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Lead Counsel for Lead Plaintiff and the Class

10
 11 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA
 12 **WESTERN DIVISION**

13 IN RE AMERICAN APPAREL, INC.
 14 SHAREHOLDER LITIGATION

Case No. CV-10-6352 MMM (JCG)
 (Consolidated)

15 This Document Relates To: All Actions

CLASS ACTION

16 **REPLY MEMORANDUM IN**
 17 **SUPPORT OF (I) LEAD**
 18 **PLAINTIFF'S MOTION FOR FINAL**
 19 **APPROVAL OF CLASS ACTION**
 20 **SETTLEMENT AND PLAN OF**
 21 **ALLOCATION OF SETTLEMENT**
PROCEEDS AND (II) MOTION FOR
AN AWARD OF ATTORNEYS' FEES
AND REIMBURSEMENT OF
LITIGATION EXPENSES

22 Date: July 28, 2014
 23 Time: 10:00 a.m.
 Room: 780 - Temple Street Courthouse
 Judge: Hon. Margaret M. Morrow

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1 **I. PRELIMINARY STATEMENT**

2 Pursuant to the Court’s Order Preliminarily Approving Settlement and
3 Providing for Notice dated April 16, 2014 (the “Preliminary Approval Order”), and
4 as a supplement to the initial filing made by Lead Plaintiff Charles Rendelman and
5 his counsel on June 23, 2014, Lead Plaintiff respectfully submits the following
6 memorandum in further support of: (i) Lead Plaintiff’s Motion for Final Approval of
7 Class Action Settlement and Plan of Allocation of Settlement Proceeds; and (ii) the
8 Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses.¹

9 As the deadline for submitting objections and requests for exclusion has now
10 passed, Lead Counsel is pleased to inform the Court that not a single Class Member
11 has objected to any aspect of the Settlement, the Plan of Allocation, certification of
12 the Class for settlement purposes, the request for an award of attorneys’ fees and
13 reimbursement of expenses to Lead Counsel, or the request for reimbursement of
14 Lead Plaintiff’s expenses in connection with his representation of the Class. “The
15 absence of any objections to the settlement creates a strong presumption that the
16 settlement is favorable to the class members.” *HCL Partners Ltd. P’ship v. Leap*
17 *Wireless Int’l, Inc.*, 2010 U.S. Dist. LEXIS 109409, at *8 (S.D. Cal. 2010). *See also*
18 *Stevens v. Safeway, Inc.*, 2008 U.S. Dist. LEXIS 17119, at *26-27 (C.D. Cal. 2008)
19 (Morrow, J.) (“Plaintiffs sent court-approved notices to 4,308 Eligible Plaintiffs
20 following the court’s preliminary approval of the proposed settlement.... [After the
21 deadline to object passed], the settlement administrator had received two timely
22 objections.... The fact that so few class members objected to the proposed settlement
23 is strong evidence that it is both fair and adequate.”).

24

25

26 ¹ Capitalized terms not defined herein shall have those meanings ascribed to
27 them in the Stipulation and Agreement of Settlement dated January 17, 2014 (the
28 “Stipulation”).

1 The Court-authorized claims administrator for the Settlement of the Action,
2 Gilardi & Co., LLC (“Gilardi”), has undertaken an extensive Court-approved notice
3 campaign in connection with the Settlement. *See* Supplemental Declaration of Carole
4 K. Sylvester Regarding (A) Mailing of the Notice and Proof of Claim, (B) Requests
5 for Exclusion Received, and (C) Proofs of Claim Received to Date (the
6 “Supplemental Mailing Declaration”) (attached hereto as Exhibit 1) which provides
7 updated information regarding the notice mailing and the request for exclusion
8 received as well as information regarding the Proofs of Claim received to date.² As
9 set forth in the Supplemental Mailing Declaration, after the dissemination of over
10 35,000 copies of the Notice of Pendency and Proposed Settlement of Class Action,
11 Motion for Attorneys’ Fees and Litigation Expenses, and Settlement Fairness
12 Hearing (“Notice”), only one request for exclusion has been received (0.0028% of the
13 total Notices mailed).³ *See* Supplemental Mailing Declaration at ¶¶3, 6 (Ex. 1
14 hereto); *Browne v. Am. Honda Motor Co.*, 2010 U.S. Dist. LEXIS 145475, at *49-50
15 (C.D. Cal. 2010) (Morrow, J.) (“The 480 opt-outs represent .065 percent of eligible
16 class members. The 117 objectors represent .016 percent of the class. The
17 comparatively low number of opt-outs and objectors indicates that generally, class
18 members favor the proposed settlement and find it fair.”). The reaction of the class to
19 a proposed settlement is a significant factor in assessing its fairness and adequacy.
20 *See In re Rambus Inc. Derivative Litig.*, 2009 U.S. Dist. LEXIS 131845, at *10 (N.D.
21 Cal. 2009). Here, the fact that the Settlement, the Plan of Allocation, and the

22
23
24 ² *See also* Declaration of Nashira Washington Regarding (A) Mailing of the
25 Notice and Proof of Claim, (B) Publication of the Summary Notice, and (C) Requests
26 for Exclusion Received to Date (the “Initial Mailing Declaration”) previously filed
with the Court on June 23, 2014 [Dkt. No. 188-2].

