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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Patrick Venieris, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

PVH Retail Stores LLC, a Delaware Limited
Liability Company,

Defendants.

Case No. CV2019-053176

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

The Hon. Theodore Campagnolo

The motion of plaintiff Patrick Venieris (“Plaintiff”) for an order preliminarily approving a proposed Settlement and provisional class certification (the “Motion”) under Arizona Rule of Civil Procedure (“Rule”) 23 filed on May 9, 2019. Having reviewed and considered the motion, including the Settlement Agreement and Release (the “Settlement Agreement”), the papers filed in connection with the motion and the argument of counsel, and good cause appearing therefore, the Court hereby grants the Motion, and issues the following findings and Order.

FINDINGS:

1. Unless otherwise specified, the defined terms in this Preliminary Approval and Provisional Class Certification Order have the same meaning and definition as the terms in the Settlement Agreement.

2. The Settlement falls within the range of possible approval as fair, reasonable and adequate.

1 3. The Court finds that the Full Notice, Email Notice, Postcard Notice, and
2 Publication Notice: (a) constitute the best notice practicable under the circumstances, (b)
3 constitute valid, due, and sufficient notice to all members of the Class, and (c) comply fully with
4 the requirements of Rule 23, the Arizona and United States Constitutions, and other applicable
5 law.

6 4. For settlement purposes only, the Class is so numerous that joinder of all Class
7 Members is impracticable, Plaintiffs' claims are typical of the Class's claims, there are questions
8 of law and fact common to the Class, which predominate over any questions affecting only
9 individual Class Members, and Class certification is superior to other available methods for the
10 fair and efficient adjudication of the controversy.

11 **IT IS ORDERED THAT:**

12 1. **Settlement Approval.** The Settlement and the Settlement Agreement, including
13 the Full Notice, Email Notices, Postcard Notice, Publication Notice, and Claim Form attached to
14 the Settlement Agreement as Exhibits B-F, are preliminarily approved.

15 2. **Provisional Certification.** The Class is provisionally certified for settlement
16 purposes only as a class of all individuals who, between August 30, 2017 and the date of entry of
17 this Order, purchased one or more items from any Arizona Tommy Hilfiger Outlet Store which
18 was not returned by, or on behalf of, the purchaser, or otherwise. Excluded from the Class are
19 PVH Retail's counsel, officers and directors, and the judge presiding over the Action.

20 3. **Appointment of Class Representative and Class Counsel.** Plaintiff is
21 conditionally certified as the class representative to implement the Parties' Settlement in
22 accordance with the Settlement Agreement. McKay Law, LLC and Rose Law Group, PC are
23 conditionally appointed as Class Counsel. Plaintiff and Class Counsel shall fairly and adequately
24 protect the Class's interests.

25 4. **Provision of Class Notice.** PVH Retail shall notify Class Members of the
26 Settlement in the manner specified in Section 3.3 of the Settlement Agreement and will pay all
27 costs associated with claims administration and providing notice to Class Members. The Court
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1 further orders the issuance of notice via email to all Class Members for whom a valid and current
2 email address is available even if a Class Members has previously opted out from receiving email
3 communications from PVH Retail or the Arizona Tommy Hilfiger Outlet Stores loyalty rewards
4 program.

5 **5. Requesting Exclusion.** A Class Member may elect to be excluded from the Class
6 and to not be bound by the Settlement and this Settlement Agreement. To make this election, a
7 Class Member must send a signed letter or postcard to the Claims Administrator, postmarked no
8 later than one hundred and five (105) calendar days after entry of this Order, stating: (a) the name
9 and case number of the Action; (b) his or her full name, address, and telephone number; and (c) a
10 statement that he/she does not wish to participate in the Settlement. A Class Member's election
11 to be excluded from the Class shall be effective upon the date the signed letter or postcard is
12 deposited in the United States Mail, as evidenced by the postmark. No later than seven (7)
13 calendar days before the filing date for Plaintiff's motion in support of the Final Approval Order
14 and Judgment, the Claims Administrator shall serve on Class Counsel and PVH Retail's Counsel
15 a list of Class Members who have timely and validly excluded themselves from the Class.

