

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

LISA GARVEY, on behalf of herself and
others similarly situated,

Plaintiff,

v.

K-MART CORPORATION,

Defendant.

No. C 11-02575 WHA

**ORDER REGARDING
CLASS NOTICE**

The parties have filed a joint plan for dissemination of class notice, a proposed form of class notice, and a proposed time table (Dkt. No. 96). These proposals are approved, subject to the modifications set forth below.

1. CLASS LIST.

The parties' class list adequately identifies members of the class (Dkt. Nos. 97, 99). After the opt-out period has closed, class counsel shall file an updated report on class size with the finalized class rosters appended.

2. ADMINISTRATOR.

The parties' joint proposal to designate Kurtzman Carson Consultants as the administrator for printing, dissemination of class notice, and receipt of requests for exclusion is **APPROVED**. Class counsel shall bear the full cost of the administrator, subject to possible reimbursement if the class prevails.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. FORM OF CLASS NOTICE.

The parties’ proposed class notice will be used subject to the following amendments.

On the first page, add the follow sentence beneath “Notice of Pendency of Class Action”: *A federal court has authorized this Notice. Please read it carefully. This is not a solicitation from a lawyer. Your rights are at stake and could be compromised.*

Also on the first page, after the sentence “According to Kmart’s employment records, you may be a member of the Class,” add: *This is the first, and possibly only, notice you will receive. Please read Section B below to inform yourself of what this means for you in terms of giving up control of any and all claim(s) you may have against defendant.*

Also on the first page, in Section B, emphasis to the class member that his or her employment with Kmart will not be affected: “Whatever option you choose will **not** affect your employment with Kmart if you are a current employee.”

Also on the first page, in Section B.1, add: *Counsel and lead plaintiff may be authorized to settle this case without necessarily further opportunity for class members to opt out. In that event, if the settlement is approved by the Court, you and all other class members would be bound by the settlement.*

4. MEANS OF DISSEMINATION.

All class notices shall be sent as independent mailings via first class United States mail. Class notices shall be sent in distinctive envelopes that do not resemble junk mailings. The outside of each envelope shall state that it contains an important notice from the United States District Court. The return address on the envelopes shall be the address of the administrator but

1 it shall indicate that the class notice was sent on behalf of the District Court. For example, the
2 return address may read as follows:

3 Important Class Action Notice from the Court
4 United States District Court for the Northern District of California
5 Class Action 11-2575 WHA
6 [ADMINISTRATOR NAME]
7 [ADMINISTRATOR ADDRESS]

8 Class counsel must use the most up-to-date addresses of class members to ensure, prior to
9 dissemination of the class notices, that the addresses listed are correct. Each notice shall contain
10 a pre-stamped return envelope.

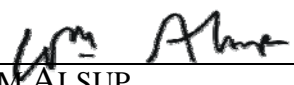
11 **5. SCHEDULE.**

12 The parties may file objections to the tentative class notice by **NOON ON AUGUST 8,**
13 **2012.** After that time, the class notice and the schedule for dissemination of notice will be
14 finalized.

15 It is anticipated that the administrator will mail the class notices on or by August 8, 2012.
16 The class members would then have until September 7, 2012, to opt out of the class action.
17 Plaintiffs propose that class members be permitted to opt out by sending a letter via mail to the
18 administrator. This will be allowed. All such letters shall be filed by counsel together with a
19 summary list.

20 **IT IS SO ORDERED.**

21 Dated: August 6, 2012.

22 
23 _____
24 WILLIAM ALSUP
25 UNITED STATES DISTRICT JUDGE
26
27
28