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FILED
Clerk of the Superior Court

MAR 03 2017

By: R. Lindsey-Cooper, Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

JEFF CARD, an individual and on behalf of all
others similarly situated,

Plaintiff,

vs.

JOE'S JEANS, INC., a California Limited
Liability Company; and DOES 1 through 100,
inclusive,

Defendants

CASE NO.: 37-2015-00021834-CU-BT-
CTL

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
APPROVING FORM AND MANNER
OF SERVICE

Judge: Hon. Joan M. Lewis
Dept.: C-65

1 WHEREAS, this action is pending before this Court as a putative class action; and
2 WHEREAS, the parties applied to this Court for an Order preliminarily approving the
3 settlement of the above-captioned litigation (“Action”) in accordance with the Agreement of
4 Settlement, dated April 20, 2016 and the Amendment thereto, dated November 9, 2016, and the
5 Second Amendment thereto dated February 15, 2017, which, together with the exhibits annexed
6 thereto, sets forth the terms and conditions for a proposed settlement of the Action, and for
7 dismissal of the Action with prejudice against defendant Joe’s Jeans (“Joe’s”) and Hudson
8 Clothing, LLC (“Hudson”) (collectively “Defendants”) upon the terms and conditions set forth
9 therein; and the Court having read and considered the Settlement Agreement and the exhibits
10 annexed thereto;

11 NOW, THEREFORE, it is hereby ORDERED:

12 1. This Preliminary Approval Order incorporates by reference the definitions in the
13 Agreement of Settlement, and all terms used herein shall have the same meaning as set forth in
14 the Agreement of Settlement.

15 2. The Court does hereby preliminarily approve the Agreement of Settlement.

16 3. The Court finds that the requirements of Section 382 of the Code of Civil
17 Procedure, California Rules of Court 3.766 and 3.769 have been satisfied, in that (a) the
18 Settlement Class is so numerous that joinder of all individual Settlement Class Members is
19 impracticable; (b) there are questions of law and fact common to the Settlement Class and those
20 common questions of law and fact predominate over any individual questions; (c) the claims of
21 the Plaintiff are typical of the claims of the Class; (d) the Plaintiff and Class Counsel will fairly
22 and adequately represent the interests of the Class; and (e) a class action is superior to other
23 available methods for the fair and efficient adjudication of the controversy.

24 4. Accordingly, the Court hereby conditionally certifies the Settlement Class for
25 settlement purposes only. The Settlement Class is defined as follows:

26 **All person in the United States who purchased Current Joe’s**
27 **Jeans jeans or Hudson Clothing jeans from January 7, 2011 to**
28 **December 31, 2015 that were sold with an unqualified “Made**
 in USA” or “Made in the USA” label. Excluded from the

1 **Settlement Class are all persons who are employees, directors,**
2 **officers, and agents of Defendants or their subsidiaries and**
3 **affiliated companies, as well as the Court and its immediate**
4 **family and staff.**

5 5. Having considered the relevant factors set forth in Section 382 of the Code of
6 Civil Procedure, California Rules of Court 3.766 and 3.769, the Court has made a preliminary
7 determination that Plaintiffs Jeff Card, Einat Noiman, and Maya Schulert and Class Counsel are
8 adequate representatives of the Settlement Class and hereby appoints them as such solely for
9 purposes of settlement.

10 6. **Preliminary Approval of Settlement.** The Parties have agreed to settle the
11 Action upon the terms and conditions set forth in the Agreement, which has been filed with and
12 reviewed by the Court.

13 7. The Court preliminarily finds: (a) that Plaintiff in the Action, by and through her
14 counsel, investigated the facts and law relating to the matters alleged in the complaint and
15 evaluated the risks associated with continued litigation, trial, and/or appeal; (b) that the
16 Settlement was reached as a result of arm's-length negotiations between counsel for Plaintiff and
17 counsel for Defendant and a mediation session with a respected mediator, the Honorable Wayne
18 Peterson (Ret.); (c) that the proponents of the settlement, counsel for the parties, are experienced
19 in similar litigation; and (d) that the Settlement confers substantial benefits upon the Settlement
20 Class, particularly in light of the damages that Plaintiff and Class Counsel believe are potentially
21 recoverable or provable at trial, without the costs, uncertainties, delays, and other risks
22 associated with continued litigation, trial, and/or appeal.

