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16 BRIAN ROCHE

17 UNITED STATES DISTRICT COURT
18 EASTERN DISTRICT OF CALIFORNIA
19

20 BRIAN ROCHE, individually and on behalf of
all others similarly situated,

21 Plaintiff,

22 v.
23

24 DOLLAR TREE STORES, INC.; and DOES 1-
10,

25 Defendants.
26
27
28

CASE NO. 2:23-CV-02262-KJM-KJN

**STIPULATION TO DISMISS CLASS
AND REPRESENTATIVE PAGA
CLAIMS AND STAY INDIVIDUAL
CLAIMS PENDING ARBITRATION**

Courtroom: 3
Judge: Hon. Kimberly J. Mueller

1 WHEREAS, on July 10, 2023, Plaintiff Brian Roche (“Plaintiff”) filed this lawsuit in El
2 Dorado County Superior Court, asserting seven putative class claims on behalf of all current
3 and/or former non-exempt employees of Dollar Tree Stores, Inc. (“Dollar Tree”) in California
4 within four years prior to the filing of the Complaint. (Dkt. 1, Ex. A.)

5 WHEREAS, on September 5, 2023, Plaintiff personally served Dollar Tree. (Dkt. 1,
6 Ex. B.)

7 WHEREAS, on September 11, 2023, Plaintiff filed a First Amended Complaint, adding a
8 single cause of action under the California Private Attorneys’ General Act, California Labor Code
9 section 2698 *et seq.* (“PAGA”), seeking civil penalties on behalf of Plaintiff and other allegedly
10 aggrieved employees. (Dkt. 1, Ex. D.)

11 WHEREAS, on October 5, 2023, Dollar Tree removed Plaintiffs’ lawsuit to this Court.
12 (Dkt. 1.)

13 WHEREAS, on October 12, 2023, Dollar Tree filed a Motion to Dismiss, pursuant to
14 Federal Rule of Civil Procedure Rule 12(b)(6), to dismiss Plaintiff’s representative PAGA claim
15 for civil penalties as pleaded in Plaintiff’s eighth claim for relief. (Dkt. No. 6.)

16 WHEREAS, on October 12, 2023, Dollar Tree also filed Dollar Tree’s Motion to Compel
17 Arbitration, and moved to:

- 18 1. Compel the arbitration of Plaintiff’s first through seventh claims for relief, on an
19 individualized basis and dismiss the improper putative class claims;
- 20 2. Compel the arbitration of Plaintiff’s individual claim for civil penalties under
21 PAGA, as pleaded in the eighth claim for relief, consistent with *Viking River*
22 *Cruises, Inc. v. Moriana*, 142 S. Ct. 1906, 1924-25 (2022); and
- 23 3. Stay Plaintiff’s representative PAGA claim pending completion of the arbitration
24 of Plaintiff’s individual claims, if Plaintiff’s representative PAGA claim were not
25 dismissed pursuant to Dollar Tree’s concurrently filed Motion to Dismiss.

26 (Dkt. No. 7.)

27 WHEREAS, no notice of this lawsuit has been communicated to any putative class members
28 identified in Plaintiff’s lawsuit, which Dollar Tree maintains should not have been brought and cannot

1 be maintained.

2 **THEREFORE, IT IS HEREBY STIPULATED** by and between Plaintiff and Dollar Tree
3 (collectively, the “Parties”), by and through their counsels of record, that subject to the Court’s
4 approval as required:

5 1. Pursuant to Federal Rules of Civil Procedure Rule 23(e), Plaintiff dismisses his
6 putative class claims asserted in his first through seventh claims for relief, as
7 reflected in his operative Complaint, Docket No. 1, Ex. D.

8 2. Pursuant to Federal Rules of Civil Procedure Rule 41(a)(1)(A)(ii), Plaintiff
9 dismisses his representative PAGA claim with prejudice.

10 a. Plaintiff’s dismissal of his representative PAGA claim with prejudice is
11 only with prejudice as to Plaintiff’s maintenance of a representative lawsuit
12 on behalf of others. It does not prejudice any other allegedly aggrieved
13 party’s filing of a representative PAGA action.

14 b. Concurrent with its filing in this Court, Dollar Tree has provided a copy of
15 this stipulation to the California Labor Workforce Development Agency
16 (“LWDA”) pursuant to PAGA.

17 c. Following the Court’s entry of an order dismissing Plaintiff’s
18 representative PAGA claim with prejudice, the Parties shall serve that
19 order on the LWDA.

20 3. Plaintiff agrees he entered into a binding mutual agreement to arbitrate with Dollar
21 Tree that applies to his claims asserted here (“Arbitration Agreement”).

22 Consistent with that Arbitration Agreement, Plaintiff intends to submit to
23 arbitration his remaining (i) individual claims for relief pursuant to his first
24 through seventh claims for relief and (ii) individual PAGA claim. The Parties
25 shall meet and confer regarding the initiation of arbitration, as set forth in the
26 Parties’ Arbitration Agreement.

1 4. In light of Plaintiff's intent to pursue his individual claims in arbitration, the
2 Parties agree to stay this action as to Plaintiff's remaining claims, consistent with
3 Section 3 of the Federal Arbitration Act, 9 U.S.C. § 3.

4 5. The Parties, by and through their counsel, further stipulate and agree that each
5 Party will bear its and/or his own attorneys' fees and costs.

6 Dated: October 25, 2023

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9 RYAN D. DERRY
10 JENNIFER MILAZZO

11 By: s/ Ryan Derry
12 RYAN D. DERRY

13 Attorneys for Defendant
14 DOLLAR TREE STORES, INC.

15 Dated: October 25, 2023

16 PARK APC
17 SANG (JAMES) PARK

18 By: s/ Sang (James) Park (as authorized on 10/25/23)
19 SANG (JAMES) PARK

20 Attorneys for Plaintiff
21 BRIAN ROCHE