

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT
UNITED STATE BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re: Payless Holdings LLC, et al., Case No. 19-40883-659

If you worked for Payless ShoeSource in a non-exempt or hourly-paid position in California at any time from August 10, 2017 through July 31, 2019, you could get a payment from a class action settlement.

The United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, authorized this notice. This is not a solicitation from a lawyer.

This document describes your rights with respect to the *Payless* class action. Please read it carefully. The details of the action and settlement are described below, but the relevant points are as follows:

- A settlement of a class action lawsuit for \$53,750.00, will provide approximately \$27,958.33 to all current and former nonexempt or hourly employees of Payless ShoeSource, Inc. (“Payless”) within California at any time beginning August 10, 2017 through and including July 31, 2019 (“Class Members”);
- The settlement resolves certain claims in a lawsuit in which Plaintiff asserted claims against the Payless under the California Labor Code for alleged failure to authorize timely, uninterrupted, off duty, ten-minute rest periods, provide accurate wage statements, and timely pay final wages, and derivative claims under the California Unfair Competition Law;
- Payless denied all liability and vigorously defended its employment practices;
- The parties agreed that the settlement was reasonable to avoid the costs and risks associated with continuing the lawsuit in the Bankruptcy Court;
- The settlement pays money to current and former non-exempt employees like you and releases Payless from liability;
- Court-appointed lawyers for the Class Members will ask the Court for up to \$17,916.67 from the settlement as fees and costs (33-1/3% of the total settlement amount), and up to \$5,375.00 from the settlement for the lawyers’ financial and strategic adviser (10% of the total settlement amount);
- The two sides disagree on whether or not Plaintiff could have prevailed at trial and, if so, how much money could have been won;
- The Bankruptcy Court overseeing this case still has to decide whether the settlement is fair and whether to approve the settlement. Payments will be made if the Bankruptcy Court approves the settlement and after appeals are resolved. *Please be patient.*
- The settlement does not fully resolve certain claims asserted by Plaintiff against Payless arising under the Fair Credit Reporting Act, the California Investigative Consumer Reporting Agencies Act and the California Consumer Credit Reporting Agencies Act. Such claims will be adjudicated by the United States District Court for the Northern District of California, but any recovery on such claims will be available solely to the extent there is indemnification coverage under any insurance policies on account of any settlement or judgment in the Class Action.
- Your legal rights are affected whether you act, or do not act. These rights and options—**and the deadlines to exercise them**—are explained in this notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	You will be a part of the settlement and be bound by its terms. You will receive payment.
EXCLUDE YOURSELF (OPT OUT)	You may elect to opt out of the Settlement. If you do so, you will get no payment, but will not be bound by the Settlement. However, please note that claims and causes of action against Payless arising prior to January 14, 2020 have been released and discharged through Payless' chapter 11 plan or reorganization if you have not previously filed a proof of claim in Payless' bankruptcy cases. Therefore, your claim may be time barred if you elect to opt out of the Settlement. Your request for exclusion must be postmarked or fax stamped on or before May 11, 2023.
OBJECT	Write to the Court about why you do not like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	PAGE 3
1. Why did I get this notice package?	
2. What is this lawsuit about?	
3. Why is this a class action?	
4. Why is there a settlement?	
WHO IS IN THE SETTLEMENT.....	PAGE 4
5. How do I know if I am part of the settlement?	
6. Are there exceptions to being included?	
7. I am still not sure if I am included.	
THE SETTLEMENT BENEFITS—WHAT YOU GET.....	PAGE 5
8. What does the settlement provide?	
9. How much will my payment be?	
HOW YOU GET A PAYMENT.....	PAGE 5
10. How can I get a payment?	
11. When would I get my payment?	
12. What am I giving up to get a payment or stay in the Class?	
EXCLUDING YOURSELF FROM THE SETTLEMENT.....	PAGE 7
13. How do I get out of the settlement?	
14. If I do not exclude myself, can I sue Payless for the same thing later?	
15. If I exclude myself, can I get money from this settlement?	
THE LAWYERS REPRESENTING YOU.....	PAGE 7
16. Do I have a lawyer in the case?	
17. How will the lawyers be paid?	

