enjoined and forever barred from asserting any
2 Released Claims against any Released Parties as described by the Settlement
3 Agreement;

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5 10. IT IS FURTHER ORDERED that if, for any reason, the Court does not
6 execute and file an Order of Final Approval, or if the Effective Date does not
7 occur for any reason whatsoever, the proposed Settlement Agreement and the
8 proposed Settlement subject of this Order and all evidence and proceedings had in
9 connection therewith, shall be without prejudice to the status quo ante rights of the
10 parties to the litigation as more specifically set forth in the Settlement Agreement.

11
12 11. IT IS FURTHER ORDERED that, pending further order of this Court, all
13 proceedings in this matter except those contemplated herein and in the Settlement
14 Agreement are stayed.

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16 The Court expressly reserves the right to adjourn or continue the Final Approval
17 Hearing from time-to-time without further notice to the Putative Class Members.

18
19 IT IS SO ORDERED.

20
21 Dated: March 16, 2015



Hon. Otis D. Wright II

JUDGE OF THE UNITED STATES
DISTRICT COURT FOR THE
CENTRAL DISTRICT OF
CALIFORNIA