

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:11-cv-01840-RM-MJW

TANYA YOUNG, on her own behalf and  
on behalf of others similarly situated,

Plaintiffs,

v.

DOLLAR TREE STORES, INC,

Defendant.

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**ORDER REGARDING DEFENDANT DOLLAR TREE STORES, INC.'S  
UNOPPOSED MOTION FOR SUMMARY JUDGMENT AS TO 568 OPT-IN  
PLAINTIFFS**

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This matter is before the Court on Defendant's Unopposed Motion for Summary Judgment. The Court, having reviewed the motion and being fully advised in the premises finds as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Court finds:

- 1) The FLSA requires an action to be filed within two years after the cause of action has accrued; the limitations period is extended to a maximum of three years if a willful violation is found. 29 U.S.C. § 255(a).
- 2) In its Unopposed Motion for Summary Judgment, Dollar Tree seeks to dismiss 568 opt-in plaintiffs who cannot satisfy the three years statute of limitations for willful violations. Specifically, Dollar Tree seeks dismissal of 511 opt-in plaintiffs who last received any payment from Dollar Tree more than the three years prior to filing their

consents to join. These 511 individuals are identified in Exhibit 1, Attachment A to Defendant's Unopposed Motion for Summary Judgment and are listed below. Dollar Tree also seeks dismissal of 57 opt-in plaintiffs who last received a payment from Dollar Tree for work as Assistant Store Managers ("ASMs") more than three years prior to the date that each filed his or her consent form. These 57 individuals are identified in Exhibit 1, Attachment B to Defendant's Unopposed Motion for Summary Judgment and are listed below.

3) Under the FLSA, a cause of action "is deemed to accrue, as a general rule, at each regular payday immediately following the work period during which the services were rendered for which the wage or overtime compensation is claimed." *See Arnold v. Schlumberger Tech. Corp.*, No. 10cv346 MCA/LAM, 2010 WL 9007208, at \*7 (D.N.M. Oct. 29, 2010) (collecting cases) (citations omitted).

4) An opt-in plaintiff's complaint for relief commences, and the statute of limitations ceases running, on the date when his or her written consent is filed with the court. 29 U.S.C. § 256(b).

5) To be timely under the longest provision in the statute of limitations, an opt-in plaintiff's written consent must be filed no later than three years after the date that the cause of action accrued.

6) As shown in Exhibit 1, Attachments A and B to Defendant's Unopposed Motion for Summary Judgment, none of the 568 opt-in plaintiffs challenged in Defendant's motion received a paycheck from Dollar Tree for work as an ASM within the three years before the date when his or her consent form was filed.

7) 511 never received any paycheck at all from Dollar Tree within three years before their consent forms were filed. Of that group, there is one person with no record of ever having received a paycheck from Dollar Tree.

8) The remaining 57 opt-in plaintiffs did receive paychecks within the three years prior to filing their consent forms, but these paychecks were not for work done as ASMs. Their paychecks for work in other positions cannot support any claim in this case because the collective only includes "*Assistant Store Manager employees* who have worked for Dollar Tree at any time within the three years preceding the date of this notice (or who are currently employed by Dollar Tree) . . . ." Conditional Certification Order, Doc. 264, pp. 6-7 (emphasis added).

9) It is undisputed that none of these 568 opt-in plaintiffs received a paycheck from Dollar Tree for work as an ASM within the three years before the time when each such opt-in plaintiff filed a consent form with this Court.

10) Therefore, there is no material fact in dispute and the claims of the 568 opt-in plaintiffs are time-barred.

11) Defendant is entitled to judgment as a matter of law as to these 568 opt-in plaintiffs.

### **ORDER**

**WHEREFORE**, based upon these findings of fact and conclusions of law this Court **ORDERS**:

- 1) Defendant's Unopposed Motion for Summary Judgment is GRANTED.