OBJECTING TO THE SETTLEMENT.....	PAGE 8
18. How do I tell the Court that I do not like the settlement?	
19. What is the difference between objecting and excluding?	
THE COURT’S FAIRNESS HEARING.....	PAGE 9
20. When and where will the Court decide whether to approve the settlement?	
21. Do I have to come to the hearing?	
22. May I speak at the hearing?	
IF YOU DO NOTHING.....	PAGE 9
23. What happens if I do nothing at all?	
GETTING MORE INFORMATION.....	PAGE 9
24. Are there more details about the settlement?	

BASIC INFORMATION

1. Why did I get this notice package?

The records of Payless ShoeSource, Inc. (“Payless”) indicate you worked in an hourly or non-exempt position in California for Payless during the period at any time between August 10, 2017 and July 31, 2019. You were sent this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves it and after any objections and appeals are resolved, an administrator appointed by the Court will make the payments that the settlement allows.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, and the case is known as *In Re: Payless Holdings LLC, et al.*, Case No. 19-40883-659. The person who sued is called Plaintiff, and the company she sued, Payless, is called Defendant.

2. What is this lawsuit about?

This lawsuit was initiated in the California Superior Court of the County of Alameda and removed to federal court in Oakland, California, by a former associate in a retail store. The action was paused when Payless filed for bankruptcy protection in Missouri. The associate who brought the suit claimed that Payless failed to authorize timely, uninterrupted, off duty, ten-minute rest periods, provide accurate wage statements, and timely pay final wages to her and other non-exempt or hourly paid employees.

Payless denied that it did anything wrong. Payless contended that it properly paid all wages owed, properly authorized rest periods, provided lawful itemized wage statements, and properly paid all wages upon separation of employment. Payless contended that none of the claims alleged by Plaintiff had or have merit. Payless believes that it would have

succeeded in Court.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, Yaquelin Garcia), sue on behalf of people who have similar claims. All these people comprise a Class and are referred to as Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a settlement?

In order to avoid the costs and risks associated with trial, the parties agreed to resolve certain claims through settlement. The Court did not decide in favor of the employees or in favor of Payless. There has been no finding that Payless did anything wrong, and there has been no trial. Rather, the Class Representative and the attorneys think the settlement is best for all Class Members and the Court has agreed.

The Court has given its preliminary approval to the settlement, and confirms that Yaquelin Garcia is the Class Representative and attorney Shaun Setareh of Setareh Law Group is the attorney for the Class Members (the “Class Counsel”).

WHO IS IN THE SETTLEMENT

To see if you will get money from this settlement, you first have to decide if you are a Class Member.

5. How do I know if I am part of the settlement?

The Judge decided that everyone who fits this description is a Class Member:

“All persons employed by Payless ShoeSource, Inc. in hourly or non-exempt positions in California anytime during the period beginning August 10, 2017 through and including July 31, 2019.”

This means that if you worked as an hourly or non-exempt employee for Payless in California any time during the period beginning August 10, 2017 through and including July 31, 2019 (the “Class Period”), you are a Class Member. If you were on leave of absence during the Class Period, or if you were living or working outside of California during any or all of the Class Period, you are not a Class Member during that time.

6. Are there exceptions to being included?

Yes. If you are a Class Member, you have the option of excluding yourself as stated in Section 13 below. If you do nothing, you will be a Class Member.

7. I am still not sure if I am included.

If you are still not sure whether you are included, you can call the Settlement Administrator at 1-(800) 641-9097 or

Class Counsel at 1-(310) 888-7771 for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the settlement provide?

Payless has agreed to pay up to \$53,750 to settle certain claims in this lawsuit. Out of the settlement fund, the Class Representative Yaquelin Garcia will ask for additional compensation for her service as a Class Representative of up to \$2,500. Class Counsel will ask for up to \$17,916.67 for attorneys' fees and costs (33-1/3% of the total settlement amount), and up to \$5,375.00 for financial and strategic adviser costs. Payless will pay the expense incurred by the Claims Administrator of up to \$25,000 for administering the settlement in addition to the total of \$53,750. The money remaining in the settlement fund, up to approximately \$27,958.33 (the "Net Settlement Amount") will be available for *pro rata* distribution.

The settlement does not fully resolve certain claims asserted by Plaintiff against Payless arising under the Fair Credit Reporting Act, the California Investigative Consumer Reporting Agencies Act and the California Consumer Credit Reporting Agencies Act (the "Background Check Claims"). The Background Check Claims will be adjudicated by the United States District Court for the Northern District of California, but any recovery on such claims will be available solely to the extent there is indemnification coverage under any insurance policies on account of any settlement or judgment in the Class Action. Class Counsel will continue to prosecute the Background Check Claims and Payless and its insurers will continue to defend against the Background Check Claims.

