

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
NORTHERN DISTRICT OF CALIFORNIA**

NICOLE HAMILTON, individually and on
behalf of other similarly situated
Plaintiffs,

v.

DS Services of America, Inc.; Costco
Wholesale Corp., and DOES 1-10, inclusive
Defendants.

BARBARA LOO, individually, on behalf of
others similarly situated,

Plaintiff,

v.

DS SERVICES OF AMERICA, INC., et al.,
Defendants.

Case No. 3:15-cv-04735-VC
3:16-cv-05942-VC

**~~proposed~~ ORDER GRANTING MOTION
FOR SETTLEMENT APPROVAL**

**Date: November 9, 2017
Time: 10:00 A.M.
Courtroom: 4, 17th Floor**

Hon. Vince Chhabria

~~proposed~~ ORDER GRANTING SETTLEMENT APPROVAL

Case No. 3:15-cv-04735-VC

1 Plaintiffs' Motion for Settlement Approval came before the Court on November 9,
2 2017. Defendants did not oppose the Motion. Based on the pleadings, papers, and arguments
3 of counsel, and good cause appearing therefore, the Court hereby grants the Motion in full.

4 The Settlement Administrator distributed notice by mail on August 18, 2017. The
5 Notice informed Plaintiffs of their settlement share, and the requested fees, costs, and service
6 awards. 164 out of 166 Plaintiffs have returned claims forms and are participating in this
7 settlement. The Administrator did not receive any objections or requests for exclusion.

8 The Courts finds that this settlement reflects a "reasonable compromise over issues"
9 that are "actually in dispute." *Lynn's Food Stores, Inc. v. U.S.*, 679 F.2d 1350, 1354 (11th Cir.
10 1982). The Court finds that the settlement reflects a reasonable compromise as to entitlement
11 to overtime, amount of overtime, and calculation of overtime, and therefore warrants
12 approval.

13 The Court approves Plaintiffs' Counsel's requested attorneys' fees and costs. Here, the
14 settlement agreement provides for, and the Court grants, attorneys' fees of \$416,666.67 (one-
15 third of the total settlement amount), and up to \$12,000 in attorneys' unreimbursed litigation
16 costs, and up to \$8,000 for costs of administration.

17 The Court approves the requested service awards of \$10,000 each for the two Named
18 Plaintiffs. The amount of these awards are reasonable in light of the effort expended, the
19 global results obtained, the average payments to Plaintiffs, the risk of reputational harm, and
20 the general release that the Named Plaintiffs have signed.

21 As of the Effective Date, all of the Released Claims as defined in the Settlement
22 Agreement are hereby released against the Released Parties, and the claims of all 164
23 accepting Plaintiffs shall be dismissed with prejudice. Without affecting the finality of this
24 Judgment and Order in any way, the Court retains jurisdiction over the interpretation,
25 implementation, and enforcement of this settlement and the payments to be made under the
26 settlement.

1 As discussed at hearing, the Parties agree, and the Court confirms, that Paragraph 22
2 of the Settlement Agreement does not prohibit anyone from cooperating in a government
3 investigation.

4 As further discussed at hearing, the funds allocated to the two Non-Responders shall
5 be held in trust by Plaintiffs' Counsel for two years from the Effective Date. These Non-
6 Responders may claim their allocations at any time during this two-year window by
7 contacting Plaintiffs' Counsel or the Administrator and returning a release of claims form. If
8 these Non-Responders do not claim their allocations during this window, the funds will be
9 distributed to *cy pres* pursuant to the Settlement Agreement, and the individuals' claims will
10 be dismissed with prejudice pursuant to the Settlement Agreement. Plaintiffs' Counsel shall
11 take reasonable steps to contact these Non-Responders.

12 Except as otherwise provided in the Settlement Agreement and this Order, the parties
13 shall bear their own attorneys' fees and costs.

14 **IT IS SO ORDERED**

15 Dated:



16
17
18
19
20
21
22
23
24
25
26
27
28