16 **6. Objection to Settlement.** Any Class Member who has not submitted a written
17 exclusion request pursuant to paragraph 5 above and wants to object to the fairness,
18 reasonableness, or adequacy of the proposed Settlement or the Settlement Agreement, must file a
19 written objection with the Court, and serve copies of the written objection on Class Counsel and
20 PVH Retail's Counsel, no later than one hundred and five (105) calendar days after entry of this
21 Order. The delivery date is deemed to be the date the objection is deposited in the United States
22 Mail as evidenced by the postmark. Written objections should contain: (a) the name and case
23 number of the Action; (b) the Class Member's full name, address, and telephone number; (c) the
24 words "Notice of Objection" or "Formal Objection"; (d) in clear and concise terms, the legal and
25 factual arguments supporting the objection; (e) facts supporting the person's status as a Class
26 Member (e.g., either any unique identifier included by the Claims Administrator in his/her notice,
27 or the date and location of his/her relevant purchases); (f) the Class Member's signature and the
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1 date; and (g) the following language immediately above the Class Member’s signature and date:
2 “I declare under penalty of perjury under the laws of the State of Arizona that the foregoing
3 statements regarding class membership are true and correct to the best of my knowledge.” Any
4 Class Member who has submitted a timely written objection may, but is not required to, appear at
5 the Fairness Hearing, either in person or through personal counsel hired at the Class Member’s
6 expense, to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the
7 proposed Settlement, or to the award of attorneys’ fees. However, Class Members (with or
8 without their attorneys) intending to make an appearance at the Fairness Hearing shall so-inform
9 the Parties and the Court on or before the Response Deadline by serving a “Notice of Intention to
10 Appear” on the Claims Administrator, Class Counsel and PVH Retail’s Counsel no later than
11 fourteen (14) calendar days before the Fairness Hearing.

12 **7. Failure to Object to Settlement.** Class Members who do not object to the
13 proposed Settlement and/or the Settlement Agreement in the manner specified in paragraph 6
14 above will: (a) be deemed to have waived their right to object to the Agreement; (b) be foreclosed
15 from objecting (whether by a subsequent objection, intervention, appeal, or any other process) to
16 the Agreement; and (c) not be entitled to speak, or have their attorneys speak on their behalf, at
17 the Fairness Hearing.

18 **8. Claim Forms.**

19 a. Tier 1 Authorized Claimants are not required to submit a Claim Form or proof of a
20 Qualifying Purchase to be included in the distribution of the Merchandise Certificates and receive
21 one (1) Merchandise Certificate.

22 b. To receive one (1) Merchandise Certificate as a Tier 2 Authorized Claimant, an
23 eligible Class Member shall submit a complete, valid and sufficient Claim Form, including
24 acceptable proof of Qualifying Purchase(s) during the Class Period no later than one hundred and
25 five (105) calendar days after entry of this Order.

26 i. The Claim Form, together with acceptable proof of Qualifying Purchase,
27 may be submitted electronically through the Settlement Website or by United States mail.

1 The delivery date of a Claim Form is deemed to be the date the Claim Form is received by
2 the settlement Administrator electronically through the Settlement Website, as evidenced
3 by the electronic transmission receipt, or, if the Claim Form is submitted by the United
4 States mail, the date the Claim Form is deposited in the United States Mail, as evidenced
5 by the postmark.

6 ii. Acceptable proof of Qualifying Purchases includes (i) receipt(s) clearly
7 showing the date of purchase(s) and the total amount of the purchase(s), or (ii) transaction
8 data from a credit or debit card clearly showing the date of purchase(s) and the total of the
9 purchase(s). Copies of such documents shall be attached to the Claim Form whether
10 submitted electronically through the Settlement Website or by United States mail.

