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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ERIK KELLGREN, THERESE  
KOPCHINSKI, and CHRISTINE LEE,  
Individually and on Behalf of All  
Other Persons Similarly Situated,

Plaintiffs,

v.

PETCO ANIMAL SUPPLIES, INC.;  
PETCO HOLDINGS, INC.; and  
DOES 1 to 100, inclusive,

Defendants.

Case No. 3:13-cv-00644-L-KSC

**ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
FINAL APPROVAL OF CLASS  
AND COLLECTIVE ACTION  
SETTLEMENT, CERTIFICATION  
OF A SETTLEMENT CLASS,  
REIMBURSEMENT OF  
ATTORNEYS' FEES, COSTS,  
EXPENSES AND INCENTIVE  
AWARDS TO  
REPRESENTATIVE PLAINTIFFS  
AND JUDGMENT**

Final Approval Hearing: February 12,  
2018

Complaint Filed: March 19, 2013

District Judge: Hon. M. James Lorenz  
Courtroom: 5B (Schwartz)

Magistrate  
Judge: Karen S. Crawford

Trial Date: Not Set

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MARIA COTE, Individually and on  
Behalf of All Other Persons Similarly  
Situated,

Plaintiffs,

v.

PETCO ANIMAL SUPPLIES, INC.;  
PETCO HOLDINGS, INC.,

Defendants.

Case No. 3:17-cv-00898-L-KSC  
Complaint Filed: January 31, 2017  
(D. Mass.)

Transferred to SDCA: May 4, 2017

Case No. 13-CV-00644-L-KSC

**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND JUDGMENT**

1 DESERIE MICHEL, on behalf of  
2 herself and all others similarly  
3 situated,  
4 Plaintiffs,  
5 v.  
6 PETCO ANIMAL SUPPLIES, INC.  
7 and PETCO HOLDINGS, INC.,  
8 Defendants.

Case No. 3:17-cv-01092-L-KSC  
Complaint Filed: April 14, 2016  
(E.D.N.Y.)  
Transferred to SDCA: May 30, 2017

8 HEATHER VARGAS, Individually  
9 and on Behalf of All Other Persons  
10 Similarly Situated,  
11 Plaintiffs,  
12 v.  
13 PETCO ANIMAL SUPPLIES, INC.;  
14 PETCO HOLDINGS, INC.,  
15 Defendants.

Case No. 3:17-cv-01561-L-KSC  
Complaint Filed: April 6, 2017 (D.N.J.)  
Transferred to SDCA: August 3, 2017

15 JAMES HECKER, on Behalf of  
16 Himself and All Others Similarly  
17 Situated,  
18 Plaintiff,  
19 v.  
20 PETCO ANIMAL SUPPLIES, INC.,  
21 PETCO ANIMAL SUPPLIES STORES,  
22 INC., PETCO HOLDINGS, INC., and  
23 DOES 1 TO 100, Inclusive,  
24 Defendants.

Case No.: 3:17-cv-01169-L-KSC  
Complaint Filed: November 23, 2016  
(N.D. ILL.)  
Transferred to SDCA: June 8, 2017

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Case No. 13-CV-00644-L-KSC

**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND JUDGMENT**

1 ROBERT WAGNER, Individually and  
2 On Behalf of All Other Persons  
3 Similarly Situated,  
4 Plaintiffs,  
5 v.  
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7 PETCO ANIMAL SUPPLIES, INC.,  
8 PETCO ANIMAL SUPPLIES STORES,  
9 INC., and PETCO HOLDINGS, INC.,  
10 Defendants.

Case No.: 3:17-cv-01793-L-KSC  
Complaint Filed: January 15, 2017 (D.  
Colo.)  
Transferred to SDCA: September 28,  
2017

11 **ORDER AND JUDGMENT GRANTING FINAL APPROVAL OF**  
12 **PROPOSED CLASS AND COLLECTIVE ACTION SETTLEMENT**

13 **WHEREAS**, the Plaintiffs and Defendants in the above-captioned  
14 consolidated actions have entered into a Settlement Agreement intended to  
15 resolve the litigation against Defendants arising out of their alleged unlawful  
16 compensation practices for Assistant Managers (“AMs”) who were classified  
17 as exempt and not paid overtime; and

18 **WHEREAS**, the Settlement Agreement attached as Exhibit A to the  
19 Declaration of Seth R. Lesser, filed in connection with Plaintiffs’ Motion for  
20 Preliminary Approval, Dkt. No. 280-3, together with supporting materials,  
21 sets forth the terms and conditions for a proposed settlement and dismissal  
22 with prejudice of the above actions against Defendants; and

