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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 DAVID RAMIREZ and MARION
11 LEMONS, on behalf of themselves and all
others similarly situated,

12 Plaintiffs,

13 vs.

14 RITE AID CORPORATION, THRIFTY
15 PAYLESS, INC., and DOES 1-10,
inclusive.

16 Defendants.
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Case No. 2:20-cv-03531-GW-SKx
(Consolidated with Case No. 2:20-cv-
07617-GW-SKx)

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

Date: October 7, 2021
Time: 8:30 a.m.
Courtroom: 9D
Judge: Hon. George H. Wu

Date Action Filed: April 16, 2020

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA REPRESENTATIVE ACTION SETTLEMENT**

David Ramirez, et al. v. Rite Aid Corporation, et al.

1 The Motion for Preliminary Approval of Class and PAGA Representative Action
2 Settlement, filed by Plaintiffs David Ramirez and Marion Lemons (“Plaintiffs”), came
3 on for hearing regularly in Courtroom 9D of the above captioned court, the Honorable
4 George H. Wu, presiding, on October 7, 2021. Defendants Rite Aid Corporation and
5 Thrifty Payless, Inc. (collectively “Defendants”) do not oppose the motion.

6 Having reviewed the papers and documents presented, having heard the
7 statements of counsel, and having considered the matter, the Court HEREBY ORDERS
8 THE FOLLOWING:

9 1. The Court hereby GRANTS preliminary approval of the terms and
10 conditions contained in the Settlement, attached hereto as **Exhibit 1**. The Court
11 preliminarily finds that the terms of the Settlement appear to be within the range of
12 possible approval, pursuant to Federal Rule of Civil Procedure 23 and applicable law.

13 2. The Court finds on a preliminary basis that: (1) the settlement amount is
14 fair and reasonable when balanced against the probable outcome of further litigation
15 relating to class certification, liability and damages issues, and potential appeals; (2)
16 sufficient discovery, investigation, research, and litigation have been conducted such
17 that counsel for the Parties at this time are able to reasonably evaluate their respective
18 positions; (3) settlement at this time will avoid substantial costs, delay, and risks that
19 would be presented by the further prosecution of the litigation; and (4) the proposed
20 Settlement has been reached as the result of intensive, serious, and non-collusive
21 negotiations between the Parties. Accordingly, the Court preliminarily finds that the
22 Settlement was entered into in good faith.

23 3. The Court hereby GRANTS conditional certification of the provisional
24 Settlement Class, in accordance with the Settlement, for the purposes of this Settlement
25 only. The Settlement Class is defined as those individuals who, according to TPI’s
26 [Thrifty Payless, Inc.’s] personnel and payroll records, worked for TPI as a non-exempt
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1 associate in a Rite Aid retail store in California at any time during the period of April
2 16, 2016 through the date of the Court's order granting preliminary approval of the
3 Settlement.

4 4. The Court hereby authorizes the retention of JND Legal Administration
5 ("JND") as Settlement Administrator for the purpose of the Settlement, with reasonable
6 administration costs currently estimated at \$98,023.00.

7 5. The Court hereby conditionally appoints Schneider Wallace Cottrell
8 Konecky LLP and Aiman-Smith & Marcy PC as Counsel for the Class.

9 6. The Court hereby conditionally appoints Plaintiffs David Ramirez and
10 Marion Lemons as Representatives for the Class.

11 7. The Court hereby APPROVES the Notice of Settlement attached to the
12 Settlement as **Exhibit A**. The Court finds that the Notice of Settlement, along with the
13 related notification procedure contemplated by the Settlement, constitute the best notice
14 practicable under the circumstances and are in full compliance with the applicable laws
15 and the requirements of due process. The Court further finds that the Notice appears to
16 fully and accurately inform the Members of the Class of all material elements of the
17 proposed Settlement, of their right to be excluded from the Settlement, and of their right
18 and opportunity to object to the Settlement.

19 8. The Court hereby authorizes dissemination of the Notice of Settlement to
20 the Class. Subject to the terms of the Settlement, the Notice of Settlement shall be
21 mailed via first-class mail to the most recent known address of each Class Member
22 within the timeframe specified in the Settlement, and sent via email to all such persons
23 for whom Defendants have an email address. The Parties are authorized to make non-
24 substantive changes to the proposed Notice of Settlement that are consistent with the
25 terms of the Settlement and this Order.

1 9. The Court hereby APPROVES the proposed procedure for Members of the
2 Class to request exclusion from the Settlement, which is to submit a written statement
3 requesting exclusion to the Settlement Administrator during the time period permitted
4 under the Settlement. Any Members of the Class who submit a written exclusion shall
5 not be a member of the Class, shall be barred from participating in the Settlement, and
6 shall receive no benefit from the Settlement.

7 10. The Court has reviewed the nature of the claims and the proposed
8 allocation and deems such allocation appropriate or reasonable. The Court hereby
9 conditionally approves the allocation of the Net Settlement Amount as follows: One-
10 quarter (1/4) of all Settlement Share payments to Participating Class Members shall be
11 considered wages and shall be subject to the withholding of all applicable local, state
12 and federal taxes. Three-quarters (3/4) of all Settlement Share payments to Participating
13 Class Members shall be considered non-wages for the settlement of interest claims,
14 statutory and civil penalty claims, and for attorneys' fees.

