

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ERIK B. STANFORD and PATRICIA KOZMINSKI,
individuals, on behalf of all others similarly situated,

Plaintiffs,

v.

UNITED RETAIL, INCORPORATED, a Delaware
corporation, and DOES 1 to 100, inclusive,

Defendants.

Case No. BC 294282

[Assigned to Hon. Anthony J. Mohr]

**NOTICE OF PENDENCY OF CLASS ACTION,
PROPOSED SETTLEMENT AND HEARING
DATE FOR COURT APPROVAL**

Dept.: 309

ATTENTION: ALL PERSONS WHO WERE EMPLOYED BY UNITED RETAIL INCORPORATED WITHIN THE STATE OF CALIFORNIA IN THE POSITION OF: (1) SALARIED STORE MANAGER BETWEEN APRIL 21, 1999 AND JANUARY 15, 2005; (2) CO-MANGER BETWEEN APRIL 21, 1999 AND JANUARY 31, 2004; AND/OR (3) AS A FULL-TIME EMPLOYEE BETWEEN APRIL 21, 1999 AND DECEMBER 31, 2004.

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHT TO MAKE A CLAIM FOR PAYMENT OR TO ELECT NOT TO BE INCLUDED IN THE CLASS AS FURTHER DESCRIBED BELOW.

Pursuant to the order of the Superior Court of the State of California for Los Angeles County entered on May 17, 2005, YOU ARE HEREBY NOTIFIED AS FOLLOWS: A settlement has been reached between the parties in the above-captioned lawsuit pending in the Superior Court of the State of California for Los Angeles County on behalf of all individuals employed by Defendant United Retail Incorporated (hereinafter "United Retail" or "Defendant") in a California store in the position of salaried Store Manager between April 21, 1999 and January 15, 2005, Co-Manager between April 21, 1999 and January 31, 2004, and/or in the position of a full-time employee between April 21, 1999 and December 31, 2004. You have received this notice because company records indicate that you worked in one or more of the above positions for United Retail within the stated time periods. This notice is designed to advise you of how you can participate in this settlement or how you can be excluded from the settlement.

I. BACKGROUND OF THE CASE

On April 21, 2003, Plaintiff Erik B. Stanford filed a proposed class action lawsuit ("Action") in the Los Angeles County Superior Court against United Retail, on behalf of himself and all other employees similarly situated. Plaintiff Patricia Kozminski was added as a named Plaintiff on February 4, 2004. The Action generally alleges that United Retail (1) failed to pay the Store Managers overtime and failed to provide them unpaid meal periods; (2) improperly deducted certain amounts from bonuses for Store Managers and Co Managers; and (3) failed to pay or carry forward accrued vacation and personal time off ("PTO"). The Action alleges causes of action for violations of the California Labor Code, California Business and Professions Code, and the Fair Labor Standards Act ("FLSA").

United Retail contends that the Store Managers are exempt from California state overtime requirements and California state meal period requirements by virtue of one or more exemptions recognized under California law. The Parties disagree on the number of hours actually worked by the Plaintiffs and on whether Plaintiffs were permitted to take meal periods. United Retail also disputes the legal and factual basis for the other claims for bonuses and vacation/PTO and contends that class recovery is inappropriate for any of the claims.

After the case was filed, the parties exchanged information under oath, including over 65,000 pages of United Retail records reflecting hours reported to have been worked by Store Managers and Co-Managers, the gross amounts and deductions from bonuses paid to Store Managers and Co-Managers, and vacation and PTO accrued and used. After two all-day mediations on November 5, 2004 and December 28, 2004, and numerous additional meetings and conversations between counsel for Plaintiffs and Defendant, the parties reached a full settlement of the case, subject to Court approval. On May 17, 2005, the Court preliminarily approved the settlement, subject to final review at a fairness hearing, as described below.

As a part of the settlement, the parties have entered into a Stipulation and Settlement Agreement of Class Action Claims (hereinafter "Stipulation"). The Class Members consist of those individuals employed by United Retail in California in the position of salaried Store Manager between April 21, 1999 and January 15, 2005, Co-Manager between April 21, 1999 and January 31, 2004, and/or as a full-time employee between April 21, 1999 and December 31, 2004, and who do not opt out of the settlement as explained herein. The Settlement Class Members consist of all Class Members who submit a Claim Form/FLSA Consent Form ("Claim Form") that is approved for payment under the terms of the Stipulation.