27 ³ A copy of the request for exclusion is attached as Exhibit A to the
28 Supplemental Mailing Declaration (Ex. 1 hereto).

1 requested fees and expenses have received overwhelming support weighs strongly in
2 favor of approval.

3 For the reasons set forth herein, and in their June 23, 2014 filing, Lead Plaintiff
4 and Lead Counsel respectfully submit that the proposed \$4,800,000 Settlement is a
5 substantial recovery for the Class under all of the circumstances of this case. In
6 particular, the Settlement represents a solid result in light of the risks of continued
7 litigation, including the risk of establishing liability, loss causation and the Class's
8 full amount of damages. Further, the Settlement has the full support of the Lead
9 Plaintiff, Lead Counsel, Defendants, and Jed Melnick, Esq. (JAMS), an experienced
10 neutral who oversaw extensive mediation efforts by the Parties and provided the
11 mediator's proposal that resulted in this Settlement. *See Ace Marine Rigging &*
12 *Supply, Inc. v. Va. Harbor Servs. Inc.*, 2012 U.S. Dist. LEXIS 174117, at *2-3 (C.D.
13 Cal. 2012) (granting final approval where settlements "were based on vigorous
14 arm's-length negotiations, which were undertaken in good faith by counsel with
15 significant experience"); *In re Marsh & McLennan Cos., Inc. Sec. Litig.*, 2009 WL
16 5178546, at *8 (S.D.N.Y. 2009) (negotiations conducted with the assistance of a
17 highly regarded mediator who had extensive experience made it more likely that the
18 settlement was procedurally fair).

19 Additionally, the proposed Plan of Allocation set forth in the Notice is a fair
20 and equitable method for allocating and distributing the Net Settlement Fund to
21 eligible Class Members. Finally, in light of the substantial efforts expended by Lead
22 Counsel and Lead Plaintiff during the course of this Action, and the risks overcome
23 in securing the present Settlement for the Class, the request for attorneys' fees and
24 reimbursement of litigation expenses is fair and reasonable and should be awarded in
25 the amounts sought.

1 **II. THE REACTION OF THE CLASS OVERWHELMINGLY SUPPORTS**
 2 **APPROVAL OF THE SETTLEMENT**

3 “Where a settlement agreement enjoys overwhelming support from the class,
 4 this lends weight to a finding that the settlement agreement is fair, adequate, and
 5 reasonable.” *Gong-Chun v. Aetna Inc.*, 2012 U.S. Dist. LEXIS 96828, at *43-44
 6 (E.D. Cal. 2012). Here, pursuant to the Court’s Preliminary Approval Order, over
 7 35,000 copies of the Notice have been mailed to potential members of the Class and
 8 nominees, and the summary notice has been published in *Investor’s Business Daily*
 9 and over *PR Newswire*.⁴ The Notice contained, *inter alia*, a detailed description of
 10 the Settlement, the Plan of Allocation, the maximum potential fees and expenses that
 11 would be sought by Lead Counsel, and the maximum amount of expenses that would
 12 be requested by Lead Plaintiff. In addition, Lead Plaintiff’s motions for preliminary
 13 approval and final approval of the Settlement and Lead Counsel’s motion for an
 14 award of attorneys’ fees and expenses have all been posted on the settlement website
 15 for Class Members’ review. *See* Supplemental Mailing Declaration at ¶4 (Ex. 1
 16 hereto); Initial Mailing Declaration [Dkt. No. 188-2], at ¶12.

17 The “Notice included clear instructions about how to object to the Proposed
 18 Settlement if the Class Members opposed final approval of the Proposed Settlement.
 19 There have been no objections from Class Members or potential class members,
 20 which itself is compelling evidence that the Proposed Settlement is fair, just,
 21 reasonable, and adequate.” *In re Apollo Grp., Inc. Sec. Litig.*, 2012 U.S. Dist. LEXIS
 22 55622, at *11 (D. Ariz. 2012). Indeed, “[t]he complete absence of Class Member
 23 objections to the Proposed Settlement speaks volumes with respect to the
 24 overwhelming degree of support for the Proposed Settlement among the Class
 25 Members.” *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529

26 _____
 27 ⁴ *See* Supplemental Mailing Declaration at ¶3 (Ex. 1 hereto); Initial Mailing
 28 Declaration [Dkt. No. 188-2], at ¶¶10, 13.

