

SHORTLEGAL, APC
350 10TH AVE., SUITE 1000
SAN DIEGO, CA 92101

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

LILA BURNS, Individually and on behalf of
all similarly-situated employees of Defendants
in the State of California,

Plaintiffs,

v.

DRIVELINE RETAIL MERCHANDISING,
INC., a Corporation, and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 34-2018-00246691

Unlimited Civil - Amount Demanded
Exceeds \$25,000.00

**[PROPOSED] ORDER RE PLAINTIFF'S
MOTION FOR ORDER: (1) PROVISIONALLY
CERTIFYING SETTLEMENT CLASS;
(2) PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT; (3) DIRECTING
DISTRIBUTION OF NOTICE OF
SETTLEMENT TO THE CLASS; (4)
APPOINTING CLASS COUNSEL AND CLASS
REPRESENTATIVE; (5) SETTING A
HEARING FOR FINAL APPROVAL OF
CLASS SETTLEMENT**

IMAGED FILE

CLASS ACTION [CCP § 382]

Date: October 17, 2019

Time: 2:00 p.m.

Judge: David I. Brown

Dept.: 53

Trial Date: None set

Complaint filed: December 17, 2018

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Kira M. Rubel (SBN No. 253970)
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2 Plaintiff Lila Burns unopposed Motion for an Order preliminarily approving the class action
3 settlement; provisionally certifying a class for settlement purposes only; directing distribution to the class
4 of the notice to the class, appointing class counsel, appointing the claims administrator, and scheduling a
5 final approval hearing was considered on October 17, 2019 at 2:00 p.m. at Dept.: 53. The Court has
6 considered the Stipulated Settlement Agreement and Release of Claims (“Agreement”), the submissions
7 of counsel, and all other papers filed in this action. The matter having been submitted and good cause
8 appearing therefore, the Court orders as follows:

9 1. The Court preliminarily approves of the settlement set forth in the Agreement as falling
10 within the range of possible approval and meriting submission to potential Class Members for
11 consideration, subject only to the consideration of objections of Class Members and the final review by
12 the Court.

13 2. For purposes of, and solely in connection with, the settlement, the Court finds that each of
14 the requirements for certification of the class set forth in Plaintiff’s unopposed Motion for Preliminary
15 Approval of Class Action Settlement are met and hereby certifies the following Settlement Class:

16 *All current and former employees who worked as retail merchandisers (or*
17 *otherwise similar job duties and/or title) for Defendant within the State of*
18 *California at any time from August 28, 2015 through the date the court*
enters an order granting preliminary approval or 30 days after the motion
for preliminary approval is filed, whichever date is earlier.

19 3. The Court approves, as to form and content, for dissemination and distribution to the Class
20 Members, the proposed Notice of Proposed Class Action Settlement (“Notice”) attached as Exhibit 2 to
21 the Declaration of Brian R. Short in support of Plaintiff’s Motion for Preliminary Approval.

22 4. The Court hereby appoints Brian R. Short and Dorota A. James of ShortLegal, APC and
23 Kira M. Rubel of Law Offices of Kira M. Rubel, PLLC as counsel for the Final Settlement Class.

24 5. The following dates shall govern for purposes of this settlement:

Deadline	Activity
October 26, 2019 (or 7 business days after Prelim. Order)	Defendant shall provide the Claims Administrator with the requisite Class Member database.
November 7, 2019	Notices shall be mailed to Class Members.

1 2 3	(or 10 calendar days after Defendant provides class database to Claims Administrator)	
4	30 days after initial mailing of Notice	All Requests for Exclusion must be postmarked no later than this date.
5	30 days after initial mailing of Notice	All objections to the settlement must be filed and served no later than this date.
6 7	_____, 2019 (or 16 court days prior to final approval hearing)	Plaintiff's Counsel shall file their Motion for Final Approval of Class Action Settlement.
8 9	_____, 2019 (or 16 court days prior to final approval hearing)	Plaintiff's Counsel shall file their Motion for Attorney's Fees and Costs.
10 11	_____, 2019 (or 10 calendar days prior to Final Approval Hearing)	Plaintiff's Counsel shall provide to the Court a declaration by the Claims Administrator of due diligence and proof of mailing of the Notice.
12 13	_____, 2019	Hearing on Plaintiff's Motion for Final Approval of Class Action Settlement and Plaintiff's Motion for Attorney's Fees and Costs.

