

FILED
Clerk of the Superior Court
AUG 25 2023
By: M. Garland

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

STEPHANIE ABERL, DIANA VASQUEZ, and
SHANNON CUSTER, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

ASHLEY GLOBAL RETAIL, LLC, a Delaware
limited liability company,

Defendant.

Case No. 37-2023-00011536-CU-BT-NC
[E-FILE]
CLASS ACTION *CAF*
**AMENDED [PROPOSED] ORDER
GRANTING PRELIMINARY APPROVAL OF
CLASS SETTLEMENT AND PROVISIONAL
CLASS CERTIFICATION**

On *CAF* August 25 (~~month~~) (~~day~~), 2023, this Court heard Plaintiffs' unopposed motion for preliminary approval of class settlement and provisional class certification. This Court reviewed the motion, including the Settlement Agreement and Release (the "Settlement Agreement"). Based on this review and the findings below, the Court finds good cause to grant the motion.¹

FINDINGS:

1. The Settlement Agreement appears to be the product of serious, informed, non-collusive negotiations with Defendant Ashley Global Retail, LLC ("Ashley"), and falls within the range of possible approval as fair, reasonable and adequate.
2. The Full Notice, Email Notice, Publication Notice, and Claim Form (attached to the Settlement Agreement), (a) constitute the best such forms of notice practicable under the circumstances; (b) the methods for providing Notice to Class Members set forth in the Settlement Agreement constitute

¹ Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

1 valid, due, and sufficient notice to all members of the Class; and (c) the notices and Notice plan set forth
2 in the Agreement comply fully with the requirements of California Code of Civil Procedure § 382,
3 California Rules of Court, rules 3.766 and 3.769, the California and United States Constitutions, and other
4 applicable law.

5 3. For Settlement purposes only, the Class is so numerous that joinder of all Class Members
6 is impracticable.

7 4. For Settlement purposes only, Plaintiffs' claims are typical of Class claims.

8 5. For Settlement purposes only, there are questions of law and fact common to the Class,
9 which predominate over any questions affecting only individual Class Members.

10 6. For Settlement purposes only, Class Certification is superior to other available methods for
11 the fair and efficient adjudication of the controversy.

12 **IT IS ORDERED THAT:**

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

16 2. **Provision of Class Notice.** Class Counsel through the Claims Administrator will notify
17 Class Members of the Settlement in the manner specified under Section 3.3 of the Settlement Agreement.

18 3. **Claim for a Voucher.** Class Members must submit a complete, valid, and sufficient Claim
19 Form on or before the Response Deadline in order to be included in the distribution of the thirty dollar
20 (\$30.00) Vouchers. The Claim Form shall require the Class Member to confirm via checkbox as follows:

21 "Between April 13, 2018, and March 31, 2022, I made one or more purchases of items on
22 ashleyfurniture.com that was offered at a price advertised as a discount from a regular or original price."

23 or "Between March 9, 2017, and March 31, 2022, I made one or more purchases of items at an Ashley
24 corporate owned store that was offered at a price advertised as a discount from a regular or original price."

25 The words "corporate owned store" on the Claim Form will be hyperlinked to a list, by state, of Ashley's
26 corporate owned stores (excluding Stoneledge brick and mortar stores in California) where the Class

27 Member may have purchased items during the Class Period and/or may utilize their Voucher after
28 distribution. It will also require Claimants to attest to their purchase via a checkbox declaring: "I declare

1 under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”

2 Ashley will mail or email a Voucher to Class Members who submit a complete, valid and sufficient Claim
3 Form and do not request to exclude himself or herself from the Settlement no later than ninety (90)
4 calendar days after the Final Settlement Date.

5 4. **Review by Claims Administrator.** The Claims Administrator shall review all submitted
6 Claim Forms for completeness, legibility, validity, accuracy, and timeliness. The Claims Administrator
7 may employ adequate and reasonable procedures and standards to prevent the approval of duplicative and
8 fraudulent Claims. The Claims Administrator may contact any Claimant to request additional information
9 and documentation, including, but not limited to, information and documentation sufficient to allow the
10 Claims Administrator to: (a) verify that the information set forth in or attached to a Claim Form is accurate
11 and the Claimant is a Class Member; and (b) determine the validity of any Claim and/or whether any
12 Claim is duplicative or fraudulent.

13 5. **Objection to Settlement.** Class Members who have not submitted a timely written
14 exclusion request pursuant to Paragraph 7 below and who want to object to the Settlement Agreement
15 must file written objections with the Court, with copies delivered to the Claims Administrator, Class
16 Counsel, and Ashley’s Counsel no later than ninety (90) calendar days after issuance of the Class Notices.
17 The delivery date is deemed to be the date the objection is deposited in the U.S. Mail as evidenced by the
18 postmark. It shall be the objector’s responsibility to ensure receipt of any objection by the Claims
19 Administrator, Ashley’s Counsel and Class Counsel on or before the deadline. The objection must include:
20 (a) the name and case number of the Action; (b) the objecting Class Member’s full name, address, and
21 telephone number; (c) the words “Notice of Objection” or “Formal Objection”; (d) in clear and concise
22 terms, the legal and factual arguments supporting the objection; (e) attested facts supporting the objector’s
23 status as a Class Member (e.g., the date of his/her and description of the item(s) purchased); (f) the
24 objecting Class Member’s signature and the date; and (g) the following language immediately above the
25 objecting Class Member’s signature and date: “I declare under penalty of perjury under the laws of the
26 State of California that the foregoing statements regarding class membership are true and correct to the
27 best of my knowledge.” Any Class Member who submits a written objection, as described in this section,
28 has the option to appear at the Fairness Hearing, either in person or through personal counsel hired at the