If you are a Class Member as defined above, you have the opportunity to participate in the settlement by submitting the Claim Form.

II. SUMMARY OF THE PROPOSED SETTLEMENT

The settlement provides for the following:

Maximum Settlement Amount:

United Retail has agreed to pay up to the total sum of \$2,212,250 (hereinafter "maximum settlement amount") to settle this case. This sum includes payment of attorney's fees and costs to Class Counsel, enhancement payments to the named plaintiffs, administrative fees and all class claims, all of which are further explained below.

Settlement Formula:

United Retail will pay to each Settlement Class Member (as defined below) who submits a valid and timely Claim Form, sums composing the following Settlement Classes and Settlement Amounts (after deducting projected attorney's fees and costs, enhancement payments to the Class Representatives, and costs of administration):

1. Class No. 1: Class No. 1 consists of all Store Managers employed by United Retail in California at any time between April 21, 1999 through January 15, 2005, for the claims of overtime, meal periods and bonuses. The amount of the Settlement Fund allocated for these claims is \$1,359,090. Payment to an individual Settlement Class Member is estimated to be \$80.72 for each full work week for overtime and meal break claims, plus a pro-rated portion of the amount of \$64,818 for the bonus claim. The pro rata portion of the bonus payable to each Settlement Class Member is approximately one-third (1/3) of the bonus that the claimant was allegedly denied. A full work week is one in which the person actually worked for five or more days in the week.

2. Class No. 2: Class No. 2 consists of all Co Managers employed by United Retail in California at any time between April 21, 1999 through January 31, 2004, for bonuses claims. The amount of the Settlement Fund allocated for these claims is \$5,801. Payment to an individual Settlement Class Member is the pro rated portion of \$5,801 that is applicable to his/her bonus claims based on the amounts, if any, withheld from his/her respective bonus, as reflected in United Retail's payroll records. The pro rated portion payable to each Settlement Class Member is approximately one-third (1/3) of the total monies that the claimant was allegedly denied.

3. Class No. 3: Class No. 3 consists of all full time employees employed by United Retail in California at any time between April 21, 1999 through December 31, 2004, for the claim of vacation pay and PTO. The amount of the Settlement Fund allocated to these claims is \$239,296. This is payable to individual Settlement Class Member at the rate of \$6.369 for each full hour of accrued vacation and PTO time not paid.

Except for the enhancement payments paid to the class representatives, fifty-five percent (55%) of all settlement payments to Settlement Class Members represents settlement of claims for alleged unpaid wages and shall be subject to the withholding of all applicable local, state and federal taxes; and the remaining forty-five percent (45%) of the settlement payments shall be treated as other damages, including, but not limited to, interest and compensatory damages, and will not be subject to tax withholding by United Retail.

If necessary, based upon the total number of eligible weeks claimed in all valid and timely claims concerning the overtime and meal break claims of salaried Store Managers, the weekly rate payable for such claims may be reduced pro-rata so that that the total sum of attorney's fees and costs, service enhancements to the named plaintiffs, administrative costs and class claims does not exceed the maximum settlement amount. The actual individual settlement amounts will be calculated once all disputes have been resolved, Class Counsel's attorney's fees and out-of-pocket expenses have been approved by the Court, and the costs of administration have been determined. Any checks not cashed within sixty (60) days of mailing will be voided, and such funds shall become the property of the state to which the checks were mailed. Neither United Retail nor Class Counsel shall be responsible for lost or stolen checks. United Retail shall have no obligation to pay any settlement funds to any Class Member who fails or neglects to submit a valid claim form.

Settlement Class Members will receive an IRS Form W-2 for the portion of the settlement payment for alleged unpaid wages and an IRS Form 1099 for the portion of the settlement payment for other damages and/or the enhancement paid to the class representative. Settlement Class Members shall be responsible for properly declaring all such income to all appropriate taxing authorities, and for paying any taxes due on such amounts.

Settlement Class Member Defined:

Settlement Class Members will include only those members of the Class who timely submit a Claim Form (attached hereto), signed under penalty of perjury.

