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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOVELY NAKOOKA and ELVA REYES,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

DOLLAR TREE STORES, INC., and DOES
1-10, inclusive,

Defendants.

No. 3:17-cv-03955-JD

CLASS ACTION

**~~PROPOSED~~ ORDER RE FINAL APPROVAL
OF CLASS ACTION SETTLEMENT AND
ENTERING FINAL JUDGMENT**

1 After the parties resolved a variety of shortcomings in their initial request for preliminary
2 approval of a classwide settlement, Dkt. No. 30, the Court granted preliminary approval to a revised
3 settlement proposal in December 2018. Dkt. No. 44. That approval was based in part on representations
4 about the amount of fees to be paid to the settlement administrator. The joint motion for final approval
5 featured significantly higher fees for the administrator, with no good reason provided for the extra costs.
6 Dkt. No. 47. Because the administrator fees looked excessive, the Court denied final approval, and
7 asked the parties to reduce them to a more reasonable level and to provide a revised proposal for a
8 second round of distributions to the class if warranted. Dkt. No. 48. The parties filed a supplemental
9 memorandum stating that they had reached an agreement to reduce the administrator fees, and
10 explaining how a second distribution round would happen. Dkt. No. 49.

11 The Court still has concerns about the amount of fees to be paid to the administrator. While they
12 are no longer sky-high, they are still at the higher end of fees paid in comparable cases. Even so, the
13 Court has concluded that they are just within the boundary of being acceptable, and will grant final
14 approval based on the revised administrator fees set out in the supplemental memorandum.

15 Consequently, it is ordered:

16 1. Pursuant to the Order Re Preliminary Approval, the Class Notice was sent to each Class
17 Member by first-class mail. The Class Notice directed the Class Members to PACER and the
18 Settlement Administrator's website, where Class Members could review the terms of the Settlement,
19 their right to receive a Settlement Share, their right to object to the Settlement or to elect not to
20 participate in the Settlement and pursue their own remedies, and their right to appear in person or by
21 counsel at the final approval hearing and be heard regarding approval of the Settlement. Adequate
22 periods of time were provided by each of these procedures. Not one Class Member filed a written
23 objection to the proposed Settlement as part of this notice period or stated an intention to appear at the
24 final approval hearing. One Class Member filed a written comment expressing a negative view of the
25 case itself. Dkt. No. 45. The Court finds and determines that this notice procedure afforded adequate
26 protections to Class Members and provides the basis for the Court to make an informed decision
27 regarding approval of the Settlement based on the responses of Class Members. The Court finds and
28 determines that the notice provided in this case was the best notice practicable, which satisfied the

1 requirements of law and due process.

2 2. In addition to the notice to the Class, pursuant to the Class Action Fairness Act of 2005,
3 28 U.S.C. § 1715 (“CAFA”), the Attorney General of the United States and the appropriate state official
4 in each state in which a Class Member resides have been given notice of the Settlement. Pursuant to
5 CAFA, not later than 10 days after the motion seeking preliminary approval of the Settlement was filed
6 with the Court, Dollar Tree served upon the appropriate state official of each state in which a Class
7 Member resides and the appropriate federal official a notice of the Settlement consisting of: copies of
8 the complaint in this action; a notice of the scheduled judicial hearings in this class action; copies of the
9 Settlement Agreement, proposed notices of class action settlement and Class Members’ right to request
10 exclusion from the class; and the names of Class Members who reside in each state and the estimated
11 proportionate share of the claims of Class Members in each state to the entire Settlement. The notice of
12 Settlement also invited comment on the Settlement. The Court finds and determines that Dollar Tree’s
13 notice of the Settlement met the statutory requirements of CAFA. Accordingly, 28 U.S.C. section
14 1715(e) has no application to the Settlement.

15 3. In addition to the CAFA notice, pursuant to the Labor Code Private Attorneys General
16 Act of 2004 (“PAGA”), Cal. Lab. Code § 2699(1)(2), the State of California’s Labor Workforce
17 Development Agency (“LWDA”) has been given notice of the Settlement. Pursuant to PAGA,
18 concurrent with the motion seeking preliminary approval of the Settlement being filed with the Court,
19 Dollar Tree served upon the LWDA a notice of the Settlement consisting of: copies of the complaint in
20 this action; a notice of the scheduled judicial hearings in this class action; copies of the Settlement
21 Agreement, proposed notices of class action settlement and Class Members’ right to request exclusion
22 from the class; and the names of Class Members who reside in each state and the estimated
23 proportionate share of the claims of Class Members in each state to the entire Settlement. The notice of
24 Settlement also invited comment on the Settlement. The Court finds and determines that Dollar Tree’s
25 notice of the Settlement met the statutory requirements of PAGA. Accordingly, Cal. Lab. Code
26 § 2699(1)(2) has no application to the Settlement.