1 (C.D. Cal. 2004). *See also Szymborski v. Ormat Techs., Inc.*, 2012 U.S. Dist. LEXIS
 2 148545, at *11 (D. Nev. 2012) (approving settlement and 30% fee award because,
 3 among other things, “[n]o objections regarding the settlement or the requested
 4 attorneys’ fees have been filed by any class member”); *Overton v. Hat World, Inc.*,
 5 2012 U.S. Dist. LEXIS 144116, at *8 (E.D. Cal. 2012) (“Importantly, there were no
 6 objections to the requested fee and costs award from any member of the Class.”).⁵

7 Likewise, with 35,767 Notices mailed, just one request for exclusion from the
 8 Class has been received (0.0028% of the total Notices mailed). *See Supplemental*
 9 *Mailing Declaration at ¶¶3, 6 (Ex. 1 hereto).*⁶ In other words, “[t]he response of the
 10 class was positive, and this weighs in favor of finding that the settlement is favorable
 11 to the Class Members.” *Aetna*, 2012 U.S. Dist. LEXIS 96828, at *43-44 (“less than
 12 two percent of Class Members opted out of the Settlement” and “no objection to the
 13 Settlement Agreement was received”); *McKenzie v. Fed. Express Corp.*, 2012 U.S.
 14 Dist. LEXIS 103666, at *18 (C.D. Cal. 2012) (“the reaction of the class weighs in
 15 favor of granting final approval” where “only four class members requested to be
 16 excluded from the settlement, and no objections were received”); *David’s Bridal*,

17 ⁵ *See also Schiller v. David’s Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776, at *48
 18 (E.D. Cal. 2012) (“the Court finds that the results achieved are good, which is
 19 highlighted by the fact that there was no objection to the settlement amount or the
 20 attorneys’ fees requested”); *Lo v. Oxnard European Motors, LLC*, 2012 U.S. Dist.
 21 LEXIS 73983, at *7 (S.D. Cal. 2012) (same); *Morales v. Stevco, Inc.*, 2012 U.S. Dist.
 LEXIS 68640, at *33-34 (E.D. Cal. 2012) (same).

22 ⁶ *See also Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 967 (9th Cir. 2009)
 23 (“The court had discretion to find a favorable reaction to the settlement among class
 24 members given that, of 376,301 putative class members to whom notice of the
 25 settlement had been sent, 52,000 submitted claims forms and only fifty-four
 26 submitted objections [0.014 percent.]”); *Weeks v. Kellogg Co.*, 2011 U.S. Dist.
 27 LEXIS 155472, at *59-61 (C.D. Cal. 2011) (Morrow, J.) (where “only [three] class
 28 members had opted out of the proposed settlement, and only two had objected to the
 terms of the settlement,” “the relatively low number of opt-outs and objectors
 indicates that generally, class members favor the proposed settlement and find it
 fair”).

1 2012 U.S. Dist. LEXIS 80776, at *39 (where “less than two-tenths of one percent of
2 Class Members opted out of the Settlement” the “response of the Settlement Classes
3 was positive, and this weighs in favor of finding that the settlement is favorable to the
4 Class Members”); *Hughes v. Microsoft Corp.*, 2001 U.S. Dist. LEXIS 5976, at *24
5 (W.D. Wash. 2001) (finding nine objections and exclusions submitted by only 1% of
6 class indicated class approval and supported settlement); *In re Skilled Healthcare*
7 *Group, Inc.*, 2011 U.S. Dist. LEXIS 10139, at *11 (C.D. Cal. 2011) (interpreting “the
8 lack of anything other than a de minimus objection as ratification of the settlement
9 terms by the class”).

10 Additionally, “[i]n assessing whether to grant approval of a settlement, courts
11 consider the reactions of the members of the class, particularly the class
12 representatives.” *Apollo Group*, 2012 U.S. Dist. LEXIS 55622, at *10 (“The Class
13 Representatives, who have a substantial understanding and experience with this
14 action and the settlement, have voiced their support for the settlement.”). Lead
15 Plaintiff and proposed Class Representative, Mr. Rendelman, who actively monitored
16 this Action since its onset, including during mediation and settlement negotiations,
17 fully supports the Settlement. *See* Dkt. No. 188-1. “[T]he representatives’
18 views...may be entitled to special weight because the representatives may have a
19 better understanding of the case than most members of the class.” *DIRECTV*, 221
20 F.R.D. at 528.

21 In light of: (i) the overwhelmingly positive reaction of Class Members to the
22 proposed Settlement, the Plan of Allocation, and the fees and expenses requested; (ii)
23 the strengths and weaknesses of the Class’s claims, and the defenses thereto, based
24 on Lead Counsel’s extensive litigation and settlement efforts over the pendency of
25 this Action; (iii) the considerable risks and delays associated with continued litigation
26 and trial; and (iv) Lead Counsel’s past experience in similar class actions, Lead
27 Plaintiff and Lead Counsel firmly believe that the Settlement is eminently fair,
28

1 reasonable, and adequate and provides a substantial result for the Class and that the
2 fees and expenses requested are reasonable.

3 **III. FINAL STEPS SHOULD THE COURT APPROVE THE SETTLEMENT**

4 Should the Court grant final approval to the Settlement and the Settlement
5 becomes Final (as that term is defined in ¶1(s) of the Stipulation), the claims
6 administrator, Gilardi, will continue to process the Proof of Claim and Release Forms
7 (“Claim Forms” or “Claims”) submitted in connection with the Settlement and move
8 towards a distribution of the Net Settlement Fund.⁷ Among other things, Gilardi will
9 notify each claimant who has submitted a deficient Claim and work with such
10 claimants to cure these deficiencies so that as many claimants as possible are eligible
11 to receive a distribution from the Net Settlement Fund. Once Gilardi has fully
12 processed all of the Claims submitted and completed all of its quality assurance
13 reviews to ensure the accuracy of all Claims processed, Gilardi will provide Lead
14 Counsel with a report on the Claims submitted, and Lead Counsel will move the
15 Court for distribution of the Net Settlement Fund to eligible Class Members.