Calculations Will Be Based on United Retail's Records:

For each Class Member submitting a claim, the amount payable to the Settlement Class Member will be calculated from United Retail's records. United Retail's records will be determinative with respect to the dates worked in each of the Covered Positions, the number of full weeks worked during the Covered Period concerning the overtime and meal break claims of salaried Store Managers, and the amounts deducted from bonuses and the accrual of vacation and PTO time of all Class Members. If a Settlement Class Member disputes the accuracy of United Retail's records, the dispute will be resolved as described below in "Disputed Claims".

Release:

All Class Members who have not validly requested exclusion will be bound by the terms of the Settlement with respect to their state law claims, even if the Class Member does not submit a Claim Form. The Stipulation and the attached Claim Form both contain a release, which releases defendant United Retail from the "Released Claims" as defined below and all Class Members who do not validly request exclusion will be barred from suing or making a claim that is related to the Released Claims. This release is more fully described below.

A. As of the Effective Date, the Class Members, including the Named Plaintiffs, release United Retail Incorporated and each of its past or present officers, directors, shareholders, employees, agents, principals, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, parent companies and attorneys and all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents (the "Released Parties"), from the "Released Claims." For purposes of this Stipulation and Settlement, the "Released Claims" are defined as: all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal constitution, statute, rule or regulation, including state wage and hour laws and the federal Employee Retirement Income Security Act, whether for economic damages, accrued vacation time, accrued PTO, non-economic damages, restitution, penalties or liquidated damages, arising out of, relating to, or in connection with:

(1) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, which are or could be the basis of claims that United Retail did not comply with all state and federal wage and hour laws related to any claims: (a) that United Retail did not pay the Store Managers all amounts due for work that was performed by the Store Managers for United Retail; (b) that United Retail failed to provide unpaid meal periods; (c) that United Retail improperly deducted amounts from bonuses for Store Managers and Co-Managers; (d) that United Retail failed to pay or carry forward all accrued and unused vacation and PTO; (e) that United Retail failed to contribute amounts to the United Retail Group, Inc. Retirement Savings Plan based on the amounts claimed in this Class Action for hours worked, overtime, vacation, PTO, meal periods and deductions from bonuses; or (f) that United Retail owes wages, penalties, interest, attorneys' fees or other damages of any kind based on a failure to comply with any state wage and hour laws related to the foregoing, at any times on or before the last day of the Class Period (whether based on California state wage and hour law, contract, or otherwise) including, but not limited to, penalties based upon Labor Code Sections 201, 202, 203, 204, 210, 226.7, 558, 1199, and 2699; and/or

(2) the causes of action asserted in the Class Action, including any and all claims for alleged failure to pay overtime, for alleged failure to provide unpaid meal periods, for improper deductions from bonuses, for alleged failure to pay or carry forward vacation and PTO, and, as related to the foregoing, for alleged unlawful, unfair and/or fraudulent business practices under California Business and Professions Code § 17200, et seq. For the avoidance of doubt, the Class Members shall not be entitled to carry forward any vacation time or PTO that shall have accrued prior to January 1, 2004.

B. The Released Claims include any unknown claims that arise out of or relate to violations by United Retail of state or federal wage and hour law that are described above and that the Class Members do not know or suspect to exist in their favor at the time of

the release, which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement.

C. All Class Members who return a Claim Form will be deemed to have consented to release the Released Parties from any federal wage and hour law claim that is based on the claims described in (A) or (B) above.

Disputed Claims:

Before any claim is denied or modified for any reason by the Claims Administrator, both Class Counsel and United Retail's counsel must agree to the denial or modification of any such claim. If any claimant disputes the accuracy of United Retail's records with respect to the dates worked in positions held, or the calculation of his or her settlement payment, or if United Retail believes a claim is fraudulent, as applicable, the dispute shall be first submitted to Class Counsel and United Retail's counsel for attempted mutual resolution. Any claimant who disputes such information shall describe the nature and circumstances of his/her dispute on the Claim Form provided. Any Class Member who tenders such a dispute shall provide corrected information on the Claim Form, and shall submit to the Claims Administrator copies of any supporting documents available to the Class Member. If said counsel are unable to agree on the resolution of any such disputed claim, upon demand by the claimant, the matter shall be submitted for a binding decision to a neutral arbitrator selected by the parties. The matter shall be heard by the arbitrator by submission of written evidence and without a hearing. If the parties are unable to agree on the selection of an arbitrator, prior to the hearing on Final Approval of the settlement, JAMS shall randomly select an arbitrator from its employment panel of arbitrators for the Los Angeles area. The fees of the neutral arbitrator shall be paid out of the settlement. The neutral arbitrator will retain complete discretion to deal with any and all issues related to any dispute by a class member as to length of employment in a Covered Position, full weeks worked as defined and calculated pursuant to the Stipulation described in Section I of this Notice, calculation of a settlement payment, or the validity of any claim. The submission of any claim to arbitration shall be at the election of the Settlement Class Member.