15 6. The Court hereby appoints Phoenix Class Administration Solutions as the Claims
 16 Administrator of the settlement.

17 7. The Claims Administrator shall send the Notice by first class United States mail to the
 18 Settlement Class on or before November 7, 2019 (or 21 calendar days after Preliminary Approval). Each
 19 Class Member shall have until 30 days after initial mailing of Notice within which to postmark his or her
 20 request for exclusion and return it to the Claims Administrator.

21 8. The Court finds that the mailing of the Notice as set forth in the Agreement constitutes the
 22 best notice practicable under the circumstances to the Settlement Class, satisfies the requirements of
 23 California Code of Civil Procedure and due process, and shall constitute due and sufficient notice to all
 24 persons entitled thereto.

25 9. Any Class Member may request to be excluded from the Settlement Class by submitting a
 26 Request for Exclusion from the settlement within 30 days after initial mailing of Notice by following the
 27 procedure as set forth in the Notice titled "What Are Your Options?" Any Request for Exclusion must
 28 include the name, address, telephone number, last four digits of their social security number and signature,

1 and the dates of employment of the Class Member requesting exclusion. Any Class Member who timely
2 requests exclusion in compliance with these requirements (i) shall not have any rights under this
3 settlement; (ii) shall not be entitled to receive any Settlement Payments under this settlement; and (iii)
4 shall not be bound by this settlement or the Court's Order and Final Judgment.

5 10. Any Class Member may object to the settlement. To object, the Class Member may file a
6 written objection and a notice of intention to appear at the Final Approval Hearing and must send copies
7 to Class Counsel and Defendant's Counsel as set forth in the Notice. Class Members may file and serve
8 their objections within 30 days after initial mailing of Notice. Class Members who fail to file and serve
9 timely, written objections in the manner specified in the Notice shall be deemed to have waived any
10 objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the
11 settlement, unless otherwise ordered by the Court. Counsel for the parties may, at least 10 days before
12 the Final Approval Hearing, file responses to any written objections submitted to the Court.

13 11. Class Counsel shall provide to the Court, at least 10 calendar days prior to the Final
14 Approval Hearing, a declaration by the Claims Administrator of due diligence and proof of mailing with
15 regard to the mailing of the Notice.

16 12. Neither this Order nor the Agreement nor any of its terms or provisions, nor any of the
17 negotiations or proceedings connected with it, shall be construed as an admission or concession by
18 Defendant of the truth of any of the allegations in the complaint or of any liability, fault or wrongdoing of
19 any kind.

20 13. Upon final approval by the Court of the Agreement, and except as to such rights or claims
21 as may be created by the settlement, the Class Representative, the Settlement Class and each Class
22 Member who has not submitted a valid and timely Request for Exclusion, each fully release and will be
23 deemed to have forever released and discharged the Released Claims. In the event that the settlement
24 does not become final for any other reason, the settlement will be null and void.

25 14. Class Counsel shall file their motion for final approval at least 16 court days before the
26 date of the Final Approval Hearing.

27 15. Class Counsel shall file their application for attorney's fees and costs for the named
28 Plaintiff at least 16 court days before the date of the Final Approval Hearing.

16. On _____, at _____ a.m., or as soon thereafter as counsel may be heard in Department

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53, a hearing will be held to determine whether the proposed settlement, including payment of Class Counsel’s attorney’s fees and costs and the Class Representative’s service payment, should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class. The Court may adjourn or continue the Final Approval Hearing without further notice to the Settlement Class.

IT IS SO ORDERED.

Dated: _____

HON. DAVID I. BROWN
JUDGE OF THE SUPERIOR COURT