15 11. Class Counsel's requests for attorneys' fees in the amount of one-third
16 (33.33%) of the Gross Settlement Amount, or \$2,999,700.00, plus their costs, currently
17 estimated at \$27,000, are conditionally approved subject to Class Counsel's motion for
18 attorneys' fees and costs to be heard at the time of the final fairness hearing.

19 12. The Court ORDERS that Class Counsel shall file a motion for final
20 approval of the Settlement, with the appropriate declarations and supporting evidence,
21 including a declaration setting forth the identity of any members of the Class who
22 request exclusion from the Settlement.

23 13. The Court ORDERS that Class Counsel shall file a motion for approval of
24 the fee and cost award and of the service awards to the Class Representatives, with the
25 appropriate declarations and supporting evidence, to be heard at the same time as the
26 motion for final approval of the Settlement.

14. The Court further ORDERS that each Member of Class shall be given a full opportunity to object to the Settlement and request for attorneys' fees, and to participate at a Final Approval Hearing, which the Court sets to commence on _____, 2021, at 8:30 a.m. in Courtroom 9D of the United States District Court, Central District of California. Any Class Member seeking to object to the proposed Settlement may file such objection in writing with the Court and shall serve such objection on the Settlement Administrator.

15. Accordingly, GOOD CAUSE APPEARING, the Court hereby APPROVES the proposed Notice of Settlement and the proposed notice process, and adopts the following dates and deadlines:

Date of preliminary approval of the Settlement as to the Class	
Deadline for Defendants to pay the Administrator all amounts awarded and approved by the Court ("Payment Date")	The latest of: • 14 calendar days following the entry of a Judgment finally approving this Settlement • If an objection is filed, 14 calendar days after any deadline to file an appeal has expired • If an appeal has been taken or sought, 14 calendar days after the Judgment is finally affirmed by an appellate court with no possibility of subsequent appeal or judicial review, or the date the appeal(s) or reviews are finally dismissed
Deadline for Defendants to provide to Administrator a list containing, for each Class Member, the following information:	Within 30 calendar days of the Court's Preliminary Approval Order

(1) name; (2) last known address, email address (to the extent such information is maintained in Defendants' Human Resources Information System) and phone number (to the extent such information is maintained in Defendants' Human Resources Information System); (3) number of weeks worked by each individual as a non-exempt associate in a Rite Aid retail store during the Class Period; and (4) Social Security number. Concurrently, Defendant shall provide Class Counsel a list containing, for each employee at issue, associate identification number, last four digits of the employee's Social Security number, and total number of workweeks.	
Deadline for Administrator to mail and email the Class Notice to Class Members	Within 10 business days after Administrator receives the Class List
Deadline for Settlement Class Members to submit challenges regarding the number of workweeks worked	Within 30 days after Notice is initially mailed to the class
Deadline for Settlement Class Members to postmark request to opt-out or file objections to the Settlement	Within 30 days after Notice is initially mailed to the class
Deadline for Administrator to provide the Court with a declaration attesting to completion of the notice process	At least 10 days prior to the Final Approval Hearing
Deadline for filing of Final Approval Motion	According to Local Rule 6-1
Final Approval Hearing	
Effective Date	Upon execution by all Parties, Class Counsel, Defendants' counsel, and Final Approval from the Court, following Notice to Class Members and a formal fairness hearing and entry of a final judgment by the Court
Deadline for Administrator to make all payments due under the Settlement	Within ten (10) business days of the Payment Date

1	Check-cashing deadline	180 days after issuance
2	Deadline for Administrator to either	As soon as practicable after check-
3	distribute uncashed check funds to <i>cy</i>	cashing deadline
4	<i>pres</i> recipient or redistribute such funds	
5	Deadline for Plaintiffs to file a Post-	Within 21 days after the distribution
6	Distribution Accounting	of any remaining monies to Class
7		Members who cashed their
8		Settlement Award check or to the <i>cy</i>
9		<i>pres</i> recipient
10	Deadline for Plaintiff Ramirez to dismiss	Within 5 days of the Court entering
11	with prejudice the <i>Ramirez</i> PAGA action,	Judgment as to the Consolidated
12		Action

13 16. The Court further ORDERS that, pending further order of this Court, all
14 proceedings in the Action, except those contemplated herein and in the Settlement, are
15 stayed, and all deadlines are vacated.

16 17. If for any reason the Court does not execute and file a Final Approval Order
17 and Judgment, the proposed Settlement subject to this Order and all evidence and
18 proceedings had in connection with the Settlement shall be null and void.

19 18. The Court may, for good cause, extend any of the deadlines set forth in this
20 Order or adjourn or continue the final approval hearing without further notice to the
21 Class.

22 **IT IS SO ORDERED.**

23 Dated: _____

24 HON. GEORGE H. WU
25 United States District Judge,
26 Central District of California