Enhancements For The Class Representatives:

Subject to Court approval, Class Representatives Erik B. Stanford and Patricia Kozminski will be paid an enhancement of \$10,000 each, for a total of \$20,000, for their service as class representatives, as well as their willingness to accept the risk of agreeing to advance class counsel's costs and/or paying Defendant's attorneys' fees and costs in the event of an unsuccessful outcome on a motion for summary judgment, a motion for class certification, at trial or on appeal.

Attorneys' Fees:

Subject to final Court approval, United Retail has agreed to the request of class counsel for the sum of Five Hundred Fifty Three Thousand Sixty Three and No/100 Dollars (\$553,063) for attorney's fees, and Ten Thousand and No/100 Dollars (\$10,000) for their costs and expenses incurred in prosecuting this action. If all Class Members submit claims, the payment of attorneys' fees to class counsel will represent twenty five percent (25%) of the total amount paid by United Retail under the terms of the parties' settlement.

Administrative Fees:

United Retail agrees to pay the reasonable costs of the settlement administrator associated with the administration of this settlement, estimated to be in the sum of Twenty Five Thousand and No/100 Dollars (\$25,000). If the cost of administration of the settlement exceeds \$25,000, Defendant shall pay the excess outside of this settlement.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?

Submitting A Claim

If you wish to submit a claim, you must complete and sign the Claim Form and return it, via U.S. Mail, to:

United Retail Claims Administrator
c/o Desmond, Marcello & Amster
Post Office Box 451999
Los Angeles, California 90045
Telephone (310) 216-1400

The Claim Form must be postmarked no later than July 21, 2005. If the Claim Form is sent from within the United States it must be sent through the United States Postal Service via First Class U.S. Mail or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your Claim Form. If you lose, misplace, or need another Claim

Form, you should contact the attorneys for the plaintiff class listed below or the Settlement Administrator listed above. United Retail encourages Class Members to make claims, and will not discourage anyone from making a claim.

Excluding Yourself From The Settlement

Any person that does not wish to participate in the settlement may exclude themselves (i.e., "opt out") by submitting a written statement requesting exclusion from the Class. Such written request for exclusion must contain your name, address, telephone number and Social Security number, and the location and years of the your employment by United Retail, and must be returned by mail to the Claims Administrator by First Class U.S. Mail, or the equivalent, to:

United Retail Claims Administrator
c/o Desmond, Marcello & Amster
Post Office Box 451999
Los Angeles, California 90045
Telephone (310) 216-1400

The written request for exclusion must be postmarked no later than July 21, 2005. If the request for exclusion is sent from within the United States it must be sent through the United States Postal Service via First Class U.S. Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request for exclusion.

Any person who files a complete and timely request for exclusion shall, upon receipt by the claims administrator, no longer be a member of the Class, shall be barred from participating in any portion of the settlement, **and shall receive no benefits from the settlement.** Any such person, at their own expense, may separately pursue any claims he/she may have against United Retail.

DO NOT SUBMIT BOTH THE CLAIM FORM AND REQUEST FOR EXCLUSION. IF YOU SUBMIT BOTH, THE REQUEST FOR EXCLUSION WILL BE INVALID, YOU WILL BE INCLUDED IN THE SETTLEMENT CLASS, AND YOU WILL BE BOUND BY THE TERMS OF THE SETTLEMENT.