23 8. Accordingly, the Court preliminarily approves the Agreement and the terms and
24 conditions of the Settlement as fair, reasonable, and adequate pursuant to section 382 of the Code
25 of Civil Procedure, California Rules of Court 3.766 and 3.769, subject to further consideration at
26 the Fairness Hearing (as described below).

27 9. **Fairness Hearing.** A hearing (the "Fairness Hearing") will be held before this
28 Court at Department C-65, 220 West Broadway, San Diego, CA 92101 on July 28, 2017,

1 at ~~3:30~~ 2 a.m./p.m., to determine: (a) whether the proposed settlement of the Action on the terms
2 and conditions provided for the in the Settlement Agreement are fair, reasonable and adequate,
3 and (b) whether a final approval order and judgment should be entered herein. The Court may
4 adjourn or continue the Final Approval Hearing without further notice to the Settlement Class.

5 10. The parties may further modify the Agreement prior to the Fairness Hearing so
6 long as such modifications do not materially change the terms of the Settlement provided
7 thereunder. The Court may approve the Agreement with such modifications as may be agreed to
8 by the parties, if appropriate, without further notice to the Settlement Class.

9 11. After the Fairness Hearing, the Court may enter a Final Order and Judgment in
10 accordance with the Agreement that will adjudicate the rights of the Settlement Class Members
11 (as defined in the Agreement) with respect to the claims being settled.

12 12. **Approval of Form of Notice.** The Court hereby approves, as to form and
13 content, the forms of notice annexed as Exhibits A, B, C, D, E, and F to Settlement Agreement
14 and the Notice Program set forth in paragraphs E.1 to E.6 of the Settlement. The Court finds that
15 the Notice and Short-Form Notice meet the requirements of section 382 of the Code of Civil
16 Procedure, California Rules of Court 3.766 and due process, and are the best notice practicable
17 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
18 thereto.

19 13. **Approval of Notice Procedures.** The Court hereby approves the procedures set
20 forth in the Settlement Agreement, and described below, for providing notice to the proposed
21 Settlement Class. The Court finds that the procedures are fair, reasonable, and adequate; the best
22 notice practicable under the circumstances; consistent with due process; and shall constitute due
23 and sufficient notice to all persons entitled thereto.

24 14. Within twenty (20) days of the date of this Order, the Court hereby directs
25 Defendant to distribute the Notice as set forth in paragraphs E.1 to E.6 of the Settlement.
26 Defendants shall pay the costs of claims administration, including the costs associated with
27 preparing, printing and disseminating to the Settlement Class the Notices as set forth in
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1 paragraphs E.1 to E.6 of the Settlement Agreement in amount not to exceed \$60,000.00. Any
2 cost exceeding \$60,000 shall be paid by Class Counsel.

3 15. At least thirty (30) days prior to the Fairness Hearing, Defendants, through their
4 counsel of record, shall cause to be filed with the Court a sworn affidavit evidencing compliance
5 with the provisions of Settlement Agreement as it relates to providing Notice.

6 16. Pending resolution of these settlement proceedings, no other action now pending
7 or hereinafter filed arising out of all or any part of the subject matter of the Action shall be
8 maintained as a class action and, except as provided by further order of the Court, for good cause
9 shown, all persons are hereby enjoined, during the pendency of these settlement proceedings,
10 from filing or prosecuting purported class actions against Defendants with respect to any of the
11 Released Claims as defined in the Settlement Agreement.

12 17. Upon the Settlement Effective Date, as defined in the Settlement Agreement, all
13 members of the Settlement Class who have not opted out of the settlement shall be enjoined and
14 barred from asserting any of the Released Claims against Defendants and the Released Parties,
15 and each Class Member shall be deemed to release any and all such Released Claims as against
16 Joe's Jeans and the Released Parties, as these terms are defined in the Settlement Agreement.

