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

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

WAL-MART, INC., a Delaware corporation,

Defendant.

Case No.:

**MODIFIED FINAL JUDGMENT
PURSUANT TO STIPULATION**

The People of the State of California, Plaintiff, by and through KAMALA D. HARRIS, Attorney General of the State of California, by, ALBERT NORMAN SHELDEN, Deputy Attorney General; BONNIE M. DUMANIS, San Diego District Attorney, by GINA DARVAS, Deputy District Attorney; and JAN I. GOLDSMITH, San Diego City Attorney, by TRICIA PUMMILL, Assistant City Attorney; and Defendant WAL-MART STORES, INC., a Delaware corporation, (“Wal-Mart” or “Defendant”) by and through its attorneys, GREENBERG TRAURIG, LLP, by ROBERT HERRINGTON, (collectively, “the Parties”) having stipulated that this Court has jurisdiction over them and this matter and that this Modified Final Judgment Pursuant to Stipulation (“Modified Judgment”) may be signed without the taking of proof, without trial or adjudication of any issue of fact or law herein, and without the Parties’ stipulation constituting evidence of an admission by Defendant of any liability or wrongdoing;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1 **JURISDICTION**

2 1. This action is brought under California law and this Court has jurisdiction of its
3 subject matter and the Parties.

4 2. Consistent with the Stipulation to Modify Final Judgment, this Modified Judgment
5 resolves the investigation by the Plaintiff against the Defendant, relating to price scanning
6 discrepancies and violations of the Stipulated Final Judgment originally entered by this Court on
7 November 24, 2008 (“Original Judgment”), and is conclusive with respect to those matters set
8 forth in this Modified Judgment regarding price scanning discrepancies which occurred in the
9 State of California before the date of entry of this Modified Judgment.

10 **INJUNCTION**

11 3. The provisions of this injunction are applicable to Defendant, Wal-Mart doing
12 business as Wal-Mart Discount Stores and Supercenters (“Wal-Mart Stores”) in California, and
13 to its officers, directors, employees, agents and representatives who have responsibility for the
14 Wal-Mart Stores in California, when acting within the course and scope of their agency and
15 employment, and to the successors and assignees of Wal-Mart, and to all natural persons,
16 partnerships, corporations, and other entities acting for, under, by, through, on behalf of, or in
17 concert with Wal-Mart, who have responsibility for the Wal-Mart Stores in California, with
18 actual or constructive notice of this Judgment. All obligations imposed upon Defendant by the
19 terms of this Modified Judgment are ordered pursuant to Business and Professions Code
20 sections 17203 and 17535.

21 4. Wal-Mart and all persons and entities set forth in Paragraph 3 above are hereby
22 permanently enjoined and restrained, pursuant to Business and Professions Code sections 17203
23 and 17535, from:

24 A. Making or causing to be made to the public any statement representing a
25 price for an item offered for sale and charging a greater price at the time the item is
26 purchased in violation of the California Business and Professions Code sections 17200
27 and 17500;

1 B. At the time of sale of a commodity, charging an amount which is greater
2 than the price which is then advertised, posted, marked, displayed or quoted for that
3 commodity, in violation of Business and Professions Code section 12024.2(a)(1); and

4 C. At the time of sale of a commodity, charging an amount greater than the
5 lowest price posted on the commodity itself or on a shelf tag that corresponds to the
6 commodity, notwithstanding any limitation of the time period for which the posted price
7 is to be in effect, in violation of Business and Professions Code section 12024.2(a).

8 5. Wal-Mart, and all persons and entities set forth in Paragraph 3 above, are ordered
9 for a period of four (4) years from the date of entry of the Original Judgment to initiate and
10 enforce in all existing Wal-Mart Stores in California, and in every future Wal-Mart Store in
11 California, before opening for business, a program to promote pricing accuracy. Such program
12 shall consist of at least the following:

13 A. Wal-Mart shall designate a person or persons at its corporate headquarters
14 who, with assistance as needed, will be responsible for receiving and maintaining price
15 audit information, consumer complaints and weights and measures inspection reports
16 from all Wal-Mart Stores in California. Wal-Mart has provided the names of the
17 designated persons and their contact information to Plaintiff. Wal-Mart will provide the
18 name and contact information of any individual who replaces or supplements the
19 individuals currently designated within 30 calendar days of that assignment, by letter to
20 the Consumer Protection Unit of the Office of the Attorney General, 110 West A Street,
21 Suite 1100, San Diego, California 92101.

