

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GAYLE LEWANDOWSKI, JANET
AGARDY, and MARISA MARTINEZ,
individually and on behalf of all others
similarly situated,

Case No. 2:19-cv-00858-MJH

Plaintiffs,

v.

FAMILY DOLLAR STORES, INC., FAMILY
DOLLAR, INC., AND DOLLAR TREE
STORES, INC.,

Defendants.

**ORDER GRANTING MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT; DIRECTING ISSUANCE OF SETTLEMENT
NOTICE; AND SCHEDULING OF HEARING ON FINAL APPROVAL**

WHEREAS, the Parties in the above-captioned litigation have advised the Court that they have settled the litigation, the terms of which have been memorialized in a settlement agreement (hereafter, "Settlement Agreement").

WHEREAS, Plaintiffs have applied to this Court through an unopposed motion for an order (1) granting preliminary approval of the Settlement Agreement resolving all claims in the above-captioned matter, (2) directing notice to the class, and (3) setting a fairness hearing; and

WHEREAS, the Court has read and considered Plaintiffs' Unopposed Motion for Preliminary Approval, the points and authorities submitted therewith, the proposed Settlement Agreement, and all of the supporting documents; and good cause appearing:

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning in this Order as set forth in the Settlement Agreement.

2. Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement is granted. It appears to this Court on a preliminary basis that the Settlement Agreement satisfies the elements of Fed. R. Civ. P. 23, and is fair, adequate, and reasonable.

3. The proposed Settlement Class is hereby preliminarily certified pursuant to Fed. R. Civ. P. 23(a) and (b)(2) for purposes of settlement. The Settlement Class is defined as:

All individuals with qualifying disabilities who use wheelchairs, scooters, or any other device for mobility, or otherwise experience qualifying mobility impairments, and who have been, or in the future during the Term of this Agreement will be, denied the full and equal enjoyment of the Stores owned and/or operated by Defendants in the United States because of the Access Barriers at those Stores.

4. The Court hereby appoints and designates Named Plaintiffs Gayle Lewandowski, Janet Agardy, and Marisa Martinez as representatives of the Settlement Class.

5. The Court hereby appoints and designates R. Bruce Carlson and the law firm Carlson Brown and Nicholas A. Colella and the law firm of Lynch Carpenter, LLP as Class Counsel for the Settlement Class.

6. Notice of the proposed Settlement Agreement shall be given to class members. The Notice attached as Exhibit C to the Settlement Agreement is hereby approved as to form. On or before **November 8, 2021**, the Parties shall distribute the Notices of the proposed Settlement Agreement advising the Class of the terms of the proposed Settlement Agreement and their right to object to the proposed Settlement Agreement.

The Notices shall be distributed as follows:

a) Class Counsel shall send the Notice attached to the proposed Settlement Agreement as Exhibit C via electronic mail or U.S. Mail to the following organizations serving individuals with mobility disabilities: (i) American Association of People with Disabilities (AAPD); (ii) Disabled American Veterans; (iii) Paralyzed Veterans of America; (iv) Disability Rights Education & Defense Fund (DREDF); (v) National Center on Health, Physical Activity and Disability (NCHPAD); (vi) National Council on Independent Living; (vii) National Disability Rights Network; (viii) The Consortium for Citizens with Disabilities; (ix) Spina Bifida Association of America; (x) National Organization on Disability; (xi) National Brain Injury Association of America; (xii) Disability Rights Advocates; (xiii) Disabled Veterans National Foundation; (xiv) National Multiple Sclerosis Society; (xv) United Cerebral Palsy; (xvi) United Spinal Association; (xvii) Amputee Coalition; (xviii) Independent Living Research Utilization (ILRU); (xix) Disabled in Action; and (xx) Association of Programs for Rural Independent Living.

b) Class Counsel shall publish the Notice attached to the Settlement Agreement as Exhibit C on a public website dedicated to the Class Settlement, at www.adasettlementfamilydollar.com. The website shall also provide access to the operative pleadings, Plaintiffs' motion for preliminary approval with exhibits and brief in support, this Order, and Plaintiffs' motion for attorneys' fees.

c) The Court finds that the form of notice to Class Members regarding the proposed Settlement Agreement, including the methods of dissemination to the proposed Settlement Class in accordance with the terms of this Order, meets the requirements for due process, the requirements of Rules 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure, and is well calculated to reach representative class members.

7. Within thirty (30) days prior to the date of the Fairness Hearing set forth in paragraph 8 (January 9, 2022), Class Counsel shall file a declaration evidencing compliance with the notice provisions of this Order.

8. A hearing (the “Fairness Hearing”) shall be held before this Court on **February 9, 2022** at **9 AM EST** by Video Conference, to determine whether the Agreement shall be granted final approval, and to address any related matters.

9. The Fairness Hearing may, from time to time and without further notice to the Class (except those who have filed timely objections or entered appearances), be continued or adjourned by order of the Court.

10. Members of the Class may register their objections to the Settlement Agreement by filing written objections with this Court. Objections and accompanying verification must be received **by December 23, 2021**. Members of the Class who also wish to appear at the Fairness Hearing and object to the Settlement Agreement in person must so state at the time they file their written objections. Any Class member who does not make his or her objection in the manner provided for in this Order shall be deemed to have waived such objection.

11. All responses to objections shall be filed with the Court and served by mail on the Parties’ Counsel and on any objectors fourteen (14) days prior to the fairness hearing (January 26, 2022).

12. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement Agreement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

IT IS SO ORDERED:

Dated: 10/28/2021


The Honorable Marilyn J. Horan