2) The claims filed by the 511 opt-in plaintiffs who never received any paycheck from Dollar Tree within three years before their consent forms were filed are hereby dismissed with prejudice. Specifically, the claims of the following individuals are dismissed with prejudice:

(1) Angela Abbruzzese, (2) Phillip Agcaoili, (3) Sheri Aguirre, (4) Mohammad Alam, (5) Mary Albright, (6) William Aldrich, (7) Julie Alix, (8) Trisha Allison, (9) Armida Alonzo, (10) Kenia Alvarenga, (11) Linda Amato, (12) Anthony Andrade, (13) Mickey Andrews, (14) Lisa Armentrout, (15) Nicoli Armstead, (16) Melodie Averett, (17) Rikky Axelrod, (18) Renee Bachelor, (19) Brandy Bacon, (20) Judy Baer, (21) Brittany Baker, (22) Tonya Balanga, (23) Jennifer Banfield, (24) Shannon Banks, (25) Lory Banta, (26) Angela Baranovich, (27) Danilo Barberena, (28) Phillip Bardo, (29) Afton Barger, (30) George Baribeault, (31) Mandy Barrett, (32) Brooks Bartholomew, (33) Philip Bauer, (34) Jessica Baumann, (35) Lisa Beaird, (36) Candy Beatty, (37) Brenda Beck, (38) Corrie Beckham, (39) Donna Behagg'grondin, (40) Lisa Belcher, (41) Nicole Bell, (42) Monique Bell, (43) Dan Bennett, (44) Tracie Benoit, (45) Wesley Bensinger, (46) Brian Bernstein, (47) Beverly Berry, (48) Joseph Bia, (49) Johnny Bilberry, (50) Brandi Bird, (51) Robert Bishop, (52) Mona Black, (53) Mark Bobonick, (54) Barbara Bolden, (55) Jonnie Bonnar, (56) Ciana Boston, (57) Neandra Boyd, (58) Ada Bradford, (59) Pamela Branch, (60) Larry Brazda, (61) Pamela Breault, (62) Shawn Brennan, (63) Karen Briggs, (64) Arica Broughton, (65) Kenneth Brown, (66) Henry Brown, (67) Melissa Brown, (68) Felicia Bryant, (69) Craig Budge, (70) Susan Bueno, (71) William Bumgardner, (72) Vanessa Bumgarner, (73) Kari Burns, (74) Kathleen Burton, (75) Tiffanie Camp, (76) Deborah Campbell, (77) Shannon Canty, (78) Laurel Carroll, (79) Vikkijo Carter Young, (80) John Caruso, (81) Cindy Cash, (82) Linda Cassidy, (83) Lisa Casto, (84) Dana Castro, (85) Michael Catlett, (86) Mary Cervantes, (87) Diane Chatterton, (88) Elizabeth Chavez, (89) John Chavira, (90) Bobbi Chenault, (91) Jessica Chenier, (92) Larry Christensen, (93) Flecia Clark, (94) Cynthia Clayton, (95) Alicia Clinton, (96) Barbara Cochran, (97) Michael Cole, (98) Sandra Cole, (99) Denise Collett, (100) Danita Combs, (101) Delores Comstock, (102) Zianongon Coulibaly, (103) April Coulter, (104) Tammie Cox, (105) Kathy Craig, (106) Marcos Cruz, (107) Rosemarie Cundall, (108) Charles Dalool, (109) Bryan Daniel, (110) Manas Das, (111) Janet Daugherty, (112) Mary Davidson, (113) Vincent Davis, (114) Nancy Davis, (115) Lakenya Davis, (116) Victor Dean, (117) Korana Dedic, (118) Lawanda Deweese, (119) Kimberley Diebold, (120) Angelika Dimaya, (121) William Dockery, (122) Dolly Dodson, (123) Amy Dolan, (124) Alan Dopson, (125) Lisa Dorman, (126) Danielle Doucette, (127) Crystal Drake, (128) Teresa Driver, (129) Dora Dunback, (130) April Dunnington, (131) Shawn Duvall, (132) Jacqueline Eagling, (133) Mary Elder, (134) William Elkies, (135) Wendi Elliott, (136) Deeanne Elsholz, (137) Deanna England, (138) Kimberley Estrada, (139) Nikisha Evans, (140) Angie Evans-