16 Pursuant to the Plan of Allocation set forth in the Notice, if there are any funds
17 remaining following distribution of the Net Settlement Fund to eligible Class
18 Members such that the amount remaining is so small that a re-distribution of this
19 amount would not be economically feasible, Lead Counsel will submit for the
20 Court’s approval the name of an appropriate non-profit charitable organization for
21 donation of the remaining balance.

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24 ⁷ Pursuant to the Preliminary Approval Order, and as set forth in the Notice and
25 Claim Form, Claim Forms are to be postmarked no later than September 2, 2014. As
26 of July 11, 2014, Gilardi has received a total of 2,942 Claims from potential Class
27 Members and nominees – including 582 hard-copy Claims and 2,360 electronically
28 submitted Claims – and expects to continue to receive additional Claims. *See*
Supplemental Mailing Declaration at ¶8 (Ex. 1 hereto).

1 **IV. CONCLUSION**

2 Based on the foregoing and the entire record, Lead Plaintiff and Lead Counsel
3 respectfully submit that: (i) the proposed Settlement and Plan of Allocation are both
4 fair, reasonable and adequate and warrant the Court's final approval; (ii) the
5 attorneys' fees and litigation expenses requested by Lead Counsel are fully justified
6 and should be awarded; (iii) Lead Plaintiff's request for reimbursement of expenses
7 that he incurred in connection with his representation of the Class is fair, reasonable,
8 and should be granted; and (iv) the Class should be certified for purposes of
9 effectuating the Settlement as preliminarily certified in the Court's Preliminary
10 Approval Order. Accordingly, Lead Plaintiff respectfully requests that the Court
11 enter the proposed orders submitted herewith.⁸

12
13 DATED: July 14, 2014

Respectfully submitted,

14
15 KESSLER TOPAZ
MELTZER & CHECK, LLP

16 /s/ Stacey M. Kaplan

17 Eli R. Greenstein
Stacey M. Kaplan

18 Paul A. Breucop

19 Ioana A. Brooks

20 One Sansome Street, Suite 1850

San Francisco, CA 94104

21 Telephone: (415) 400-3000

22 Facsimile: (415) 400-3001

23 *Lead Counsel for Lead Plaintiff*
24 *and the Class*

25 _____
26 ⁸ The [Proposed] Order and Final Judgment submitted herewith is the same
27 order that the Court reviewed in connection with Lead Plaintiff's motion for
28 preliminary approval, with limited edits to reflect current information. For the
Court's convenience, a red-line reflecting those edits is attached hereto as Exhibit 2.

1 **PROOF OF SERVICE**

2 I hereby certify that on July 14, 2014, I electronically filed the foregoing with
3 the Clerk of the Court using the CM/ECF system which will send notification of such
4 filing to the e-mail addresses denoted on the attached Electronic Mail Notice List.

5 I certify under penalty of perjury under the laws of the United States of
6 America that the foregoing is true and correct. Executed on July 14, 2014.

7 /s/ Stacey M. Kaplan
8 STACEY M. KAPLAN

Mailing Information for a Case 2:10-cv-06352-MMM-JCG Anthony Andrade v. American Apparel, Inc. et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Gila **D Jones**
Skadden Arps Slate Meagher and Flom LLP
300 South Grand Avenue Suite 3400
Los Angeles, CA 90071

EXHIBIT 1

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

IN RE AMERICAN APPAREL, INC.
SHAREHOLDER LITIGATION

Case No. CV-10-6352 MMM (JCG)
(Consolidated)

This Document Relates To: All
Actions

**SUPPLEMENTAL DECLARATION
OF CAROLE K. SYLVESTER
REGARDING (A) MAILING OF
THE NOTICE AND PROOF OF
CLAIM, (B) REQUESTS FOR
EXCLUSION RECEIVED, AND (C)
PROOFS OF CLAIM RECEIVED
TO DATE**

Date: July 28, 2014
Time: 10:00 a.m.
Room: 780, Los Angeles - Roybal
Judge: Hon. Margaret M. Morrow

1 I, Carole K. Sylvester, declare:

2 1. I am employed by Gilardi & Co. LLC ("Gilardi"), located at 3301
3 Kerner Blvd., San Rafael, California. Pursuant to the Court's Order Preliminarily
4 Approving Settlement and Providing for Notice dated April 16, 2014, Gilardi was
5 retained as the Claims Administrator in this matter. Previously, a declaration was
6 submitted on behalf of Gilardi regarding the mailing of the Notice of Pendency and
7 Proposed Settlement of Class Action, Motion for Attorneys' Fees and Litigation
8 Expenses, and Settlement Fairness Hearing (the "Notice") and the Proof of Claim and
9 Release form (the "Proof of Claim" and, together with the Notice, the "Claim
10 Package"). That declaration was dated June 20, 2014 (the "Initial Mailing
11 Declaration"). At that time, Gilardi had mailed a total of 34,732 Claim Packages to
12 potential Class Members and nominees.