11 **9.** The Claims Administrator shall review all submitted Claim Forms and proof of
12 Qualifying Purchase(s) for completeness, legibility, validity, accuracy, and timeliness. The
13 Claims Administrator may employ adequate and reasonable procedures and standards to prevent
14 the approval of duplicative and fraudulent Claims. The Claims Administrator may contact any
15 Claimant to request additional information and documentation, including, but not limited to,
16 information and documentation sufficient to allow the Claims Administrator to: (a) verify that the
17 information set forth in or attached to a Claim Form is accurate and the Claimant is a Class
18 member; and (b) determine the validity of any Claim and/or whether any Claim is duplicative or
19 fraudulent. The Claims Administrator's decision, including the Claims Administrator's decision
20 regarding whether a claimant is a Class Member, whether a Claim is valid and timely, whether a
21 Claim is duplicative or fraudulent and whether a Class Member is a Tier 1 or Tier 2 Authorized
22 Claimant, shall be non-appealable, final, and binding upon the Parties and the Claimant.

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24 **10. Termination.** If the Settlement Agreement terminates for any reason, the
25 following will occur: (a) this Preliminary Approval Order and all of its provisions will be vacated
26 by its own terms, including, but not limited to, vacating conditional certification of the Class,
27 conditional appointment of Plaintiff as class representative, and conditional appointment of
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1 Plaintiff's Counsel as Class Counsel; (b) the Action will revert to the status that existed before
2 Plaintiff filed her motion for approval of the Preliminary Approval Order; and (c) no term or draft
3 of this Settlement Agreement, or any part of the Parties' settlement discussions, negotiations or
4 documentation will have any effect or be admissible into evidence for any purpose in the Action
5 or any other proceeding. This Order will not waive or otherwise impact the Parties' rights or
6 arguments.

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

9 **12. Stay of Dates and Deadlines.** All discovery and pretrial proceedings and
10 deadlines, are stayed and suspended until further notice from the Court, except for such actions as
11 are necessary to implement the Settlement Agreement and this Order.

12 **13. Fairness Hearing.** On July 19, 2019, at 2:30 p.m. (1 Hour), this Court will hold
13 a Fairness Hearing to determine whether the Settlement Agreement should be finally approved as
14 fair, reasonable, and adequate. All papers supporting Plaintiffs' request for attorneys' fees and
15 costs shall be filed no later than fourteen (14) calendar days before the deadline for Class
16 Members to object to the Settlement. All papers supporting final approval of the Settlement
17 Agreement shall be filed no later than seven (7) calendar days before the Fairness Hearing. Based
18 on the date of this Order and the date of the Fairness Hearing, the following are the certain
19 associated dates in this Settlement:

Event	Timing	Date
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Event	Timing	Date
Last day for PVH Retail, through the Claims Administrator, to send Email Notice and Postcard Notice, start operating Settlement Website and provide Publication Notice	45 days after entry of this Order	
Last day for Plaintiff to file fee petition	91 days after entry of this Order	
Last day for Class Members to file a claim, request exclusion or object to the Settlement	105 days after entry of this Order	
Last day for Parties to file briefs in support of the Final Approval Order and Judgment	7 days before Fairness Hearing	

This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website but other than the website posting PVH Retail will not be required to provide any additional notice to Class Members.

IT IS SO ORDERED.

Dated: _____

 JUDGE THEODORE CAMPOGNOLO
 JUDGE OF THE SUPERIOR COURT

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eSignature Page 1 of 1

Filing ID: 10473838 Case Number: CV2019-053176
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Granted with Modifications



/S/ Theodore Campagnolo Date: 5/20/2019
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2019-053176

SIGNATURE DATE: 5/20/2019

E-FILING ID #: 10473838

FILED DATE: 5/21/2019 8:00:00 AM

MICHAEL C MCKAY

P V H RETAIL STORES L L C
NO ADDRESS ON RECORD