Johnson, (141) Waneda Eves, (142) Anthony Faccenda, (143) Jena Fairbanks, (144) Luz Ferguson, (145) Lisa Ferguson, (146) Mark Fiedler, (147) Anthony Fields, (148) Gloria Figgs, (149) Isabel Figueroa, (150) Suzette Finch, (151) Jenna Flaherty, (152) Lisa Flatt, (153) Jessica Flores, (154) Dana Flores, (155) Linda Foley-Gnan, (156) Anthony Ford, (157) Sydney Foster, (158) Kimberly Foster, (159) Ash Franklin, (160) Leah Frazier, (161) Sherry Frazier, (162) Tracy French, (163) Cheryl Fries, (164) Donna Fritz, (165) Sean Gabbard, (166) Tameka Gabriel, (167) Guadalupe Garcia, (168) Joyce George, (169) Debbie Gibson, (170) David Gist, (171) Francisco Gomez, (172) Audria Gonzales, (173) Sandra Gonzalez, (174) Randy Goode, (175) Billie Goyett, (176) Jessica Graham, (177) Jason Grant, (178) Jamie Gray, (179) Johnathon Green, (180) Rochelle Greenberg, (181) Janet Griffis, (182) Janet Grim, (183) Lisa Groce, (184) Carmen Guerrero, (185) Jessica Gunter, (186) Ralph Gutierrez, (187) Caroline Hadden, (188) Jamie Haire, (189) Faithann Hall, (190) Catherine Hall, (191) Beth Hancock, (192) Micheal Handy, (193) Shelly Hanley, (194) April Hansen, (195) Charles Harris, (196) Joseph Hart, (197) Cynthia Hasty, (198) Alexander Hauad, (199) Kimberly Hayes, (200) Heather Hearty, (201) Traci Hebel, (202) Robert Hernandez, (203) Stephanie Hernandez, (204) Yvonne Hernandez, (205) Lacy Hicks, (206) Tanya Hietpas, (207) Kwanish High, (208) Elvera High, (209) Jasmin Hight, (210) Tanisha Hill, (211) Jennifer Hobbs, (212) Kimberlaine Hoover, (213) Mellissa Hoover, (214) Tiffany Houston, (215) Ryan Huff, (216) Lance Huff, (217) Gabriel Hughlett, (218) Lacie Hunter, (219) Brandi Huskey, (220) Ruth Hutzel, (221) Pamela Ingham, (222) Constance Isom, (223) Leon Jackson, (224) Yvonne Jackson, (225) Aaron Jackson, (226) Sheryl Jackson, (227) Angel Jaco, (228) Gail James, (229) Bertha Jenkins, (230) Cathi Jesse, (231) Sarah Jewell, (232) Susan Johnson, (233) Betty Johnson, (234) Jocelyn Johnson, (235) Lillian Jones, (236) Joseph Jones, (237) Trudy Jones, (238) Elizabeth Karn, (239) Dan Keller, (240) Patti Kiechlin Smith, (241) Danna Kimbrough, (242) Regena Koch, (243) Amanda Lacefield, (244) Nicholina Lahey, (245) Marvin Lancaster, (246) Holly Lane, (247) Deborah Leadingham, (248) Susan Leblanc, (249) Susan Lee, (250) Teresa Legan, (251) Margaret Leger, (252) Brenda Leos, (253) Brent Leslie, (254) Morcia Lewis, (255) Pamela Lind, (256) Barbara Livingston, (257) Joan Lockwood, (258) Brenda Long, (259) Sarah Long, (260) William Lopez, (261) Amanda Lovallo, (262) Jenny Loyd, (263) Roselyn Lutz, (264) Sharon Mack, (265) Naomi Madison, (266) Esmeralda Madrid, (267) Carol Maize, (268) Connie Mannes, (269) Brandi Manning, (270) Lawrence Manuel, (271) Xiomara Marable, (272) Genia Marburger, (273) Knuteen Marin, (274) Maritza Martinez, (275) Elizabeth Martinez, (276) Edwin Martinez, (277) John Martino, (278) Roberta Mascolino, (279) Amy Matecki, (280) Floricelda Mateo, (281) Amanda Mathews, (282) Sybil Mc Allister, (283) Erica McBride, (284) Jill McCallum, (285) Norma McClinton, (286) Gerald McCurry, (287) Donald Mcsparin, (288) Melissa Melendez, (289) Shan Merritt, (290) Rhonda Meshell, (291) Melissa Metzler, (292) Marcia Miles, (293) Mary Miller, (294) John Miller, (295) Gregory Miller, (296) Dewayne Miller, (297) Donna Miller, (298) Teresa Mills, (299) Ginger Moore, (300) Ella Moreno, (301) Melissa Morgan, (302) Kennneth Moroz, (303) Judith Morrow, (304) Nicole Mroz, (305) William Mueller, (306) Toni