22 B. Wal-Mart shall designate an employee or employees in every Wal-Mart
23 Store in California whose responsibilities shall include pricing accuracy. These efforts
24 shall include, among others, department managers who shall scan features on a weekly
25 basis, office associates or asset protection personnel who shall review approximately 250
26 price changes weekly and sales floor assistant managers who shall be responsible for
27 implementation of the above program. Pricing errors discovered during such reviews
28 shall be promptly corrected in the Wal-Mart Store. These employees shall also be

1 responsible for transmitting the information to the person or persons designated pursuant
2 to Paragraph 5A above, at Wal-Mart's corporate headquarters within three hours after
3 learning that a price in the point of sale computer system is different from the currently
4 advertised price for the item in the store or in advertising, if the price discrepancy will or
5 is likely to affect other Wal-Mart Stores in California. Wal-Mart shall ensure that there
6 are backup employees trained to handle the responsibilities for price accuracy. The
7 employees described in this paragraph shall, among them, work a minimum of 40 hours
8 per week on price accuracy duties.

9 6. Wal-Mart, and all persons and entities set forth in Paragraph 3 above, are ordered
10 for a period of five (5) years from the date of entry of the Original Judgment to initiate and
11 enforce in all existing Wal-Mart Stores in California, and in every future Wal-Mart Store in
12 California, before opening for business, a program to promote pricing accuracy. Such program
13 shall consist of at least the following:

14 A. Whenever any employee of Wal-Mart becomes aware that a customer in a
15 Wal-Mart Store in California has been or is being charged a price for an item which is
16 higher than the lowest price currently listed on the shelf, store sign or advertisement,
17 Wal-Mart shall give the customer a three dollar (\$3.00) reduction from the item's lowest
18 posted price or advertised price, or if the item's lowest posted price or advertised price is
19 three dollars (\$3.00) or less, the customer shall receive one such item for free. If a
20 customer is purchasing more than one of the same identical item for which a price
21 discrepancy is found, in addition to either deducting \$3.00 from the price of one such
22 item, or giving the customer one such item for free, Wal-Mart shall charge that customer
23 the lowest advertised price on all remaining identical items purchased by that same
24 customer in the same purchase transaction and the discrepant price shall be corrected.
25 The cashier shall send a system notification to inform the Wal-Mart employee in charge
26 of implementing price changes in the Wal-Mart Store in California of the price
27 discrepancy promptly. This program shall be referred to as the "\$3.00 Off Program." If
28 the merchandise has been inadvertently moved to an incorrect shelf or display location, or

1 the price or signage for the item was fraudulently altered, the scanned price for the
2 particular item shall apply.

3 B. Wal-Mart shall inform customers of the policy set forth in Paragraph 6A
4 above, by posting a sign at every check-out stand in every Wal-Mart Store in California
5 in a location where it is noticeable and easily readable by a customer who is standing in
6 the check-out line. The signs shall state “If an item scans at a price higher than the shelf
7 or advertised price, WE WILL CORRECT THE ERROR AND DEDUCT \$3.00 FROM
8 THE LOWEST ADVERTISED PRICE OF ONE SUCH ITEM. If the lowest advertised
9 price is \$3.000 or less, you will receive the item for free. You will be charged the lowest
10 advertised price for all additional identical items you are buying at the same time.” Such
11 signs shall be printed in both English and Spanish. Each sign shall be the size and in the
12 font of the document marked as Exhibit A to this Modified Final Judgment.

13 7. Nothing in this Injunction shall be a defense to an action by the People for a future
14 violation of the Business and Professions Code.

