

THE HONORABLE JULIE SPECTOR  
Department 3  
Noted for hearing: July 20, 2009 at 9:00 a.m.  
With Oral Argument

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

DEBRA BARNETT, GEORGIE KNOLES,  
and BELLA BLAUBERGS, on their own  
behalf and on behalf of all others similarly  
situated,

Plaintiffs,

v.

WAL-MART STORES, INC., a Delaware  
corporation, d/b/a WAL-MART, d/b/a SAM'S  
CLUB, d/b/a SUPERCENTER,

Defendant.

No. 01-2-24553-8 SEA

[PROPOSED] ORDER AND FINAL  
JUDGMENT APPROVING  
SETTLEMENT BETWEEN CLASS  
PLAINTIFFS AND WAL-MART  
STORES, INC.

This matter came before the Honorable Julie Spector on Plaintiffs' Motion for Final Approval of Settlement ("Final Approval Motion").

WHEREAS, a class action is pending before the Court entitled *Debra Barnett, et al. v. Wal-Mart Stores, Inc., et al.*, Case No. 01-2-24553-8 SEA (King County, Washington Superior Court);

WHEREAS, the Court has received and reviewed the Settlement Agreement entered into between the Named Plaintiffs, the Class Representatives and the Class Members, on the one hand, and Wal-Mart Stores, Inc. ("Wal-Mart"), on the other hand, dated April 22, 2009 (the

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SETTLEMENT BETWEEN CLASS PLAINTIFFS AND WAL-  
MART STORES, INC. - 1  
CASE NO. 01-2-24553-8 SEA  
823401.1

TERRELL MARSHALL & DAUDT PLLC  
3600 Fremont Avenue North  
Seattle, Washington 98103  
TEL. 206.816.6603 • FAX 206.350.3528

1 “Settlement Agreement”), and has considered the terms of the proposed settlement set forth  
2 therein (the “Settlement”);

3 WHEREAS, all terms contained herein shall have the same meanings as set forth in the  
4 Settlement Agreement, unless otherwise defined herein;

5 WHEREAS, on May 13, 2009, the Court entered its order preliminarily approving the  
6 Settlement of this class action, approving the form and method of notice, and setting a date and  
7 time for a fairness hearing to consider whether the Settlement should be finally approved by the  
8 Court pursuant to Rule 23 of the Washington Rules of Civil Procedure as fair, adequate, and  
9 reasonable (the “Preliminary Approval Order”);

10 WHEREAS, the Preliminary Approval Order further directed that all members of the  
11 Settlement Class be given notice of the Settlement and of the date for the final fairness hearing;

12 WHEREAS, the Court has received the Declaration of Amanda J. Myette in Support of  
13 Final Approval of Class Action Settlement attesting to the mailing and publication of the  
14 Notice in substantial accordance with the Preliminary Approval Order;

15 WHEREAS, the Court entered an Amended Class Certification Order on May 13, 2009  
16 which reflects the claims certified for Settlement purposes and the scope of the Settlement  
17 Class;

18 WHEREAS, the Court having considered all timely filed objections to the Settlement;  
19 and

20 WHEREAS, the Court having conducted a final fairness hearing on July 20, 2009 (the  
21 “Fairness Hearing”), and having considered the arguments presented, all papers filed and all  
22 proceedings had therein;

23 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

24 1. The Court has jurisdiction over the subject matter of this action, all members of  
25 the Settlement Class, and all Defendants.

26

1           2.       In accordance with Rule 23 of the Washington Rules of Civil Procedure and the  
2 requirements of due process, all members of the Settlement Class have been given proper and  
3 adequate notice of the Settlement. Based upon the evidence submitted by the parties; the  
4 Settlement Agreement, the arguments of counsel, and all the files, records and proceedings in  
5 this case, the Court finds that the Notice and notice methodology implemented pursuant to the  
6 Settlement Agreement and the Court's Preliminary Approval Order (a) constituted the best  
7 practicable notice under the circumstances; (b) constituted notice that was reasonably  
8 calculated, under the circumstances, to apprise members of the Settlement Class of the  
9 pendency of the litigation, their right to object to the Settlement, and their right to appear at the  
10 Fairness Hearing; (c) were reasonable and constituted due, adequate and sufficient notice to all  
11 persons entitled to notice; and (d) met all applicable requirements of the Washington Rules of  
12 Civil Procedure, and any other applicable law.