13 2. I submit this supplemental declaration in order to provide the Court and
14 the parties to the above-captioned litigation with additional information regarding,
15 *inter alia*, the mailing of Claim Packages, the requests for exclusion from the Class
16 received since June 20, 2014 and the Proofs of Claim received to date. I am over 21
17 years of age and am not a party to this action. I have personal knowledge of the facts
18 set forth herein and, if called as a witness, could and would testify competently
19 thereto.

20 **MAILING OF THE NOTICE AND PROOF OF CLAIM**

21 3. Since June 20, 2014, Gilardi has continued to receive requests from
22 potential Class Members and nominees for copies of the Claim Package. As a
23 result of such requests, Gilardi has mailed an additional 1,035 Claim Packages.
24 Therefore, the total number of Claim Packages mailed to date is 35,767.

25 **WEBSITE**

26 4. As described in the Initial Mailing Declaration, Gilardi established
27 and maintains a website (www.americanapparelshareholderssettlement.com)
28 dedicated to the Settlement to assist potential Class Members. On June 24, 2014,

1 Gilardi updated the settlement website to include the following documents: (i)
2 Lead Plaintiff's Notice of Motion and Motion for Final Approval of Class Action
3 Settlement and Plan of Allocation of Settlement Proceeds; and Memorandum of
4 Points and Authorities of Support; (ii) Notice of Motion and Motion for an Award
5 of Attorneys' Fees and Reimbursement of Litigation Expenses; and Memorandum
6 of Points and Authorities in Support; and (iii) Declaration of Stacey M. Kaplan in
7 Support of (a) Final Approval of Class Action Settlement and Approval of Plan of
8 Allocation of Settlement Proceeds; and (b) Lead Counsel's Application for an
9 Award of Attorneys' Fees and Reimbursement of Litigation Expenses, and the
10 exhibits attached thereto. On July 7, 2014, Gilardi updated the settlement website
11 to include the Notice of Errata to Notice of Motion for an Award of Attorneys'
12 Fees and Reimbursement of Litigation Expenses; and Memorandum of Points and
13 Authorities in Support.

14 **REQUESTS FOR EXCLUSION**

15 5. The Notice informed potential Class Members that written requests for
16 exclusion from the Class must be mailed or delivered to *American Apparel, Inc.*
17 *Shareholder Litigation – EXCLUSIONS*, c/o Gilardi & Co, LLC P.O. Box 8040, San
18 Rafael, CA 94912-8040, such that they are received no later than July 7, 2014. The
19 Notice also set forth the information that must be included in each request for
20 exclusion.

21 6. As previously reported in the Initial Mailing Declaration, Gilardi had
22 received zero (0) requests for exclusion as of June 20, 2014. Since that time, Gilardi
23 has received one (1) request for exclusion. A copy of this request for exclusion is
24 attached hereto as Exhibit A.¹

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28 ¹ All confidential information has been redacted from the attached exclusion request.

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OBJECTIONS

7. The Notice informed potential Class Members that objections were to be filed with the Clerk’s Office at the United States District Court for the Central District of California and served on Lead Counsel for the Class and Defendants’ Counsel on or before July 7, 2014. Although objections were not to be sent to Gilardi, nevertheless, as part of its standard procedures, Gilardi examines all mail received to search for objections. As of the date of this declaration, Gilardi has received zero (0) objections.

PROOFS OF CLAIM RECEIVED TO DATE

8. The Notice informs potential Class Members that in order to be eligible to receive a payment from the Settlement they must complete and submit a Proof of Claim, along with the required supporting documentation, establishing their purchases and acquisitions of American Apparel, Inc. common stock during the Class Period. As set forth in the Notice and Proof of Claim, Proofs of Claim are to be postmarked no later than September 2, 2014. To date, Gilardi has received a total of 2,942 Proofs of Claim. Of the 2,942 Proofs of Claims received, 582 claims were submitted by individuals and 2,360 claims were submitted electronically by institutions.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 11th day of July 2014, at San Rafael, California.

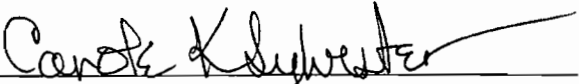

CAROLE K. SYLVESTER

Exhibit A



RECEIVED EC

JUN 24 2014

CLAIMS CENTER

Exclusion Cover Page

Case Name: American Apparel

Case Code: AMERAPRL

Exclusion Deadline: July 7, 2014 (Received Date)

Name of Person Filing Exclusion: Stephen G. Fridl

“Request for Exclusion” from the Class.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

IN RE AMERICAN APPAREL, INC.
SHAREHOLDER LITIGATION
Case No. CV-10-6352 MMM (JCG)

American Apparel, Inc. Shareholder Litigation - EXCLUSIONS
c/o Gilardi & Co., LLC
P.O. Box 8040
San Rafael, CA 94912-8040

