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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MIGUEL A. CRUZ, and JOHN D. HANSEN, individually and on behalf of all others similarly situated,)	Case Nos. 07-2050 SC
)	07-4012 SC
Plaintiffs,)	
v.)	ORDER GRANTING PLAINTIFFS'
DOLLAR TREE STORES, INC.,)	MOTION FOR LEAVE TO FILE
Defendant.)	AND SERVE A MOTION FOR
)	RECONSIDERATION OF THE
)	<u>DECERTIFICATION ORDER</u>
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ROBERT RUNNINGS, individually, and on behalf of all others similarly situated,)	
)	
Plaintiffs,)	
v.)	
DOLLAR TREE STORES, INC.,)	
Defendant.)	

This matter comes before the Court on a Motion for Leave to File and Serve a Motion for Reconsideration filed by Plaintiffs Robert Runnings, Miguel Cruz, and John Hansen (collectively, "Plaintiffs"). ECF No. 290 ("Mot.").¹ In their Motion, Plaintiffs request leave to file a Motion for Reconsideration of this Court's September 9, 2010 Order Granting in Part and Denying in Part

¹ Cruz v. Dollar Tree, Case No. 07-2050 ("Cruz Action"), and Runnings v. Dollar Tree, Case No. 07-4012 ("Runnings Action"), have been consolidated. Unless otherwise noted, all docket numbers in this Order refer to docket entries in the Cruz Action.

1 Defendant's Motion to Decertify. See ECF No. 232 ("Sept. 9, 2010
2 Order"). Plaintiffs contend that leave should be granted in
3 accordance with Civil Local Rule 7-9(b) because of the emergence of
4 new material facts since the Court issued its September 9, 2010
5 Order. Specifically, Plaintiffs contend that recent correspondence
6 with Defendant Dollar Tree Stores, Inc. ("Defendant") has revealed
7 potential problems with the manner in which Defendant handled
8 certain payroll certifications, such as those that Defendant
9 contends were illegible.

10 Having considered Plaintiffs' Motion, the Court GRANTS
11 Plaintiffs leave to file a Motion for Reconsideration. However, to
12 the extent that Plaintiffs intend to argue that the weekly payroll
13 certifications are inaccurate writ large and therefore cannot be
14 relied upon for class certification purposes, the Court reminds
15 Plaintiffs of the Court's statement in its September 9, 2010 Order:
16 "if Plaintiffs intend to argue that the certifications do not
17 provide a reliable measure of weeks when SMS were not spending most
18 of their time performing managerial tasks, then it is not clear to
19 the Court how this case can proceed as a class action." Sept. 9,
20 2010 Order at 20.

21 Furthermore, it is unclear to the Court whether Defendant has
22 produced the payroll certifications that it contends are illegible.
23 The Court hereby ORDERS Defendant to produce those payroll
24 certifications to Plaintiffs' counsel as soon as possible for
25 review if it has not already done so.

26 Plaintiffs' Motion for Reconsideration is hereby set for
27 hearing on May 27, 2011 at 10 a.m. Plaintiffs shall file their
28 Motion for Reconsideration by April 22, 2011. Defendants shall

1 file their Opposition by May 6, 2011. Plaintiffs shall file their
2 Reply by May 13, 2011.

3 Lastly, two additional motions are currently before the Court
4 in this case: Defendant's Motion to Bifurcate the Liability and
5 Damages Phases of Trial and Set the Order of Presentation and
6 Argument at Trial, ECF No. 277 ("Def.'s Mot. to Bifurcate"), and
7 Plaintiff's Motion for Pre-Trial Order No. 1, ECF No. 290. These
8 Motions are currently set for hearing on April 8, 2011 and May 27,
9 2011 respectively. In the interest of efficiency, the Court hereby
10 RESCHEDULES the hearing on Defendant's Motion to Bifurcate for May
11 27, 2011. Thus, Defendant's Motion to Bifurcate, Plaintiffs'
12 Motion for Pre-Trial Order No. 1, and Plaintiffs' Motion for
13 Reconsideration shall all be heard on May 27, 2011, at 10 a.m. in
14 Courtroom 1, 17th Floor, 450 Golden Gate Avenue, San Francisco,
15 California.

16
17 IT IS SO ORDERED.

18
19 Dated: March 31, 2011

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UNITED STATES DISTRICT JUDGE