13           3.       The Settlement Agreement in this action warrants final approval pursuant to  
14 Rule 23 of the Washington Rules of Civil Procedure because it is fair, adequate, and reasonable  
15 to those it affects, and resulted from vigorously contested litigation, including over seven years  
16 of discovery, motion practice and trial preparation, and extensive good-faith arm's length  
17 negotiations between the parties, and is in the public interest considering the following factors:

- 18                   a. The likelihood of success by Plaintiffs;
- 19                   b. The amount of discovery or evidence;
- 20                   c. The Settlement terms and conditions;
- 21                   d. The recommendation and experience of counsel;
- 22                   e. Future expense and the likely duration of litigation;
- 23                   f. The recommendation of neutral parties;
- 24                   g. The number of objectors and the nature of the objections; and
- 25                   h. The presence of good faith and the absence of collusion.
- 26

1  
2 *See Pickett v. Holland Am. Line-Westours, Inc.*, 145 Wn.2d 178, 188-201, 35 P.3d 351 (2001).

3           4.       The Final Approval Motion is hereby GRANTED, and the Settlement  
4 Agreement is hereby APPROVED as fair, reasonable, adequate, and the terms of the Settlement  
5 Agreement are hereby determined to be fair, reasonable and adequate, for the exclusive benefit  
6 of the Class Members. The Parties are directed to consummate the Settlement Agreement in  
7 accordance with its terms.

8           5.       The Court CONFIRMS the amendment of the class certification order for  
9 settlement purposes only and appoints Terrell Marshall & Daudt PLLC; Lieff, Cabraser,  
10 Heimann & Bernstein LLP; and Tousley Brain Stephens PLLC as Class Counsel.

11           6.       The Court APPROVES payment of the Class Settlement Amount in accordance  
12 with the terms of the Settlement Agreement.

13           7.       The Court APPROVES payment of Class Representative Incentive Awards to  
14 Debra Barnett, Georgie Knoles and Bella Blaubergs in the amount of \$10,000 each.

15           8.       The Court APPROVES payment of Attorneys' Fees and Costs to Class Counsel  
16 in the amount of \$10,500,000.

17           9.       The allocation plan is hereby APPROVED as fair, adequate, and reasonable.  
18 The Class Settlement Amount, Class Representative Incentive Awards, and Attorneys' Fees  
19 and Costs Amount shall be distributed in accordance with the terms of the Settlement  
20 Agreement.

21           10.      The Litigation is DISMISSED WITH PREJUDICE and without costs to any  
22 Party, other than as specified in the Settlement Agreement and this Order.

23           11.      In consideration of the Class Settlement Amount, and for other good and  
24 valuable consideration, the Named Plaintiffs Debra Barnett, Georgie Knoles and Bella  
25 Blaubergs, in addition to all Class Members other than those who timely submitted letters  
26 excluding themselves from this Settlement, shall, by operation of this Judgment, have fully,

1 finally, and forever released, relinquished, and discharged all claims, rights, penalties,  
2 demands, damages, debts, accounts, duties, costs and expenses (other than those costs and  
3 expenses required to be paid pursuant to the Settlement Agreement), liens, charges, complaints,  
4 causes of action, obligations, or liabilities against Wal-Mart in accordance with Section 9 of the  
5 Settlement Agreement, including all common law and/or equitable claims, state statutory  
6 claims, and federal statutory claims listed therein; shall have covenanted not to sue Wal-Mart  
7 with respect to all such released claims; and shall be permanently barred and enjoined from  
8 instituting, commencing, prosecuting or asserting any such released claim against Wal-Mart.