Mull, (307) Tricia Murello, (308) Chris Murillo, (309) Kristina Murphy, (310) Dale Murphy, (311) Laura Nagy, (312) Marvette Neal, (313) Mahlon Neubauer, (314) Melissa Newman, (315) Sharita Newsom, (316) Amy Newsome, (317) Linda Nichols, (318) Tasha Nieto, (319) Michael Nieto, (320) Ruth Nizamoff, (321) Crystal Odillon, (322) Shawn Odonnell, (323) Rachel Ogden, (324) Jason Olson, (325) Levi Olson, (326) Dennis Omalley, (327) Sandra Ortega, (328) Rose Ortiz, (329) Elaine Ovitt, (330) Heather Palmer, (331) Barbara Palmer, (332) Mary Palmer, (333) Lori Parker, (334) Naiesha Parks, (335) Cynthia Patton, (336) Cecilia Pauley, (337) Beverly Pearson, (338) Susan Pendergraft, (339) Frances Perez, (340) Lilia Perold, (341) James Perry, (342) Elizabeth Phillips, (343) Heather Pimm, (344) Barbara Pinder, (345) Courtney Pinion, (346) Steve Plante, (347) Tina Pole, (348) Lisa Poper, (349) Brenda Powell, (350) Karen Prentiss, (351) April Pritchett, (352) Teresa Pruitt, (353) Carlos Quinones, (354) Jennifer Quistgaard, (355) Victoria Rachuj, (356) Sherry Raczynowski, (357) Amy Rajek, (358) Amitra Redwine, (359) Lori Rees, (360) Virgil Regis, (361) Amy Rice, (362) Sareah Ridge, (363) Meghan Riley, (364) Leonard Riney, (365) Gabriel Rivera, (366) Vernon Roa, (367) Diane Roberts, (368) Jeannette Roberts, (369) Araceli Rodriguez, (370) Nicole Rodriguez, (371) Thierry Rogers, (372) Lori Rogers, (373) Sarah Ross, (374) Cristynn Rudkin, (375) Irene Ruffin, (376) Marvin Russell, (377) Kimberly Safford, (378) Natalie Santiago, (379) Carie Sarmiento, (380) Sophia Scevers, (381) Michelle Schoenfelder, (382) Judi Schrade, (383) Debra Schwartz, (384) Rebecca Sears, (385) Christine Seibel, (386) Sharon Seymour, (387) Cheryl Sharits, (388) Aisha Shea, (389) Tiffany Shea, (390) Kimberly Shepard, (391) Obie Sheppard, (392) Irina Shevchenko, (393) Jo Shutte, (394) Kathy Simmons, (395) Jeffery Simonetti, (396) Sherry Sims, (397) Patrice Singleton, (398) Nikki Siplin, (399) Rosemarie Siringo, (400) Constance Smith, (401) Kathy Smith, (402) Bernice Smith, (403) Isabell Smith, (404) Gerald Smith Jr, (405) Trisha Snyder, (406) Gurvir Sodi, (407) Lindsay Solich, (408) Jessie Soto, (409) Gary Speese, (410) Martha Spencer, (411) Timothy Sproul Jr, (412) Shawn Stallings, (413) Robbin Staples, (414) Victoria Stephens, (415) Karl Stergar, (416) Lisa Stevens, (417) Timothy Stevens, (418) Mary Stevens, (419) John Stevens, (420) Wayne Stiglitz, (421) Dorothy Stillman, (422) Kristina Stokes, (423) Marshall Stone, (424) Scott Storm, (425) Jody Stover, (426) Caroline Strock, (427) Marsha Sullivan, (428) Robert Summers, (429) Nichole Sutherby, (430) Seth Sutton, (431) Skyla Sutton, (432) Sara Swartz, (433) Stephanie Tague, (434) Candace Tarbox, (435) Paul Tardo, (436) Brandy Taylor, (437) David Teal, (438) Clemencia Teal, (439) Shirley Thomas, (440) Nicholas Thomas, (441) Stephanie Thompson, (442) Shana Thompson, (443) Carl Thompson, (444) Trina Thorn, (445) James Thornton, (446) Terry Tibbitts, (447) Carol Tieben, (448) Tania Torres, (449) Dale Trent, (450) Marisol Trevino, (451) Catherine Trine, (452) Micheal Trumble, (453) Crystal Tucker, (454) Steven Turnage, (455) Heather Turner, (456) Leigh Turner, (457) Daniel Umada, (458) Cynthia Urban, (459) Norma Valle, (460) Rodney Vandivier, (461) Staecy Vargas, (462) Nitza Vargas, (463) Mary Vaughn, (464) Maryann Veal, (465) Thomas Velez, (466) Ashley Vice, (467) Rosario Villarreal, (468) Sharlene Vincent, (469) Shannon Vivlamore, (470) Monica Wadsworth, (471) Diana Wagner, (472)