June 15, 2014

As per and according to the information and instructions contained on page 8-9 of the **NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION, MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES, AND SETTLEMENT FAIRNESS HEARING**, I hereby request Exclusion from the Class in *American Apparel, Inc. Shareholder Litigation*, Case No. CV-10-6352 MMM (JCG). I am providing the following required information concerning my request for exclusion:

Stephen G. Fridl

[REDACTED]

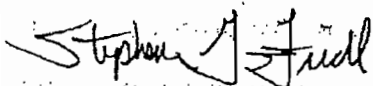
Asheville, NC 28804

[REDACTED]

My share history regarding American Apparel common stock with regard to the outlined parameters and timelines of this notice and the pending litigation are as follows:

Bought 200 shares of APP @ \$10.00/share (Ref. # [REDACTED]).
Trade date 09/04/08; settlement date 09/09/08.

Again, please exclude me from the Class. Thank you for your attention to this matter.



Stephen G. Fridl

S.G. FRIDI

ASHEVILLE, NC 28804

CERTIFIED MAIL



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CLAIMS CENTER

American Apparel, Inc. Shareholder Litigation - EXCLUSIONS
c/o Gilardi & Co, LLC
P.O. Box 8040
San Rafael, CA 94912-8040

AMERAPRL



EXHIBIT 2

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15 *Lead Counsel for Lead Plaintiff and the Class*

16 [Additional Counsel on Next Page]

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION**

20 IN RE AMERICAN APPAREL, INC.
21 SHAREHOLDER LITIGATION

22 Case No. CV-10-6352 MMM (JCG)
23 (Consolidated)

24 This Document Relates To: All
25 Actions

26 **[PROPOSED] ORDER AND FINAL**
27 **JUDGMENT**

28 **EXHIBIT B**

1 SKADDEN, ARPS, SLATE, MEAGHER
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22 *Attorneys for Defendants*
23 *Dov Charney and Adrian Kowalewski*

24 SIMPSON THACHER
25 & BARTLETT LLP

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Attorneys for Defendants
Lion Capital LLP and Lion Capital (Americas) Inc.

1 WHEREAS, a consolidated class action is pending before this Court
2 captioned *In re American Apparel, Inc. Shareholder Litigation*, Case No. CV-10-
3 6352 MMM (JCG) (the “Action”);

4 WHEREAS, this matter came before the Court for hearing pursuant to the
5 Order Preliminarily Approving Settlement and Providing for Notice dated April
6 16, 2014 (the “Preliminary Approval Order”), on the application of
7 the parties for approval of the settlement set forth in the Stipulation and Agreement
8 of Settlement dated January 17, 2014 (the “Stipulation”) entered into by Charles
9 Rendelman (the “Lead Plaintiff”), on behalf of himself and the Class (as defined
10 herein), and defendants American Apparel, Inc. (“American Apparel” or the
11 “Company”), Dov Charney, Adrian Kowalewski, Lion Capital LLP and Lion
12 Capital (Americas) Inc. (collectively, the “Defendants”), by and through their
13 respective counsel; and

14 WHEREAS, due and adequate notice having been given to the Class,
15 pursuant to the Preliminary Approval Order, and the Court having considered all
16 papers filed and proceedings had herein and otherwise being fully informed in the
17 premises and good cause appearing therefore;

18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

19 1. This Order and Final Judgment (the “Judgment”) incorporates by
20 reference the definitions in the Stipulation and all terms used herein shall have the
21 same meanings as set forth in the Stipulation.

22 2. This Court has jurisdiction over the subject matter of the Action, and
23 over all Parties to the Action, including all members of the Class.

24 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court
25 hereby certifies the Action as a class action for purposes of the Settlement. The
26 Class consists of all persons and entities who purchased or otherwise acquired the
27 publicly traded common stock of American Apparel between November 28, 2007
28 and August 17, 2010, inclusive. Excluded from the Class are Defendants, the

1 directors and officers of American Apparel and their families and affiliates. Also
2 excluded from the Class are all persons and entities who excluded themselves from
3 the Class by timely requesting exclusion in accordance with the requirements of the
4 Notice, a list of which is attached hereto as Exhibit 1.

5 4. With respect to the Class, this Court finds, solely for the purposes of
6 the Settlement, that the prerequisites for a class action under Rules 23(a) and (b)(3)
7 have been satisfied in that:

8 (a) members of the Class are so numerous that joinder of all Class
9 Members in the Action is impracticable;

10 (b) there are questions of law and fact common to the Class;

11 (c) the claims by Lead Plaintiff, as class representative, are typical
12 of the claims of the Class;

13 (d) Lead Plaintiff and Lead Counsel have and will fairly and
14 adequately represent and protect the interests of Class Members;

15 (e) the questions of law and fact common to the members of the
16 Class predominate over any questions affecting only individual members; and

17 (f) a class action is superior to other available methods for the fair
18 and efficient adjudication of the controversy, considering: (i) the interests of the
19 Class Members in individually controlling the prosecution of separate actions; (ii)
20 the extent and nature of any litigation concerning the controversy already
21 commenced by Class Members; and (iii) the desirability or undesirability of
22 concentrating the litigation of these claims in this particular forum.

