

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ROBERTO RAMIREZ and THOMAS  
IHLE,

Plaintiffs,

-against-

J.C. PENNEY CORPORATION, INC.,  
MICHAEL DASTUGUE, JANET  
DHILLON, KENNETH HANNAH,  
MICHAEL KRAMER, RONALD  
JOHNSON, and MYRON E. ULLMAN,  
III,

Defendants.

Civil Action No. 6:14-cv-00601-MHS-KNM

CLASS ACTION

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT AND FOR RELATED RELIEF**

Named Plaintiffs Roberto Ramirez and Thomas Ihle ("Plaintiffs") file this Unopposed<sup>1</sup> Motion for Preliminary Approval of Class Action Settlement and for Related Relief (the "Motion") and respectfully move the Court for an Order:

- (1) preliminarily approving the proposed Class Action Settlement Agreement and Release, dated May 31, 2016, (Exhibit A hereto) (the "Settlement Stipulation");<sup>2</sup>
- (2) preliminarily certifying the Settlement Class, defined in the Settlement Stipulation and below, solely for Settlement purposes;
- (3) approving the Parties' proposed Notice Plan, and
- (4) scheduling a Fairness Hearing no sooner than 120 days from the granting of this motion, or not before September 29, 2016.

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<sup>1</sup> The Parties conferred on May 31, 2016, and Defendants' Counsel represented Plaintiffs' Motion is unopposed.

<sup>2</sup> Capitalized terms used herein are defined in the Settlement Stipulation.

A form of [Proposed] Preliminary Approval Order is attached hereto as Exhibit B, and will be sent to chambers by e-mail in Word format. The Preliminary Approval Order also has three exhibits: Exhibit B.1 (a Class Notice that will be mailed to all members of the Settlement Class at their last known address), Exhibit B.2 (a Summary Notice to be published in *USA Today*, as set forth in ¶ 8 of the Preliminary Approval Order), and Exhibit B.3 (the Plan of Allocation).

The grounds for this Motion are as follows:

The Settlement provides for an aggregate Settlement Payment of \$4,500,000, to be paid by J. C. Penney, to create the Gross Settlement Fund. If the Settlement is approved by the Court, the Gross Settlement Fund, after such appropriate deductions as the Court may approve (the “Net Settlement Fund”), will be distributed among proposed Settlement Class members. The Settlement Class is defined as:

All Persons who were participants in or beneficiaries of the J. C. Penney Corporation, Inc. Savings, Profit Sharing and Stock Ownership Plan (the “Plan”) at any time from November 1, 2011 through Settlement Stipulation Execution Date, May 31, 2016 (the “Class Period”), and whose Plan accounts included investments in the J. C. Penney Common Stock Fund.

If approved, the distribution of the Net Settlement Fund will be in accordance with a Plan of Allocation that is designed to reimburse Settlement Class members for their proportional share of losses allegedly incurred as a result of holding J. C. Penney common stock in their Plan accounts during the Class Period.

For the reasons detailed in Plaintiffs’ Memorandum of Law in Support of their June 1, 2016 motion for preliminary approval of the May 31, 2016 Class Action Settlement Agreement and Release, the proposed Settlement is within the range of reasonableness of what the Court may finally approve as fair, reasonable and adequate under Fed. R. Civ. P. 23(e).

The proposed Settlement Class also satisfies the requirements of Federal Rule of Civil Procedure 23(a) and (b)(1) and (b)(2), thereby warranting preliminary certification of the Settlement Class for purposes of settlement. The proposed Notice Plan—which consists of (1) a Class Notice to be mailed to Settlement Class members at their last known addresses, (2) the creation of a dedicated website to share information with Settlement Class members, and (3) publication through *USA Today*—satisfies the requirements of Rule 23 and due process and is consistent with that approved by courts and implemented in similar settled ERISA actions.

This Motion is based on (1) the Settlement Stipulation (Exhibit A hereto), (2) Plaintiffs' Memorandum in support of their June 1, 2016 motion for preliminary approval of the May 31, 2016 Class Action Settlement Agreement and Release, (3) the Declaration of Samuel E. Bonderoff in support of Plaintiffs' June 1, 2016 motion for preliminary approval of the May 31, 2016 Class Action Settlement Agreement and Release, and (4) all papers on file in this action.

DATED: June 1, 2016

By: /s/ Samuel E. Bonderoff  
Samuel E. Bonderoff

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*Interim Class Counsel and  
Proposed Settlement Class Counsel*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that in accordance with this Court's Individual Practices plaintiffs' counsel served all counsel of record with a copy of this document and all attachments hereto via the Court's CM/ECF system per Local Rule CV-5(a)(3).

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 1, 2016 at New York, New York.

By: /s/ Samuel E. Bonderoff  
Samuel E. Bonderoff

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