

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 16 2024

BY 
PATRICIA GUERRERO, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

HECTOR J. MEJIA on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

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

Defendant.

Case No.: CIVSB-2207614

[Assigned for all purposes to the Hon. David E.
Driscoll, Dept. S26]

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

Date: April 16, 2024

Time: 8:30 a.m.

Dept.: S26

1 Plaintiffs Hector J. Mejia ("Mejia"), Dearl Powell ("Powell"), Christina Gast ("Gast"),
2 and Elijha Gonzalez ("Gonzalez") (collectively, "Plaintiffs") and Defendants Walmart Inc., Wal-
3 Mart Associates, Inc., and Wal-Mart Stores, Inc. ("Defendants" or "Walmart") (Plaintiffs and
4 Defendants together, the "Parties") have entered into the Joint Stipulation of Class and
5 Representative Action Settlement ("Settlement Agreement") to settle the above-captioned class
6 action subject to the Court's approval (the "Settlement").

7 This matter is now before the Court on Plaintiff's Motion for Final Approval of Class
8 Action Settlement, including approval of the Class Representative Enhancement Payments for
9 Plaintiffs and Class Counsel's application for a fee and expense award. The Court has read,
10 heard, and considered all the pleadings and documents submitted, and the presentations made in
11 connection with the Motion which came on for hearing on ~~May 2, 2022~~.
APRIL 16, 2024.

12 **I. BACKGROUND**

13 On June 26, 2023, Plaintiffs filed the operative First Amended Complaint on behalf of
14 themselves and all similarly situated employees, against Defendants in Superior Court of the
15 State of California for the County of San Bernardino. The lawsuit alleged causes of action for (1)
16 violation of Labor Code § 246; (2) violation of Labor Code §§ 201-203; (3) violation of Labor
17 Code §§ 226(a) and 1174; (4) violation of Business and Professions Code § 17200, *et seq.*; and
18 (5) violation of Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA"),
19 asserting that Defendants failed to pay sick pay at the "regular rate" of pay, timely pay owed
20 wages upon separation of employment, and provide accurate itemized wage statements to
21 employees. The First Amended Complaint is the operative Complaint ("Complaint").

22 **A. Class Members**

23 The "Class" includes

24 (a) all of Defendants' California non-exempt Walmart retail store
25 employees whose employment ended, either voluntarily or
26 involuntarily, at any time during the period of time from April 6,
27 2017, through December 31, 2022, and who during their
28 employment with Walmart at any time between April 6, 2017,
through December 31, 2022, received payment of Paid Sick Days
in the same quarter in which he/she earned a MyShare incentive

(the “Former Employee Sick Pay Class”); and

(b) all of Defendants’ current and former California non-exempt Walmart retail store employees as of December 31, 2022, who, on at least one occasion between April 12, 2018 and December 31, 2022, received a payment of Paid Sick Days in the same quarter in which they earned a MyShare incentive or within 90 days after receipt of any incentive pay (the “Sick Pay Class”).

B. Operation of the Settlement

Pursuant to the Preliminary Approval Order dated December 19, 2023, this Court conditionally certified the Class and granted preliminary approval to the Settlement Agreement. The Preliminary Approval Order also approved of the proposed class notice and notice plan. The Court entered the Preliminary Approval Order after review and consideration of all of the pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

In compliance with the Preliminary Approval Order, the Notice of Class and Representative Action Settlement and Final Hearing Date (“Class Notice”) was sent to all 109,222 Class Members via first class mail. 496 Class Notices were returned as undeliverable. The Settlement Administrator then performed a skip-trace and follow-up mailings were sent to 413 individuals. 83 Notice Packets remain undeliverable as updated addresses could not be obtained via skip-tracing. The notice process was timely completed. The Settlement Administrator received ten (10) requests for exclusion and zero (0) objections.

This Court finds that the Settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to any individuals. The Court finds that the Settlement was entered into in good faith pursuant to California Code of Civil Procedure § 877.6. The Court further finds that the Settlement is fair, reasonable, and adequate and that Plaintiffs have satisfied the standards for final approval of a class action settlement under California law. Under the provisions of California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, as approved for use by the California state court in *Vasquez v. Superior Court* (1971) 4 Cal. 3d 800, 821, the trial court has discretion to certify a class where:

1 [Q]uestions of law or fact common to the members of the class
2 predominate over any questions affecting only individual members,
3 and that a class action is superior to the available methods for the
4 fair and efficient adjudication of the controversy...Fed. R. Civ.
Proc. 23.

5 Certification of a settlement class is the appropriate judicial device under these
6 circumstances.

7 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS
8 FOLLOWS:

9 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
10 Settlement Agreement filed in this case.

11 2. The Court has jurisdiction over the subject matter of the litigation, the Class
12 Representatives, the other members of the Settlement Class, and Defendant.