9. How much will my payment be?

Your share of the fund will depend on the total number of Class Members minus those who request exclusion ("Qualified Claimants"), and how much the Court approves in attorneys' fees, costs, financial adviser fees, and service award.

If the settlement is approved as proposed, Class Members will share up to \$27,958.33 of the settlement amount, divided on a *pro rata* basis among all Class Members who do not opt out. Your settlement amount will be partially paid as wages, for which you will receive an IRS Form W-2, and partially paid as expenses, interest and penalties. You are responsible for paying your taxes on any amount you receive. This Notice is not tax advice and you should consult your tax advisor. Checks will be valid for 90 days. The proceeds of any uncashed checks will be paid to the State of California pursuant to California's Unclaimed Property law in the name of the Class Member.

HOW YOU GET A PAYMENT

10. How can I get a payment?

If you do nothing, you will automatically participate in the Settlement and receive a Settlement Payment.

If you are a Class Member and do not exclude yourself from the Settlement Class, you will be bound by all of the provisions of the Settlement, including a full release of claims that will prevent you from separately suing or bringing claims against Payless, its employees or any other related persons or entities for the matters being settled in this Action, as described in more detail below.

11. When would I get my payment?

The Court will hold a hearing on June 23, 2023, to decide whether to approve the settlement. If the Court approves the settlement after that, there may be appeals. It is always uncertain when these appeals can be resolved, and resolving them can take time, perhaps more than a year. To check on the progress of the settlement, check the website, contact the Settlement Administrator, or contact Class Counsel. *Please be patient.*

12. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you are part of the Class. This means that you cannot sue Payless, nor can you continue to sue, or be part of any other lawsuit against Payless about the legal issues in or related to *this* case. It also means that all of the Court's orders will apply to you and legally bind you. If you do nothing you agree to the following "Release" of your claims, which describes exactly the legal claims that you give up if you do not exclude yourself.

You will fully and forever completely release and discharge Payless Shoesource, the Debtors, the Reorganized Debtors, the Liquidating Trust, the Liquidating Trustee and all of their past, present or future subsidiaries, parents, affiliates, officers, directors, employees, representatives, insurers, members, shareholders, agents, attorneys, successors, heirs, assigns, executors, administrators, affiliated entities, (each a "Released Party") from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, action or causes of action of whatever kind or nature that were alleged in the Class Action or which could reasonably have been alleged under California or federal law based on the factual allegations contained in the Class Action arising out of or related to all claims for wages, minimum wages, penalties, overtime pay, premium pay, pay for all time allegedly worked but not compensated, and all other claims of any kind for wages, penalties, restitution, declaratory relief, injunctive relief, equitable remedies, pre- or post-judgment interest, costs and attorneys' fees arising from the alleged violation of any provision of common law, California law and/or federal law, which were or could have been raised as part of Plaintiff's claims, including but not limited to claims under California Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 227.3, 510, 512, 558, 1194, 1197, 1197.1, 1198 and 1199, the California Industrial Wage Commission Wage Orders, and Business and Professions Code sections 17200 *et seq.* (collectively, "Released Claims"). Each Class Member (excluding Opt Outs) acknowledges and agrees that his or her claims for wage statement and/or rest period violations and any other Wage and Hour Claims alleged in the Class Action, or claims that could have been alleged arising out of the facts pled in the Class Action with respect to the Wage and Hour Claims, are disputed and that California Labor Code section 206.5 is therefore not applicable.

You will fully, completely and finally resolve any and all issues, disputes or controversies you have asserted or may assert either inside or outside of the Debtors' bankruptcy cases that are alleged in the Class Action with respect to the Wage and Hour Claims or that could have been alleged under California or federal law based on the alleged facts related to the Wage and Hour Claims filed in the Class Action.

You will waive the rights described in Section 1542 of the California Civil Code, which provides as follows:
"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her would have materially affected his or her settlement with the debtor or the released party."

You will release all such Released Claims that you do not know or suspect to exist in your favor at the time of execution of the Settlement Agreement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to be bound by the settlement and do not want a payment from this settlement, then you must take steps to get out of this case. This is called excluding yourself - or is sometimes referred to as “opting out” of the settlement Class.

13. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail saying simply that you want to be excluded from the *In Re: Payless Holdings LLC* case. No special language is required. Be sure to include your name, address, telephone number, and print and sign your name. You must mail your exclusion request to the Settlement Administrator at the address below, postmarked no later than May 11, 2023 to:

Garcia v Payless Holdings LLC
c/o Settlement Administrator,
P O Box 23648
Jacksonville, FL, 32241

If you ask to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. However, please note that claims and causes of action against Payless arising prior to January 14, 2020 have been released and discharged through Payless’ chapter 11 plan or reorganization if you have not previously filed a proof of claim in Payless’ bankruptcy cases. Therefore, your claim may be time barred if you elect to opt out of the Settlement.

14. If I do not exclude myself, can I sue Payless for the same thing later?

No. Unless you follow the procedure to exclude yourself, you give up any right to sue Payless for the claims that this settlement resolves. If you have a pending lawsuit or claims against Payless, you are advised to speak to your lawyer in that case immediately. You must exclude yourself from *this* Class to continue your own lawsuit if it involves the same or related issues. Remember, the exclusion deadline is May 11, 2023.

15. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money as part of this Settlement, as you can only get money from this settlement if you do not exclude yourself from its terms.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court has appointed Shaun Setareh of Setareh Law Group located in Beverly Hills, California to represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers, although they will be compensated from the Settlement Fund as discussed in Section 8 and 17. If you want to be

represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers and financial advisers be paid?

Class counsel will ask the Court to approve payment of up to \$17,916.67 for attorneys' fees and costs (33-1/3% of the total settlement), and up to ten (10%) percent or \$5,375.00 for financial advice. The attorney's fees pay Class Counsel for investigating the facts and negotiating the settlement. The \$5,375.00 will compensate the financial adviser for professional advice. These amounts will reduce the approximately \$53,375.00 available for Class Members. In the event the Court approves a lesser amount of fees, those amounts will become part of the pool the class will share.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

18. How do I tell the Court that I do not like the settlement?

If you are a Class Member, you can object to the settlement if you do not like it. You can give reasons why you think the Court should not approve the settlement and the Court will consider your views. To object, and to have the Court hear your views, you must file a letter in the Bankruptcy Court saying that you object to the *In Re: Payless Shoesource, Inc.* settlement. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and any supporting papers must be filed in the matter of *In Re: Payless Holdings LLC*, Case No. 19-40883-659, with the Court at 111 S. 10th St., 4th Floor, St. Louis, MO 63102, electronically or in person no later than May 11, 2023.

Be sure to include your name, address, telephone number, your printed and signed name, and the legal and factual reasons you object to the settlement.

19. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Class, and even if you object you are entitled to a portion of the settlement.

Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. You will receive no money under the settlement if you exclude yourself.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to

speak, but you do not have to. ***You may only speak at the hearing if you follow the instructions below.***

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at 10:00 am on June 23, 2023, at the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, at 111 S. 10th St., 4th Floor, St. Louis, MO 63102. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections and they have been properly lodged, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. At or after the hearing, the Court will decide whether to approve the settlement.

21. Do I have to come to the hearing?

No. Class Counsel will answer questions the Judge may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not required.

22. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear” in the *In Re: Payless Holdings LLC* settlement. Be sure to include your name, address, telephone number, and your printed and signed name. Your Notice of Intention to Appear must be postmarked no later than May 11, 2023, and be sent to the Settlement Administrator at the address listed in question 13 and the Clerk of the Court for the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, at 111 S. 10th St., 4th Floor, St. Louis, MO 63102. You cannot speak at the hearing if you excluded yourself, and you will not be able to speak unless you timely file a Notice of Intention to Appear.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will receive money from this settlement and release Payless from the claims in this lawsuit as outlined above in this notice. Unless you exclude yourself, you will not be able to pursue these claims in bankruptcy, start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Payless about the legal issues in this case ever again.

GETTING MORE INFORMATION

24. Are there more details about the settlement?

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please access the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.moeb.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, 111 S. 10th St., 4th Floor, St. Louis, MO

63102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and ask to view the Court file in *In Re: Payless Holdings LLC, et al.*, Case No. 19-40883-659 or by contacting Class Counsel Setareh Law Group, at 9665 Wilshire Blvd., Suite 430, Beverly Hills, California 90212, telephone (310) 888-7771.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT PROCESS.

Date: April 11, 2023

This Notice has been approved by the United States Bankruptcy Court for the Eastern District of Missouri