17 18. Any Class Member may enter an appearance through counsel of such member's
18 own choosing and at such member's own expense or may appear individually and show cause, if
19 he or she has any facts or arguments to present, as to: (a) why the proposed settlement of the
20 Action as set forth in the Settlement Agreement should or should not be approved as fair,
21 reasonable, and adequate; and (b) why the final approval order and judgment should or should
22 not be entered on the proposed Settlement Agreement. Service of any objections shall be made
23 to Class Counsel, Attn: John H. Donboli, DEL MAR LAW GROUP, LLP, 12250 El Camino
24 Real, Suite 120, San Diego, CA 92130, and Joe's Jeans and Hudson Clothing counsel: Kevin D.
25 Rising, BARNES & THORNBURG, LLP, 2029 Century Park East, Suite 300, Los Angeles, CA
26 90067. In addition, if a Class Member wishes to submit to the Court any brief in support of his
27 or her objection, he or she must file the brief with the Court and serve it on both Class Counsel
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1 and counsel for Defendants prior to May 2nd, 2017. In addition, Class Members may
2 personally appear and object at the Fairness Hearing.

3 19. Any Class Member who does not make their objection in the manner provided for
4 in this Preliminary Approval Order shall be deemed to have waived such objection and shall
5 forever be foreclosed from making any objection to or appeal of the fairness, reasonableness or
6 adequacy of the proposed settlement, and to the award of fees and expenses to Class Counsel and
7 other costs, all as set forth in the Settlement Agreement and Preliminary Order.

8 20. Any member of the Settlement Class may choose to exclude himself or herself
9 from the settlement. Any such person who chooses to be excluded from the settlement will not
10 be entitled to any recovery and will not be bound by the Settlement Agreement or have any right
11 to object, appear or comment thereon. Any such person who chooses to request exclusion may
12 do so by submitting a written statement requesting exclusion from the class on or before
13 June 12, 2017. Such written request for exclusion must contain the name, address,
14 and telephone number of the person requesting exclusion, reference the name and number of this
15 litigation (*Card v. Joe's Jeans*, San Diego Superior Court Case No.: 37-2015-00021834-CU-BT-
16 CTL, *Noiman v. Hudson Clothing, LLC*, San Diego Superior Court Case No. 37-201500000566-
17 CU-BT-CTL and *Schulert v. Hudson Clothing, LLC*, United States District Court, District of
18 Maine Case No.: 2:15-cv-00276-JDL), be signed personally by the person requesting exclusion,
19 and be mailed to Class Counsel and counsel for Defendants and postmarked on or before
20 June 12, 2017.

21 21. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of
22 the negotiations or proceedings connected with it, shall be construed in this or any lawsuit as an
23 admission or concession by Defendants of the truth of any of the allegations of the Action, or of
24 any liability, fault, or wrongdoing of any kind, or by the named Plaintiff Card or any other
25 member of the Settlement Class of the merit of any defense or lack of merit of any claim.

26 22. The Court reserves the right to continue or adjourn the date of the Fairness
27 Hearing without further notice to the Settlement Class, and retains jurisdiction to consider all
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1 further applications arising out of or connected with the proposed settlement.

2 23. Class Counsel and Defense Counsel are hereby authorized to use all reasonable
3 procedures in connection with approval and administration of the settlement that are not
4 materially inconsistent with this Preliminary Approval Order or the Agreement, including
5 making, without further approval of the Court, minor changes to the form or content of the
6 Notice, Summary Notice, and other exhibits that they jointly agree are reasonable or necessary to
7 effectuate the Settlement and the purposes of this Preliminary Approval Order.

8 IT IS SO ORDERED.

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Dated: 3/3/17

Joan M Lewis

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HONORABLE JOAN M. LEWIS
SUPERIOR COURT JUDGE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

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