15 **MONETARY RELIEF**

16 8. Pursuant to Business and Professions Code sections 17206 and 17536, Wal-Mart
17 shall on the date of the filing of this Modified Judgment, pay to Plaintiff one million seven
18 hundred fifty-four thousand four hundred sixty-five dollars (\$1,754,465) in the form of three
19 separate checks as follows: (1) a first check in the amount of four hundred thirty-four thousand
20 eight hundred twenty-one dollars (\$434,821) payable the “*California Attorney General’s*
21 *Office;*” (2) a second check in the amount of six hundred fifty-nine thousand eight hundred
22 twenty-two dollars (\$659,822) payable to the “*San Diego District Attorney’s Office,;*” and (3) a
23 third check in the amount of six hundred fifty-nine thousand eight hundred twenty-two dollars
24 (\$659,822) payable to the “*San Diego City Attorney’s Office.*”

25 9. Wal-Mart shall on the date of the filing of this Modified Judgment, pay to Plaintiff
26 costs totaling two hundred forty-five thousand five hundred thirty-five dollars (\$245,535), in the
27 form of thirteen (13) separate checks payable as follows:

28 California Attorney General \$ 225,000

1	Calif. Dept. of Agriculture & Measurement Standards	\$ 7,403
2	Alameda Weights and Measures	\$ 308
3	Fresno Dept. of Agriculture	\$ 512
4	Kings County Agriculture & Measurement Standards	\$ 67
5	Los Angeles County Agricultural Commissioner/Weights & Measures	\$ 1,406
6	Riverside County Weights & Measures	\$ 5,296
7	San Bernardino County Agriculture/Weights & Measures	\$ 1,965
8	San Diego County Agriculture, Weights & Measures	\$ 354
9	San Joaquin County Weights & Measures	\$ 552
10	Santa Clara County Weights & Measures	\$ 2,192
11	Shasta County Agriculture/Weights & Measures	\$ 278
12	Sonoma Weights and Measures	\$ 202

13 10. Wal-Mart shall, pursuant to Business and Professions Code sections 17203 and
14 17535, pay *cy pres* restitution in the sum of one hundred thousand dollars (\$100,000) in the
15 form of one check payable to the “*California Dept. of Food & Agriculture, Division of*
16 *Measurement Standards*” to be used exclusively for its weights and measures package and price
17 enforcement activities.

18 11. All checks shall be delivered to the attention of Deputy District Attorney Gina
19 Darvas, at the San Diego District Attorney's Office, 330 West Broadway, Suite 750, San Diego,
20 California 92101.

21 12. In the event of default by Wal-Mart as to any amount due pursuant to Paragraphs
22 8, 9 and 10, the whole amount shall be deemed immediately due and payable to the County of
23 San Diego, the City of San Diego, and the State of California, and Plaintiff shall be entitled to
24 pursue any and all remedies provided by law for the enforcement of this Modified Judgment.
25 Further, any amount in default shall bear interest at the prevailing legal rate from the date of
26 default until paid.

27 **RETENTION OF JURISDICTION**

28 13. Jurisdiction is retained for the purpose of enabling any party to this Modified
Judgment to apply to the Court at any time for such further orders and directions as may be
necessary and appropriate for the construction or carrying out of this Modified Judgment, for the

1 modification of any of its injunctive provisions, and for the enforcement of and/or punishment
2 of violations of this Judgment.

3 14. This Modified Judgment, the Stipulation for Modification of Judgment, and the
4 Exhibits to each, represent the full and complete terms of the settlement entered into by the
5 parties hereto. In any subsequent action undertaken by the People or Wal-Mart, no prior versions
6 of any of its terms, that were not entered by the Court in this Modified Judgment, may be
7 introduced for any purpose whatsoever. Defendant having complied with all of the monetary
8 terms of the November 2008 Original Judgment, the terms of this Modified Judgment shall
9 supersede all of the terms of the Original Judgment.

10 15. This Modified Judgment may be modified only by order of this Court.

11 16. The clerk is directed to immediately enter this Modified Judgment.

12 IT IS SO ORDERED.

13 Dated: _____
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17 JUDGE OF THE SUPERIOR COURT
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