Walter Wantuck, (473) Sandra Wargowski, (474) Sandra Washington, (475) Patricia Washington, (476) Kisha Washington, (477) Ruby Washington, (478) Sean Weeks, (479) David Weitala, (480) Bridget West, (481) David White, (482) Deborah Whited, (483) Patricia Whitmer, (484) Trisha Wicklund, (485) Orlando Wiggins, (486) Tina Wilborn, (487) Kathryn Williams, (488) Jamie Williams, (489) Jean Williams, (490) Sheryleen Williams, (491) Michael Willkett, (492) Steve Wilson, (493) Rhonda Wilson, (494) Robert Winburn, (495) Bonnie Winchester, (496) Robert Winter, (497) Deborah Wise, (498) Eric Wisotsky, (499) Felicia Woods, (500) Le Ann Woolcox, (501) Amanda Wright, (502) Sasha Wright, (503) Tina Yazzie, (504) Mary Ybona, (505) Keith Yniguez, (506) Tina Young, (507) Pamela Yow, (508) Diane Zaino, (509) Coral Zalusky, (510) Joanne Zigler, and (511) Malinda Zollars.

3) The claims filed by the 57 opt-in plaintiffs who last received a payment from Dollar Tree for work as ASMs more than three years prior to the date that each filed his or her consent form, are hereby dismissed with prejudice. Specifically, the claims of the following individuals are dismissed with prejudice:

(1) Leon Albert, (2) Aaron Allen, (3) Matthew Anderson, (4) Rebekah Arellano, (5) Becky Bailey, (6) Tyler Bradley, (7) John Brendel, (8) Damien Bujwid, (9) Deborah Campbell, (10) Deborah Carr, (11) Travis Chafe, (12) Carol Couch, (13) Iris Cruz, (14) Barbara Dame, (15) Matthew Duffield, (16) Geneva Dyer, (17) Tasha Ellis, (18) Larry Garcia, (19) Janet Grim, (20) Sarah Hawkins, (21) Thomas Higgins, (22) Sherria Ingram, (23) Owen Jackson, (24) Elisa Jones, (25) Stacy Langdon, (26) Kathleen Limerick, (27) Yvette Malawich, (28) Ronald Malmgren, (29) Tawny Malone, (30) Jerry Martinez, (31) Debra Mummy, (32) Tuan Nguyen, (33) Tamika Oney, (34) Melissa Overton, (35) Yesenia Padilla, (36) Anthony Paldino, (37) Vincent Phillips, (38) Krystin Phillips, (39) Vera Price, (40) Michael Ranucci, (41) Remona Robinson, (42) Soledad Rodriguez, (43) Melissa Rogers, (44) Jessica Sanchez, (45) Lee Sayers, (46) Joyce Schaefer, (47) Geraldo Schraer, (48) Deanne Shellenbarger, (49) Tuot Tran, (50) Angela Tucker, (51) Gina Urban, (52) Kimberly Walsh, (53) Jason Weighill, (54) Valerie Wesche, (55) Daniel Whitehorn, (56) Rasheedah Williams, and (57) Dorothy Young.

DATED: September 25, 2013.

BY THE COURT:



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RAYMOND P. MOORE  
United States District Judge