1 Class Member's expense, to object to the fairness, reasonableness, or adequacy of the Settlement
2 Agreement or the proposed Settlement, or to the award of attorneys' fees. Class Members, or their
3 attorneys, intending to make an appearance at the Fairness Hearing, however, must include on a timely
4 and valid objection a statement substantially similar to "Notice of Intention to Appear." If the objecting
5 Class Member intends to appear at the Fairness Hearing through counsel, he or she must also identify the
6 attorney(s) representing the objector who will appear at the Fairness Hearing and include the attorney(s)
7 name, address, phone number, email address, and the state bar(s) to which counsel is admitted. If the
8 objecting Class Member intends to request the Court allow the Class Member to call witnesses at the
9 Fairness Hearing, such request must be made in the Class Member's written objection, which must also
10 contain a list of any such witnesses and a summary of each witness's expected testimony. Only Class
11 Members who submit timely objections containing Notices of Intention to Appear or their counsel may
12 speak at the Fairness Hearing.

13 **6. Failure to Object to Settlement.** Class Members who fail to object to the Settlement
14 Agreement in the manner specified in paragraph 5 above will: (a) be deemed to have waived their right to
15 object to the Settlement Agreement; (b) be foreclosed from objecting (whether by a subsequent objection,
16 intervention, appeal, or any other process) to the Settlement Agreement; and (c) not be entitled to speak
17 at the Fairness Hearing.

18 **7. Requesting Exclusion.** Class Members who want to be excluded from the Settlement must
19 send a signed letter or postcard to the Claims Administrator stating: (a) the name and case number of the
20 Action; (b) the full name, address, and telephone number of the person requesting exclusion; and (c) a
21 statement that the person does not wish to participate in the Settlement, postmarked no later than ninety
22 (90) calendar days after issuance of the Class Notices.

23 **8. Provisional Certification.** The Class is provisionally certified as: "All persons in the
24 United States, who during the Class Period purchased one or more products at a price advertised as a
25 discount from a regular or original price at one of Ashley's corporate owned stores (excluding Stoneledge
26 brick and mortar stores in California) or from Ashley's e-commerce website ashleyfurniture.com, and who
27 have not received a refund or credit for their purchase(s). Excluded from the Class is Ashley's Counsel,
28 Ashley's officers and directors, and the judge presiding over the Action."

1 9. **Conditional Appointment of Class Representatives and Class Counsel.** Plaintiffs
 2 Stephanie Aberl, Diana Vasquez, and Shannon Custer are conditionally certified as the Class
 3 representatives to implement the Parties' Settlement in accordance with the Settlement Agreement. The
 4 law firm of Lynch Carpenter, LLP is conditionally appointed as Class Counsel. Plaintiffs and Class
 5 Counsel must fairly and adequately protect the interests of the Class.

6 10. **Termination.** If the Settlement Agreement terminates for any reason, the following will
 7 occur: (a) Class Certification will be automatically vacated; (b) Plaintiffs will stop functioning as Class
 8 representatives; (c) Class Counsel will stop functioning as Class Counsel; and (d) this Action will revert
 9 to its previous status in all respects as it existed immediately before the Parties executed the Settlement
 10 Agreement, with the exception of Plaintiffs' filing of the First Amended Complaint. This Order will not
 11 waive or otherwise impact the Parties' rights or arguments.

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

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

17 13. **Further Procedures.** Counsel for the Parties are hereby authorized to agree to utilize all
 18 reasonable procedures in connection with the administration of the settlement which are not materially
 19 inconsistent with either this Order or the terms of the Settlement Agreement. ^{4 CAF} ^(CAF)

20 14. **Fairness Hearing.** On January (month) 19 (day), 202~~3~~, at 1:30, this Court
 21 will hold a Fairness Hearing to determine whether the Settlement Agreement should be finally approved
 22 as fair, reasonable, and adequate. Based on the date of this Order and the date of the Fairness Hearing, the
 23 following are the certain associated dates in this Settlement:

Event	Timing
Last day for Defendant, through the Class Administrator, to send Email Notice and/or Mail Notice, start operating Settlement Website, and begin to provide Publication Notice	30 calendar days after entry of this Order ⁶⁰ ^(CAF)
Last day for Plaintiffs to file fee petition	⁶⁰ 120 calendar days after entry of this Order
Last day for Class Members to file a claim, request exclusion or object to the Settlement	90 calendar days after entry of this Order

Event	Timing
Last day for Parties to file briefs in support of the Final Order and Judgment	10 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, Ashley will not be required to provide any additional notice to Class Members.

DATED: August 25, 2023

Cynthia A. Freeland

Cynthia A. Freeland
San Diego Superior Court Judge