23 5. Pursuant to Rule 23, and solely for the purposes of the Settlement, the
24 Court further finally certifies Lead Plaintiff as class representative for the Class and
25 appoints Lead Counsel as counsel for the Class.

26 6. The Court hereby finds that notice of the pendency of this Action as a
27 class action and of the proposed Settlement was given to all Class Members who
28 could be identified with reasonable effort. The notification provided for and given

1 to the Class was in compliance with the Preliminary Approval Order, and it
2 constituted the best notice practicable under the circumstances, including individual
3 notice to all Class Members who could be identified through reasonable effort. The
4 distribution of the Notice and the publication of the Summary Notice provided the
5 best notice practicable under the circumstances of those proceedings and of the
6 matters set forth therein, including the proposed Settlement set forth in the
7 Stipulation, to all Persons entitled to such notice, and said notice fully satisfied the
8 requirements of Rule 23; Section 21D(a)(7) of the Securities Exchange Act of
9 1934, as amended by the Private Securities Litigation Reform Act of 1995, 15
10 U.S.C. § 78u-4(a)(7), the Constitution of the United States, and any other
11 applicable law, and it is further determined that all members of the Class (excluding
12 those Persons listed on Exhibit 1 hereto) are bound by the Judgment herein.

13 7. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby
14 approves the Settlement set forth in the Stipulation and finds that the Settlement is,
15 in all respects, fair, reasonable, and adequate to Lead Plaintiff and the Class. The
16 Court further finds that the Settlement set forth in the Stipulation is the result of
17 arm's-length negotiations between experienced counsel representing the interests of
18 the Parties and is in the best interest of the Class. The Court further finds that the
19 record is sufficiently developed and complete to have enabled the Parties to have
20 adequately evaluated and considered their positions. Accordingly, the Settlement
21 embodied in the Stipulation is hereby finally approved in all respects. The Parties
22 are hereby directed to perform its terms.

23 8. The Action and all claims included therein, as well as all of the Settled
24 Claims (defined in the Stipulation and in Paragraph 9(b) below) are dismissed with
25 prejudice as to Lead Plaintiff and the other members of the Class, and as against
26 each and all of the Released Parties (defined in the Stipulation and in Paragraph
27 9(a) below). The Parties are to bear their own costs, except as otherwise provided
28 in the Stipulation.

1 9. As used in this Judgment, the terms “Released Parties,” “Settled
2 Claims,” “Released Parties’ Claims,” and “Unknown Claims” shall have the
3 meanings as provided in the Stipulation, and specified below:

4 (a) “Released Parties” means the Defendants and their respective
5 past or present officers, directors, partners, members, parents, subsidiaries,
6 controlling persons, affiliates, employees, agents, attorneys, auditors, underwriters,
7 insurers, representatives, spouses, immediate family members, heirs, predecessors,
8 successors in interest and assigns of the Defendants.

9 (b) “Settled Claims” means, to the extent allowed by law, all
10 claims and causes of action of every nature and description, whether known or
11 unknown, whether arising under federal, state, common or foreign law, that Lead
12 Plaintiff or any other member of the Class (a) asserted in the Complaint, or (b)
13 could have asserted in any forum that arise out of or are based upon the allegations,
14 transactions, facts, matters or occurrences, representations or omission involved,
15 set forth, or referred to in the Complaint and that relate to the purchase or other
16 acquisition of the publicly-traded common stock of American Apparel during the
17 Class Period. Notwithstanding the foregoing, “Settled Claims” does not include
18 claims asserted in any derivative action or ERISA action based on similar
19 allegations or any claims relating to the enforcement of the Settlement.

20 (c) “Released Parties’ Claims” means, to the extent allowed by
21 law, all claims and causes of action of every nature and description, whether
22 known or unknown, whether arising under federal, state, common or foreign law,
23 that arise out of or relate in any way to the institution, prosecution, or settlement of
24 the claims against the Defendants, except for claims relating to the enforcement of
25 the Settlement.

26 (d) “Unknown Claims” means any and all Settled Claims that Lead
27 Plaintiff and/or any Class Member does not know or suspect to exist in his, her or
28 its favor as of the Effective Date and any Released Parties’ Claims that Defendants

1 or any Released Party does not know or suspect to exist in his, her or its favor as of
2 the Effective Date, which if known by him, her or it might have affected his, her or
3 its decision(s) with respect to the Settlement. With respect to any and all Settled
4 Claims and Released Parties' Claims, the Parties stipulate and agree that upon the
5 Effective Date, Lead Plaintiff and Defendants shall expressly waive, and each
6 Class Member and Released Party shall be deemed to have waived, and by
7 operation of the Judgment shall expressly have waived, any and all provisions,
8 rights and benefits conferred by any law of any state of the United States, or
9 principle of common law or otherwise, which is similar, comparable, or equivalent
10 to California Civil Code §1542, which provides:

11 A general release does not extend to claims which the creditor does
12 not know or suspect to exist in his or her favor at the time of
13 executing the release, which if known by him or her must have
14 materially affected his or her settlement with the debtor.