9 12. Neither the Settlement nor any act performed or document executed pursuant to  
10 or in furtherance of the Settlement is or may be deemed to be or may be used as an admission  
11 of, or evidence of: (a) the validity or lack thereof of any Released Claim, or of any wrongdoing  
12 or liability of the Defendants; or (b) any fault or omission of the Defendants in any civil,  
13 criminal, or administrative proceeding in any court, administrative agency, or other tribunal.  
14 The Defendants may file the Settlement and/or this Judgment in any other action that may be  
15 brought against it or them in order to support a defense or counterclaim based on principles of  
16 res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or  
17 any other theory of claim preclusion or similar defense or counterclaim.

18 13. This Judgment is the Final Judgment in the suit as to all Class Member Released  
19 Claims.

20 14. Without affecting the finality of this Judgment in any way, this Court retains  
21 jurisdiction over (a) implementation of the Settlement and the terms of the Settlement  
22 Agreement; (b) distribution of the Class Settlement Amount, the Class Representative Incentive  
23 Awards, and the Attorneys' Fees and Costs Amount; and (c) all other proceedings related to the  
24 implementation, interpretation, administration, consummation, and enforcement of the terms of  
25 the Settlement Agreement and/or the Settlement, and the administration of Claims by  
26

1 Settlement Class Members. The time to appeal from this Judgment shall commence upon its  
2 entry.

3 15. In the event that the Settlement Effective Date does not occur, this Judgment  
4 shall be rendered null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly  
5 provided to the contrary in the Settlement Agreement, and without prejudice to the *status quo*  
6 *ante* rights of Plaintiffs, Settlement Class Members, and Wal-Mart.

7 16. This Court finds that there is no just reason for delay and expressly directs  
8 Judgment and immediate entry by the Clerk of the Court.

9 **IT IS SO ORDERED.**

10  
11 DATED this 20<sup>th</sup> day of July, 2009.

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14 \_\_\_\_\_  
15 The Honorable Julie Spector

1 Presented By:

2 TERRELL MARSHALL & DAUDT PLLC

3 s/BETH E. TERRELL  
4 STATE BAR NUMBER 26759  
5 TERRELL MARSHALL & DAUDT PLLC  
6 3600 FREMONT AVENUE N.  
7 SEATTLE, WA 98103  
8 TELEPHONE: (206) 816-6603  
9 FAX: (206) 350-3528  
10 E-MAIL: BTERRELL@TMDLEGAL.COM

11 By:

12 Beth E. Terrell, WSBA #26759  
13 bterrell@tmdlegal.com  
14 Toby J. Marshall, WSBA #32726  
15 tmarshall@tmdlegal.com  
16 Jennifer Rust Murray, WSBA #36983  
17 jmurray@tmdlegal.com  
18 3600 Fremont Avenue N.  
19 Seattle, Washington 98103  
20 Telephone: 206.816.6603

21 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

22 Kelly M. Dermody, Admitted *Pro Hac Vice*  
23 kdermody@lchb.com  
24 Jahan C. Sagafi, Admitted *Pro Hac Vice*  
25 jsagafi@lchb.com  
26 275 Battery Street, Suite 3000  
San Francisco, California 94111-3339  
Telephone: (415) 956-1000

Rachel Geman, Admitted *Pro Hac Vice*

rgeman@lchb.com  
780 Third Avenue, 48th Floor  
New York, New York 10017-2024  
Telephone: 212.355.9500

TOUSLEY BRAIN STEPHENS PLLC

Kim Stephens, WSBA #11984  
kstephens@tousley.com  
Janissa Strabuk, WSBA #21827  
jstrabuk@tousley.com  
1700 Seventh Avenue, Suite 1700  
Seattle, Washington 98101  
Telephone: 206-682-5600

*Attorneys for Plaintiffs*

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