27 4. For the reasons stated in the Order Re Preliminary Approval, the Court finds and
28 determines that the proposed Class, as defined in the definitions section of the Settlement and

1 conditionally certified by the Order Re Preliminary Approval, meets the requirements for class
2 certification, and it is ordered that the Class is finally approved and certified as a class for purposes of
3 the Settlement.

4 5. Although no objection per se was made to the terms of the Settlement, the Court has
5 taken notice of the comment criticizing the case as a whole. For the sake of clarity, the Court finds that
6 the comment does not warrant denial of final approval.

7 6. The Court finds and determines that the terms of the Settlement are fair, reasonable and
8 adequate to the Class and to each Class Member and that the Class Members who did not timely submit
9 valid elections not to participate in the Settlement in accordance with the Settlement Agreement and the
10 Order Re Preliminary Approval will be bound by the Settlement, that the Settlement is ordered finally
11 approved, and that all terms and provisions of the Settlement should be and hereby are ordered to be
12 consummated.

13 7. The Court finds and determines that the Settlement Shares to be paid to the Class
14 Members whose address was confirmed and who did not timely submit valid elections not to participate,
15 as provided for by the Settlement, are fair and reasonable. The Court grants final approval to and orders
16 that payment of those amounts be made to the Class Members who did not timely submit valid elections
17 not to participate and whose addresses were confirmed out of the Net Settlement Amount in accordance
18 with the Settlement.

19 8. The Court finds and determines that the LWDA Payment is fair and reasonable. The
20 Court grants final approval to and orders that payment.

21 9. The Court finds and determines that the cost to administer the Settlement, in the amount
22 of \$113,000 for the first distribution, is fair and reasonable. The Court grants final approval to and
23 orders that amount be paid out of the Maximum Settlement Amount in accordance with the Settlement.

24 10. After the initial distribution is completed, the parties are directed to submit a joint
25 proposal for a second distribution of the uncashed Settlement Shares, if warranted, and the balance of
26 uncashed funds remaining after a second distribution. The Court determines that the cost of
27 administering the second distribution, in the amount of \$0.76 per check, is fair and reasonable. If a
28 second distribution is approved, the cost of \$0.76 per check shall be paid out of the Maximum

1 Settlement Amount in accordance with the Settlement.

2 11. The Court approves the revised costs to administer the settlement. *See* Dkt. No. 49.

3 12. The Court determines by separate order the request by plaintiffs and Class Counsel to the
4 Class Representative Payments and the Class Counsel Fees and Expenses Payment. *See* Dkt. No. 48.

5 13. Without affecting the finality of this order in any way, the Court retains jurisdiction of all
6 matters relating to the interpretation, administration, implementation, effectuation and enforcement of
7 this order and the Settlement.

8 14. Nothing in this order will preclude any action to enforce the parties' obligations under the
9 Settlement or under this order, including the requirement that Dollar Tree make payments to the Class
10 Members in accordance with the Settlement.

11 15. Pursuant to the United States District Court, Northern District of California's Procedural
12 Guidance for Class Action Settlements, updated December 5, 2018, within 21 days after the distribution
13 of the Settlement Shares, the parties will file with the Court, and post on the settlement website, a Post-
14 Distribution Accounting.

15 16. Upon completion of administration of the Settlement, the Settlement Administrator will
16 provide written certification of such completion to the Court and counsel for the parties.

17 17. Pursuant to the Settlement, plaintiffs and all Class Members who did not timely submit
18 valid elections not to participate are permanently barred from prosecuting against Dollar Tree, and its
19 parents, predecessors, successors, subsidiaries, affiliates, joint ventures, and trusts, and all of its
20 employees, officers, agents, attorneys, stockholders, fiduciaries, other service providers, and related
21 persons and entities, and assigns, any of the claims released by them under the Settlement.

22 18. The parties are ordered to comply with the terms of the Settlement.

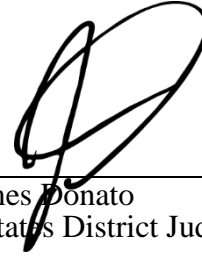
23 19. The Court enters final judgment in accordance with the terms of the Settlement
24 Agreement, the Order Re Preliminary Approval entered on December 19, 2018, and this order.

25 20. This document will constitute a final judgment (and a separate document constituting the
26 judgment) for purposes of Rule 58, Federal Rules of Civil Procedure.

1 The parties will bear their own costs and attorneys' fees except as otherwise provided by the
2 Court's order granting the Class Counsel Fees and Expenses Payment.

3 IT IS SO ORDERED.

4 Dated: November 5, 2019



Hon. James Donato
United States District Judge

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