15 The Parties acknowledge, and Class Members and Released Parties by operation of
16 law shall be deemed to have acknowledged, that the inclusion of "Unknown
17 Claims" in the definition of Settled Claims and Released Parties' Claims was
18 separately bargained for and was a key element of the Settlement.

19 10. Upon the Effective Date of the Settlement, Lead Plaintiff and
20 members of the Class, on behalf of themselves and each of their heirs, executors,
21 administrators, successors and assigns, shall, with respect to each and every Settled
22 Claim, release and forever discharge, and shall forever be enjoined from
23 prosecuting, any Settled Claims against any of the Released Parties, regardless of
24 whether or not such Class Member executed and delivers a Proof of Claim Form.

25 11. Upon the Effective Date of the Settlement, each of the Released
26 Parties, on behalf of themselves and each of their heirs, executors, administrators,
27 successors and assigns, shall, with respect to each and every Released Parties'
28 Claim, release and forever discharge, and shall forever be enjoined from

1 prosecuting any of the Released Parties' Claims against Lead Plaintiff, and his
2 attorneys, and all other Class Members.

3 12. The Stipulation and all negotiations, statements, and proceedings in
4 connection therewith shall not, in any event, be construed or deemed to be evidence
5 of an admission or concession on the part of Lead Plaintiff, any Defendant, any
6 member of the Class, or any other Person, of any liability or wrongdoing of any
7 nature by them, or any of them, and shall not be offered or received in evidence in
8 any action or proceeding (except an action to enforce the Stipulation and
9 Settlement contemplated thereby), or be used in any way as an admission,
10 concession, or evidence of any liability or wrongdoing of any nature, and shall not
11 be construed as, or deemed to be evidence of, an admission or concession that Lead
12 Plaintiff, any member of the Class, or any other Person, has or has not suffered any
13 damage.

14 13. The Court finds that all Parties and their counsel have complied with
15 each requirement of the Private Securities Litigation Reform Act of 1995 and Rule
16 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

17 14. Only those Class Members filing valid Claim Forms shall be entitled
18 to participate in the Settlement and to receive a distribution from the Settlement
19 Fund. The Claim Form to be executed by Class Members shall further release all
20 Settled Claims against the Released Parties. All Class Members shall, as of the
21 Effective Date, be bound by the releases set forth herein whether or not they submit
22 a valid and timely Claim Form.

23 15. No Authorized Claimant shall have any claim against Lead Plaintiff,
24 Lead Counsel, the Claims Administrator, or any other agent designated by Lead
25 Counsel based on the distributions made substantially in accordance with the
26 Settlement and Plan of Allocation as approved by the Court and further orders of
27 the Court. No Authorized Claimant shall have any claim against Defendants,
28 Defendants' Counsel, or any of the Released Parties with respect to the investment

1 or distribution of the Net Settlement Fund, the determination, administration,
2 calculation or payment of claims, the administration of the escrow account, or any
3 losses incurred in connection therewith, the Plan of Allocation, or the giving of
4 notice to Class Members.

5 16. Any order approving or modifying the Plan of Allocation set forth in
6 the Notice or Lead Counsel's request for attorneys' fees and reimbursement of
7 Litigation Expenses and/or Lead Plaintiff's request for reimbursement of costs and
8 expenses (including lost wages) in connection with his representation of the Class
9 shall not disturb or affect the finality of this Judgment, the Stipulation or the
10 Settlement contained therein.

11 17. Without affecting the finality of this Judgment in any way, the Court
12 reserves exclusive and continuing jurisdiction over the Action, Lead Plaintiff, the
13 Class, and the Released Parties for the purposes of: (1) supervising the
14 implementation, enforcement, construction, and interpretation of the Stipulation,
15 the Plan of Allocation, and this Judgment; (2) hearing and determining any request
16 by Lead Counsel for an award of attorneys' fees and reimbursement of Litigation
17 Expenses and/or any request of Lead Plaintiff for reimbursement of costs and
18 expenses (including lost wages) in connection with his representation of the Class;
19 and (3) supervising the distribution of the Settlement Fund.

20 18. In the event that the Settlement does not become effective in
21 accordance with the terms of the Stipulation or in the event that the Settlement
22 Fund, or any portion thereof, is returned to Defendants, then this Judgment shall be
23 rendered null and void to the extent provided by and in accordance with the
24 Stipulation and shall be vacated and, in such event, all orders entered and releases
25 delivered in connection herewith shall be null and void to the extent provided by
26 and in accordance with the Stipulation.

1 19. There is no reason for delay in the entry of this Judgment and
2 immediate entry by the Clerk of the Court is expressly directed pursuant to Rule
3 54(b) of the Federal Rules of Civil Procedure.

4
5 DATED: _____, 2014.

6
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8 _____
9 HON. MARGARET M. MORROW
10 UNITED STATES DISTRICT JUDGE

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EXHIBIT 1

List of Persons Excluded from the Class

1. Stephen G. Fridl
Asheville, NC

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