Objection To Settlement

You can object to the terms of the settlement before final approval. However, if the Court rejects your objection, you will still be bound by the terms of the settlement unless you have submitted a valid and timely request for exclusion. To object, you must file a written objection and a notice of intention to appear at the Final Approval hearing as described below in Section IV, and send copies to the following:

CLASS COUNSEL

William E. Harris, Esq.
Matthew A. Kaufman, Esq.
Harris & Kaufman
15260 Ventura Blvd., Suite 2250
Sherman Oaks, CA 91403
Telephone (818) 990-1999

DEFENDANT'S COUNSEL

Charles F. Barker, Esq.
Geoffrey DeBoskey, Esq.
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448
Telephone (213) 617-5401

Any written objections shall state each specific reason in support of your objection and any legal support for each objection. Your objection must also state your full name, address, date of birth, and the dates of your employment by United Retail. To be valid and effective, any objections to approval of the settlement must be filed with the Clerk of the Court and served upon each of the above-listed attorneys no later than August 1, 2005. **DO NOT TELEPHONE THE COURT.** The Court address is: Los Angeles County Superior Court, Department 309, 600 South Commonwealth Avenue, Los Angeles, California 90005.

If you choose to file an objection to the terms of this settlement, you may enter an appearance in propria persona (meaning you choose to represent yourself) or through your own attorney. To do so, you must file an Entry of Appearance with the Clerk of the Los Angeles County Superior Court, and deliver copies to each of the attorneys listed above. Such Entry of Appearance must be filed with the Court and delivered to the above attorneys no later than August 1, 2005. You will then continue as a Class Member either in propria persona or with representation by your own attorney, and you will be solely responsible for the fees and costs of your own attorney. At the Final Approval hearing, the Court will be asked to approve the settlement.

IF YOU INTEND TO OBJECT TO THE SETTLEMENT, BUT WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT FUNDS, YOU MUST TIMELY FILE YOUR CLAIM AS STATED ABOVE. IF THE COURT APPROVES

THE SETTLEMENT DESPITE ANY OBJECTIONS, AND YOU DO NOT HAVE A CLAIM FORM ON FILE, YOU WILL NOT RECEIVE ANY SETTLEMENT PROCEEDS.

IV. EFFECT OF THE SETTLEMENT

Released Rights And Claims

The settlement is intended to settle all claims against United Retail that members of the Settlement Class have asserted or could have asserted in the lawsuit regarding the alleged violations of wage and hour laws by United Retail through final approval of the settlement. The release will extend to United Retail, and its present or former agents, servants, attorneys, subsidiaries, divisions, affiliates, shareholders, officers, directors, employees, heirs, executors, representatives, successors, and assigns. Upon final approval by the Court, the case will be dismissed with prejudice.

Payment to Claimants

Settlement Payments shall be made as follows:

- A. The Fees Award and Enhancement to the Named Plaintiffs shall be paid by seven days after the Effective Date of the settlement;
- B. 45% of each Settlement Class Member's Settlement Awards (up to \$721,884.15 in the aggregate) shall be paid to the Settlement Class Members seven days after the Effective Date; and
- C. The remaining 55% of each Settlement Class Member's Settlement Awards (up to \$882,302.85 in the aggregate) shall be mailed to the Settlement Class Members no later than April 28, 2006. This percentage includes any claim for interest on the Settlement Awards through April 28, 2006.

Final Settlement Approval Hearing

The Court will hold a hearing in Department 309 of the Los Angeles County Superior Court, located at 600 South Commonwealth Avenue, Los Angeles, California 90005, on August 16, 2005, at 11:00 a.m. to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and reimbursement of costs and expenses and the enhancement paid to the Class Representative. Class Counsel's application for attorneys' fees and reimbursement of expenses will be on file with the Court no later than August 8, 2005 and will be available for review after that date.

The hearing may be continued without further notice to the settlement class. **It is not necessary for you to appear at this hearing unless you have timely filed an objection with the court.**

V. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should consult the detailed "Stipulation and Settlement Agreement of Class Action Claim" which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including that stipulation, may be examined at any time during regular business hours at the Office of the Clerk of the Los Angeles County Superior Court, 600 South Commonwealth Avenue, Los Angeles, California 90005.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK OR UNITED RETAIL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS!

**BY ORDER OF THE SUPERIOR COURT
DATED: MAY 17, 2005**

**HON. ANTHONY J. MOHR
SUPERIOR COURT JUDGE**