

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Carol Rougvie, et al.,	:	
	:	
Plaintiffs	:	
	:	
v.	:	CIVIL ACTION No. 15-724
	:	
Ascena Retail Group, Inc., et al.	:	
	:	
Defendants	:	

**ORDER**

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 2016, upon consideration of the Joint Motion for Acceptance of Claims Filed Between April 5, 2016 and May 20, 2016, it is hereby **ORDERED** that the Motion is **GRANTED**. Defendants and the Claims Administrator may accept claims that were submitted past the April 4, 2016 deadline but on or before May 20, 2016.

\_\_\_\_\_  
**Kearney, J.**

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	:	
Plaintiffs	:	
	:	CIVIL ACTION No. 15-724
v.	:	
	:	
Ascena Retail Group, Inc., et al.	:	
	:	
Defendants	:	

**JOINT MOTION FOR ACCEPTANCE OF CLAIMS FILED BETWEEN APRIL 5, 2016  
AND MAY 20, 2016**

Plaintiffs Carol Rougvie, Marguerite Sinkler Gilder, Caroline Mansour, Melinda Mehigan, Fonda Kubiak, Carol Cowhey, Kara Bell and Tiffany Bolton (“Plaintiffs”), by and through their attorneys, and Defendants, Ascena Retail Group, Inc., and Tween Brands, Inc., by and through their attorneys, hereby move this Court to allow claims filed past the April 4, 2016 filing deadline, but on or before May 20, 2016, to be accepted as if they were timely filed, and state as follows:

1. The Settlement Agreement requires that claims be filed by April 4, 2016.
2. Approximately 590,004 claims were filed by class members on or before the April 4, 2016 deadline.
3. However, the Claims Administrator has received over 15,000 additional claims by class members since the passing of the April 4, 2016 deadline.
4. Both Plaintiffs and Defendants concur that it is appropriate and fair to accept these late filed claims in order to permit these class members to receive the benefits they have chosen from the Settlement.
5. Given that the net settlement fund of \$50.8 Million will be able to pay all cash claims chosen by class members, including the class members who filed late, without any pro

rata reduction and Defendants are otherwise required to honor all vouchers, even if they exceed the net settlement fund, all class members will get their full chosen recovery,

WHEREFORE, Plaintiffs and Defendants respectfully request that the Court enter the attached proposed Order permitting the Claims Administrator to accept claims filed between April 5, 2016 and May 20, 2016.

Dated: May 12, 2016

Respectfully submitted,

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	:	
Plaintiffs	:	
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v.	:	
	:	
Ascena Retail Group, Inc., et al.	:	
	:	
Defendants	:	

**MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR ACCEPTANCE OF CLAIMS FILED BETWEEN  
APRIL 5, 2016 AND MAY 20, 2016**

Plaintiffs Carol Rougvie, Marguerite Sinkler Gilder, Caroline Mansour, Melinda Mehigan, Fonda Kubiak, Carol Cowhey, Kara Bell, and Tiffany Bolton (“Plaintiffs”), by and through their attorneys, and Defendants, Ascena Retail Group, Inc., and Tween Brands, Inc., , by and through their attorneys, jointly move this Court to allow the acceptance of claims filed after the Settlement Agreement’s April 4, 2016 deadline.

The court has equitable authority as well as statutory authority under Federal Rule of Civil Procedure 6(b) to accept untimely claims. *See In re Orthopedic Bone Screw Products Liab. Litig.*, 246 F.3d 315, 316-17 (3d Cir. 2001) (“rigid and unquestioned adherence to such limitations belies principles of equity and the court's role as a fiduciary in class actions when allowing a claimant participation in a settlement works no harm on the conduct of the proceedings and does not significantly prejudice the interests of the parties”); *In re Cendant Corp. Prides Litig.*, 233 F.3d 188, 191 (3d Cir. 2000) (invoking both the court’s inherent equitable powers and those under Rule 6); Newberg on Class Actions § 12:23 (5th ed.) (“courts have found it within their equitable authority to permit class members who filed untimely claims to participate in the settlement”); *c.f. Cassese v. Washington Mut., Inc.*, 968 F. Supp. 2d 484, 488

(E.D.N.Y. 2013) (where claims forms were unsigned but defendant did not oppose their acceptance, the court found that he forms evinced an intent to partake in the settlement and, while procedurally defective, were still accepted).<sup>1</sup>

Here, given that there is no risk of prejudice or delay and in light of the fact that both parties agree that the claims should be accepted, the court should exercise its equitable powers to accept claims filed between April 5, 2016 and May 20, 2016. *See In re Gilat Satellite Networks, Ltd.*, CV-02-1510 CPS/SMG, 2009 WL 803382, at \*6 (E.D.N.Y. Mar. 25, 2009) (“Because there is no showing of delay [to the distribution of the settlement fund] or prejudice, the late filed claims should be included in the class for settlement disbursement.”).

Dated: May 12, 2016

Respectfully submitted,

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<sup>1</sup>While courts often look to *Pioneer Inv. Servs. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380 (1993), in determining whether to accept late filed claims, that inquiry is only necessary when the acceptance of late filed claims is contested. Here, Defendants concur in accepting the late filed claims so *Pioneer* is inapplicable.

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Ascena Retail Group, Inc., et al.,

Defendants.

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:  
: COMPLAINT - CLASS ACTION

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:  
: JURY TRIAL REQUESTED

:  
:  
: CIV. NO. 2:15-cv-00724-MAK

**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2016, true and correct copies of the Joint Motion for Acceptance of Claims Filed Between April 5, 2016 and May 20, 2016, and the accompanying Memorandum, were electronically filed and served on the following via the method indicated below:

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