23 **WHEREAS**, the Court was satisfied that the terms and conditions set  
24 forth in the Settlement Agreement were the result of good faith, arms-length  
25 settlement negotiations between competent and experienced counsel for both  
26 Plaintiffs and Defendants; and

27 **WHEREAS**, the Court granted Plaintiffs’ Motion for Preliminary  
28 Approval of Class and Collective Action Settlement, Preliminary Certification

Case No. 13-CV-00644-L-KSC

**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND JUDGMENT**

1 of a Settlement Class, Appointment of Class Representatives and Claims  
2 Administrator, Approving Notice and for Final Fairness Hearing (the  
3 “Preliminary Approval Motion”) and supporting materials, Dkt. Nos. 289, 292,  
4 294; and

5 **WHEREAS**, the Court ordered the Notice and Claim Form and Consent  
6 to Join FLSA Action incorporated into the Settlement Agreement to issue to  
7 the Settlement Class in the manner specified in Plaintiffs’ Motion for  
8 Preliminary Approval;

9 Accordingly, the Court finds, concludes, and hereby orders as follows:

10 1. Plaintiffs’ Motion for Final Approval is **GRANTED**.

11 2. The Court has jurisdiction over the subject matter of this action, all  
12 members of the Settlement Class, and Defendants pursuant to 29 U.S.C. §§  
13 1331, 1332, and 1367.

14 3. All defined terms in the Settlement Agreement shall have the same  
15 meaning in this Order and Judgment.

16 4. In accordance with Federal Rule of Civil Procedure 23 and the  
17 requirements of due process, the Settlement Class has been given proper and  
18 adequate notice of the Settlement and the Fairness Hearing, and such notice  
19 was carried out in accordance with the Preliminary Approval Order.

20 5. Prior to the Fairness Hearing, a declaration was filed with the  
21 Court by the Claims Administrator, JND Legal Administration, confirming  
22 that Notice was given in accordance with the terms of the Court’s previous  
23 Order preliminarily approving the Settlement and as required by the Class  
24 Action Fairness Act, 28 U.S.C. § 1715, *et seq.*

25 6. The Notice and notice methodology implemented pursuant to the  
26 Settlement Agreement and the Court’s Preliminary Approval Order (a) were  
27 appropriate and reasonable and constituted due, adequate, sufficient notice to  
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Case No. 13-CV-00644-L-KSC

**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND JUDGMENT**

1 all persons entitled to notice; and (b) met all applicable requirements of the  
2 Federal Rules of Civil Procedure and Due Process.

3 7. The Settlement was negotiated with the assistance of an  
4 experienced mediator, at arm's-length, by experienced counsel who were fully  
5 informed of the facts and circumstances of the action and of the strengths and  
6 weaknesses of their respective positions. The Settlement was reached after the  
7 parties had completed extensive discovery and investigation, conducted legal  
8 research and written discovery, conducted multiple depositions, and reviewed  
9 tens of thousands of pages worth of documents. Counsel for both sides were  
10 well positioned to evaluate the benefits of the Settlement, taking into account  
11 the expense, risk, and uncertainty of protracted litigation over numerous  
12 questions of fact and law.

13 8. The Settlement is fair, reasonable, and adequate. The Court  
14 approves the Settlement.

15 9. The Court finds that for the purpose of this Settlement, the  
16 requirements of Rule 23 of the Federal Rules of Civil Procedure are satisfied,  
17 and that a class action is an appropriate method for resolving the claims  
18 asserted in this litigation. All the prerequisites for class certification under  
19 Rule 23 are present. The Settlement Class Members are ascertainable and too  
20 numerous to be joined. For settlement purposes, questions of law and fact  
21 common to all Settlement Class Members predominate over individual issues  
22 and should be determined in one proceeding with respect to all of the  
23 Settlement Class Members. The Settlement Class Representatives' claims are  
24 typical of those of the Settlement Class for settlement purposes. The Settlement  
25 Class Representatives and Class Counsel meet the adequacy requirements of  
26 FED. R. CIV. P. 23(a)(4). For settlement purposes, the class action mechanism  
27 is superior to alternative means for adjudicating and resolving the state law  
28 claims asserted in these consolidated actions. **Case No. 13-CV-00644-L-KSC**

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**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND JUDGMENT**

1           10. The Court further finds that the settlement of the FLSA claims  
2 asserted by Plaintiffs and those who have consented to join the *Kellgren* action  
3 is a settlement of a bona-fide dispute and is a fair and reasonable compromise  
4 of the FLSA claims asserted.

