

January 5, 2022

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VIA ELECTRONIC SUBMISSION

California Labor & Workforce Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, California 95814

Re: *Jacobi, et al. v. Walmart Inc.*, LWDA Case No. LWDA-CM-803766-20
Alameda County Superior Court Case No. RG20082737

To Whom It May Concern:

Pursuant to Labor Code section 2699, subdivision (1)(3), we submit the enclosed copy of the Superior Court's December 27, 2021 order dismissing the above-referenced action.

Sincerely,



Tritia M. Murata

Enclosure

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		FILED Superior Court of California County of Alameda 12/27/2021 Chad Finke, Executive Officer/Clerk of the Court By: <u>Danielle Labrecque</u> Deputy D. Labrecque
PLAINTIFF/PETITIONER: Michael Jacobi et al		
DEFENDANT/RESPONDENT: Walmart Inc.		
CERTIFICATE OF MAILING		CASE NUMBER: RG20082737

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Hayward, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Kevin J. McInerney
 1050 N. Hills Blvd., #61388
 Reno, NV 89506-9997

Tritia M. Murata
 MORRISON & FOERSTER LLP
 707 Wilshire Boulevard
 Los Angeles, CA 90017-3543

Dated: 12/27/2021

Chad Finke, Executive Officer / Clerk of the Court

By:

Chad Finke, Executive Officer/Clerk of the Court

Danielle Labrecque

D. Labrecque, Deputy Clerk

CERTIFICATE OF MAILING

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Attorneys for Plaintiffs
MICHAEL JACOBI, BRITTANEY GRIFFIN, SAMANTHA
FERNANDEZ, APRIL SWOBODA, AND BARBARA WATERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

MICHAEL JACOBI and BRITTANEY
GRIFFIN, as aggrieved employees pursuant to
the Private Attorneys General Act ("PAGA"),
on behalf of the State of California and other
aggrieved employees,

Plaintiffs,

v.

WALMART INC., a Delaware corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No. RG20082737

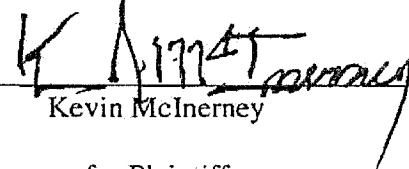
(Assigned for All Purposes to the Honorable
Julia Spain, Dept. 520)

**PLAINTIFFS' REQUEST FOR
DISMISSAL WITH PREJUDICE;
DECLARATION OF KEVIN
MCINERNEY; [~~PROPOSED~~] ORDER**

Date Action Filed: December 1, 2020
Trial Date: Not Yet Set

1 Plaintiffs Michael Jacobi, Brittaney Griffin, Samantha Fernandez, April Swoboda, and
2 Barbara Waters (Plaintiffs) hereby request that this action be dismissed in its entirety with
3 prejudice. On October 22, 2021, Judge Edward J. Davila of the United States District Court for
4 the Northern District of California granted the motion of Defendant Walmart Inc. (Defendant) for
5 an order to show cause in *Nisha Brown, et al. v. Wal-Mart Stores, Inc.*, N.D. Cal. Case No. 5:09-
6 cv-03339-EJD. Judge Davila found that Plaintiffs "Barbara Waters, Samantha Fernandez, and
7 April Swoboda and their counsel's ongoing prosecution of the lawsuit entitled *Michael Jacobi, et*
8 *al. v. Walmart Inc.*, Alameda County Superior Court, Case No. RG20082737, as to front-end
9 cashiers violates the Court's January 6 Order." (See Defendant's Notice of District Court's
10 Order, filed Nov. 8, 2021.) In light of the *Brown* court's October 22 order, Plaintiffs have met
11 and conferred with Defendant and have agreed to dismiss this entire action with prejudice, with
12 each side to bear their or its own costs and attorneys' fees. This request for dismissal is based on
13 and supported by the attached declaration of Kevin McInerney.

14 DATED: December 8, 2021

15
16 By 

Kevin McInerney

17 Attorneys for Plaintiffs
18 MICHAEL JACOBI, BRITTANEY
19 GRIFFIN, SAMANTHA FERNANDEZ,
20 APRIL SWOBODA, AND BARBARA
21 WATERS
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6. On October 22, 2021, Judge Edward J. Davila of the United States District Court for the Northern District of California granted Defendant's July 26 motion, finding that Plaintiffs "Barbara Waters, Samantha Fernandez, and April Swoboda and their counsel's ongoing prosecution of the lawsuit entitled *Michael Jacobi, et al. v. Walmart Inc.*, Alameda County Superior Court, Case No. RG20082737, as to front-end cashiers violates the Court's January 6 Order."

7. After meeting and conferring with Defendant, Plaintiffs have agreed to voluntarily dismiss this action in its entirety with prejudice, with each side to bear their or its own costs and attorneys' fees.

8. Neither Plaintiffs nor their counsel, including me and my co-counsel at Capstone Law APC, have or will receive any consideration, either direct or indirect, in exchange for agreeing to dismiss this action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: December 8, 2021

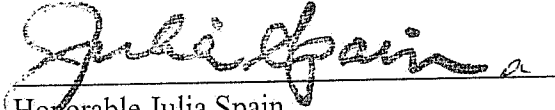
K-61779
Kevin McInerney

1 **[PROPOSED] ORDER**

2 Having considered Plaintiffs' Request for Dismissal with Prejudice and the Declaration of
3 Kevin McNerney filed therewith, this action is hereby dismissed in its entirety with prejudice,
4 with each party to bear their or its own costs and attorneys' fees.

5 IT IS SO ORDERED.

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7 DATED: 12-27-21

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9 Honorable Julia Spain
10 Judge of the Superior Court
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PROOF OF SERVICE BY MAIL
(Code Civ. Proc. secs. 1013(a), 2015.5)

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 707 Wilshire Boulevard, Suite 6000, Los Angeles, California 90017-3543; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

I further declare that on December 8, 2021, I served a copy of:

**PLAINTIFFS' REQUEST FOR DISMISSAL WITH PREJUDICE;
DECLARATION OF KEVIN MCINERNEY; [PROPOSED] ORDER**

on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at Morrison & Foerster LLP, 707 Wilshire Boulevard, Suite 6000, Los Angeles, California 90017-3543, in accordance with Morrison & Foerster's ordinary business practices:

Kevin McInerney
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Bevin Allen Pike
Orlando Villalba
Daniel Jonathan
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Attorneys for Plaintiffs

MICHAEL JACOBI, BRITTANEY GRIFFIN, SAMANTHA FERNANDEZ,
APRIL SWOBODA, and BARBARA WATERS

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Los Angeles, California, this 8th day of December, 2021.

Marco Perez
(typed)

(signature)