

**FILED**

JUN 22 2017

Clerk of the Napa Superior Court

By  Deputy

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **IN AND FOR THE COUNTY OF NAPA**

13 MICHAEL SAUNDERS, on behalf of )  
14 himself, and all others similarly situated, )

15 Plaintiff, )

16 v. )

17 SEARS HOLDINGS MANAGEMENT )  
18 CORPORATION; and DOES 1 through 10, )  
19 inclusive, )

20 Defendants. )

) Case No: 17-CV-000034

) CLASS ACTION

) <sup>DMP</sup>  
) ~~PROPOSED~~ ORDER GRANTING MOTION  
) FOR PRELIMINARY APPROVAL OF  
) CLASS ACTION SETTLEMENT

) Date: June 21, 2017

) Time: 8:30 a.m.

) Dept.: F (Hon. Diane M. Price)

) Action Filed: January 12, 2017

1 In May 2017, Plaintiff Michael Saunders ("Plaintiff"), individually and on behalf of the  
2 proposed Class, and Defendant Sears Holdings Management Corporation ("Defendant")  
3 entered into a class action settlement, the terms and conditions of which are set forth in the  
4 parties' Settlement Agreement and Release ("Agreement"), which is attached as Exhibit A to  
5 the Declaration of Eric A. Grover, filed with this Court on May 15, 2017. Unless otherwise  
6 provided in this Order, all capitalized terms shall have the same meaning as set forth in the  
7 Agreement.

8 A preliminary hearing was held before this Court on June 21, 2017, for the purpose of,  
9 among other things, determining whether the proposed settlement terms are within the range of  
10 possible approval at the final approval hearing. The Court, having reviewed the papers and  
11 documents presented, having heard the statements of counsel, and having considered the  
12 matter, hereby makes the following findings and rulings.

13 **IT IS HEREBY ORDERED:**

14 1. The Court GRANTS preliminary approval of the terms and conditions  
15 contained in the Agreement. The Court finds that the terms of the Agreement are within the  
16 range of possible approval at the final approval hearing.

17 2. The Court FINDS that the following class should be preliminarily  
18 certified for settlement purposes only: "All consumers in California who possessed a Sears gift  
19 card which had a balance of less than \$10.00 but disposed of it between January 12, 2013 and  
20 [insert date of this Order] upon being informed by a Sears employee in California that it could  
21 not be redeemed for cash."

22 3. The Court APPOINTS as Class Counsel Keller Grover LLP. Keller  
23 Grover LLP is also APPROVED to administer the claims process as set forth in the  
24 Agreement.

25 4. The Court APPROVES Plaintiff Michael Saunders as Class  
26 Representative.

27 //

1           5.     The Court APPROVES the notice program set forth in the Agreement,  
2 which includes the one-time publication of the Summary Class Notice in the California edition  
3 of USA Today (on Monday, Tuesday, Wednesday, or Thursday, at Defendant's election) of a  
4 1/8-page (or larger) and publication of the Full Class Notice on a landing page associated with  
5 the website hosted by Keller Grover LLP. The Court finds that the notice program described  
6 in the Agreement constitutes the best notice practicable under the circumstances and is in full  
7 compliance with the laws of the State of California, including without limitation, California  
8 Code of Civil Procedure § 382, California Rules of Court 3.766 and 3.769, and the  
9 requirements of due process. The Court further finds that the notice program fully and  
10 accurately informs Class Members of all material elements of the Agreement, of each Class  
11 Member's right to submit a claim, of each Class Member's right to be excluded from the  
12 settlement, and of each Class Member's right to object to the settlement. The notice program  
13 shall be implemented on the timelines set forth in the Agreement.

14           6.     The Court APPROVES the proposed procedure set forth in the  
15 Agreement for Class Members to submit a claim.

16           7.     The Court APPROVES the proposed procedure set forth in the  
17 Agreement for Class Members to submit a request for exclusion from the settlement. Any  
18 Class Member requesting exclusion from the settlement must mail a signed request for  
19 exclusion to Class Counsel and Defense Counsel so that it is postmarked no later than 90 days  
20 from the date of this Order. Any Class Member who submits a valid and timely request for  
21 exclusion shall no longer be a member of the Class, shall be barred from participating in this  
22 settlement and shall receive no benefit from this settlement.

23           8.     The Court further ORDERS that, as provided for in the Agreement, each  
24 Class Member shall be given a full opportunity to object to the settlement, including the plan  
25 of distribution and the requests for attorneys' fees, costs and Plaintiff's service award. As  
26 explained in the Agreement, any Class Member seeking to object to the settlement shall file  
27 their objection with the Court and shall serve that objection on Class Counsel and Defense

1 Counsel no later than 90 calendar days from the date of this Order. Should any party wish to  
2 file a written response to any written objection submitted by a Class Member, that response  
3 shall be filed within 10 calendar days of the final approval hearing. However, the failure to file  
4 a written response shall not bar any party from presenting oral argument or evidence  
5 concerning any objection at the final approval hearing. Any Class Member who fails to file  
6 and serve a timely written objection shall be foreclosed from objecting to the settlement unless  
7 otherwise ordered by the Court.


8           9. To facilitate the claims procedure approved by the Court, the Court  
9 hereby enjoins Plaintiff and all Class Members members from filing or prosecuting any claims,  
10 suits or administrative proceedings regarding claims included in the definition of Released  
11 Claims unless and until such Class Members have submitted a valid request for exclusion.

12           10. All proceedings in this action are stayed until further order of the Court,  
13 except as may be necessary to implement the settlement or comply with the terms of the  
14 Agreement or this Order.

15           11. The final approval hearing is scheduled for 10/4, 2017 at  
16 8:30a.m. in Department F of this Court. The date and time selected for the hearing  
17 must appear in the Summary and Full Class Notice. If the motion for final approval of the  
18 settlement will be unopposed, the motion and all supporting papers may be filed within 15  
19 calendar days of the final approval hearing. The final approval hearing may be adjourned or  
20 continued without further notice to the Class.

21  
22 **IT IS SO ORDERED.**

23  
24 Dated: 6/21, 2017

  
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Hon. Diane M. Price  
JUDGE OF THE SUPERIOR COURT