5           11. The Court certifies the following Settlement Class for purposes of  
6 this Settlement only:

- 7           • Individuals who filed with the Court consents to join the *Kellgren* action  
8 and who, as of the date of entry of the Preliminary Approval Order had  
9 not withdrawn their consent or had their claims dismissed;
- 10           • Individuals who worked in Colorado as an Assistant Manager (“AM”) for  
11 Petco at any time between January 15, 2014 and June 18, 2016;
- 12           • Individuals who worked in Illinois as an AM for Petco at any time  
13 between November 23, 2013 and June 18, 2016;
- 14           • Individuals who worked in Massachusetts as an AM for Petco at any time  
15 between January 31, 2014 and June 18, 2016;
- 16           • Individuals who worked in New Jersey for Petco as an AM at any time  
17 between April 6, 2015 and June 18, 2016;
- 18           • Individuals who worked in New York for Petco as an AM at any time  
19 between April 14, 2010 and June 18, 2016;
- 20           • Individuals who worked in Oregon for Petco as an AM at any time  
21 between October 21, 2014 and June 18, 2016; and
- 22           • Individuals who worked in Pennsylvania for Petco as an AM at any time  
23 between July 14, 2014 and June 18, 2016.

24           12. Class Counsel, Klafter Olsen & Lesser LLP and Hepworth  
25 Gershbaum & Roth, PLLC are hereby awarded attorneys’ fees in the amount of  
26

27 \$ 2,665,000.00 which the Court finds to be fair and reasonable, and

28 \$ 161,901.00 in reimbursement of reasonable expenses incurred in

1 prosecuting the action. The attorneys' fees and expenses so awarded shall be  
2 paid from the Settlement Sum pursuant to the terms of the Settlement  
3 Agreement.

4 13. The Court finds that the services provided by the Named Plaintiffs  
5 to the Settlement Class have conferred a substantial benefit on the Settlement  
6 Class, and hereby directs payment as provided under the terms of the parties'  
7 Settlement Agreement from the Settlement Sum to Named Plaintiffs Erik  
8 Kellgren, Maria Cote, James Hecker, Therese Kopchinski, Christine Lee, Deserie  
9 Michel, Heather Vargas, and Robert Wagner of \$10,000 each as Incentive  
10 Awards.

11 14. The certification of the Settlement Class is for settlement purposes  
12 only and shall not constitute, nor be construed as, an admission on the part of  
13 Defendants that these cases, or any other proposed or certified class or collective  
14 action is appropriate for class or collective treatment pursuant to Federal Rule  
15 of Civil Procedure 23, 29 U.S.C. § 216(b), or any other similar class or collective  
16 action statute or rule. Nor shall this Order and Judgment be construed, used,  
17 offered or admitted into evidence as an admission or concession by Defendants  
18 of the validity of any claim or any actual or potential liability or fault.

19 15. Final Judgment is entered in the above-captioned cases in  
20 accordance with the Settlement Agreement.

21 16. Following the Effective Date provided for in the Settlement  
22 Agreement and receipt of the Settlement Sum from Defendants, as set forth in  
23 the Settlement Agreement, the Claims Administrator shall effectuate  
24 distribution of the settlement funds to the Settlement Class Members who made  
25 timely and valid claims in accordance with the terms of the Settlement  
26 Agreement.

1           17. Upon the Effective Date provided for in the Settlement Agreement,  
2 all State Settlement Class Members who have not timely and validly excluded  
3 themselves from the Settlement have released the claims as set forth in Section  
4 5 of the Settlement Agreement and which is incorporated herein.

5           18. Upon the Effective Date provided for in the Settlement Agreement,  
6 all Federal State Class Members who submitted timely and valid Claim Forms  
7 have released the claims as set forth in Section 5 of the Settlement Agreement  
8 and which is incorporated herein.

9           19. The claims of all Opt-In Plaintiffs who neither timely and validly  
10 requested exclusion nor submitted a timely and valid Claim Form are hereby  
11 dismissed with prejudice.

12           20. The claims of all Opt-In Plaintiffs who timely and validly requested  
13 exclusion from the Settlement are hereby dismissed without prejudice.

14           21. All Settlement Class Members who have not timely and validly  
15 excluded themselves from the Settlement are barred and permanently enjoined  
16 from pursuing and/or seeking to reopen their claims that have been released or  
17 dismissed in the Settlement Agreement or seeking to file, commence, prosecute,  
18 maintain or participate in any other claim, lawsuit, or other proceeding based  
19 on the claims that have been released or dismissed in the Settlement Agreement  
20 and herein.

21           22. These consolidated actions are **DISMISSED WITH PREJUDICE**  
22 except that the Court shall retain exclusive and continuing jurisdiction of the  
23 above-captioned actions, the Settlement Class Members and the Defendants, to  
24 interpret and enforce the terms, conditions and obligations of the Settlement  
25 Agreement.



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**IT IS SO ORDERED.**

Dated: February 13, 2018

  
Hon. M. James Lorenz  
United States District Judge