13 3. The Court finds that the dissemination of the Class Notice, as disseminated by the
14 appointed Settlement Administrator, Phoenix Settlement Administrators, to the Class Members,
15 constituted the best notice practicable under the circumstances to all persons within the definition
16 of the Class, and fully met the requirements of California law and due process under the United
17 States Constitution.

18 4. The Court approves the settlement of the above-captioned action, as set forth in
19 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are
20 directed to perform in accordance with the terms set forth in the Settlement Agreement.

21 5. Except as otherwise provided in the Settlement Agreement, the Parties are to bear
22 their own costs and attorneys' fees.

23 6. The Court hereby certifies the following Class for settlement purposes only: (a)
24 all of Defendants' California non-exempt Walmart retail store employees whose employment
25 ended, either voluntarily or involuntarily, at any time during the period of time from April 6,
26 2017, through December 31, 2022, and who during their employment with Walmart at any time
27 between April 6, 2017, through December 31, 2022, received payment of Paid Sick Days in the
28 same quarter in which he/she earned a MyShare incentive (the "Former Employee Sick Pay

1 Class”); and (b) all of Defendants’ current and former California non-exempt Walmart retail
2 store employees as of December 31, 2022, who, on at least one occasion between April 12, 2018
3 and December 31, 2022, received a payment of Paid Sick Days in the same quarter in which they
4 earned a MyShare incentive or within 90 days after receipt of any incentive pay (the “Sick Pay
5 Class”).

6 7. With respect to the Class and for purposes of approving the settlement only and
7 for no other purpose, this Court finds and concludes that: (a) the members of the Class are
8 ascertainable and so numerous that joinder of all members is impracticable; (b) there are
9 questions of law or fact common to the Class, and there is a well-defined community of interest
10 among members of the Class with respect to the subject matter of the non-exempt claims in the
11 Litigation; (c) the claims of Class Representatives are typical of the claims of the members of the
12 Class; (d) the Class Representatives have fairly and adequately protected the interests of the
13 members of the Class; (e) a class action is superior to other available methods for an efficient
14 adjudication of this controversy; and (f) the counsel of record for the Class Representatives, *i.e.*,
15 Class Counsel, are qualified to serve as counsel for the Plaintiffs in their individual and
16 representative capacity and for the Class.

17 8. Defendants shall remit to the Qualified Settlement Fund established by the
18 Settlement Administrator the Maximum Settlement Amount of Twelve Million Dollars
19 (\$12,000,000.00), plus employer-side payroll taxes, pursuant to the terms of the Settlement
20 Agreement.

21 9. From the Maximum Settlement Amount, the Settlement Administrator shall pay:

22 (a) to Class Counsel attorneys’ fees in the amount of Four Million Two
23 Hundred Thousand Dollars (\$4,200,000.00) and reimbursement of costs in the amount of Forty-
24 Five Thousand Seven Hundred and Sixty-Two Dollars and Ninety-Three Cents (\$45,762.93),
25 allocated as \$35,141.44 to Diversity Law Group, P.C., \$6,621.22 to Hyun Legal, APC, and
26 \$4,000.27 to Bradley/Grombacher, LLP;

27 (b) a service award to Class Representatives Hector J. Mejia, Dearl Powell,
28 Christina Gast, and Elijha Gonzalez to reimburse them for their unique services in the amount of

1 Ten Thousand Dollars (\$10,000.00) each;

2 (c) the sum of Three Hundred Thousand Dollars (\$300,000.00) to the
3 California Labor and Workforce Development Agency, for its seventy-five percent (75%) share
4 of PAGA penalties;

5 (d) the sum of One Hundred Thousand Dollars (\$100,000.00) to the
6 Aggrieved Employees, for their twenty-five percent (25%) share of PAGA penalties; and

7 (e) the sum of Four Hundred Thirty-One Thousand Nine Hundred Fifty
8 Dollars (\$431,950.00) to the Settlement Administrator, Phoenix Settlement Administrators, for
9 its fees and costs relating to the settlement administration process.

10 10. The Court finds that these amounts are fair and reasonable. The Settlement
11 Administrator is directed to make such payments in accordance with the terms of the Settlement
12 Agreement.

13 11. The Court approves the Individual Settlement Payment amounts, which shall be
14 distributed by the Settlement Administrator pursuant to the terms of the Settlement Agreement
15 from the Net Settlement Amount, after payment of those amounts set forth in Paragraph 9.

16 12. The Court hereby enters final judgment in this case in accordance with the terms
17 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of
18 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction
19 over the action and the Parties, including all Participating Class Members, for purposes of
20 enforcing and interpreting this Order and the Settlement.

21 13. A compliance hearing is set to be held on Nov. 12, 2024, at 8:30 a.m. in
22 Department S-²²~~26~~ of the San Bernardino County Superior Court in order to determine the number
23 and amount of any uncashed checks that have been distributed to the California State
24 Controller's Unclaimed Property Fund.

25 **IT IS SO ORDERED.**

26
27 DATED: 4/16/24

28 
HON. DAVID E. DRISCOLL
SUPERIOR COURT OF CALIFORNIA