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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ONLINE DVD RENTAL
ANTITRUST LITIGATION

No. M 09-2029 PJH

**ORDER DENYING DEFENDANT'S
RENEWED MOTION TO
DECERTIFY**

This Document Relates to:

ALL ACTIONS

The renewed motion of defendant Netflix, Inc. to decertify the Netflix subscriber litigation class came on for hearing on September 28, 2011. The parties appeared through counsel. For the reasons stated by the court on the record and set forth herein, defendant's motion to decertify the class is DENIED. Following the guidance of ABA Model Rules of Professional Conduct, Rule 1.7, cmt. 25, and in the absence of clear authority to the contrary, the court accepts the conflict waivers of the class representatives submitted by plaintiffs' counsel for in camera review and finds that lead class counsel has satisfied their professional obligations to obtain their client's consent. See Sharp v. Next Entertainment, Inc., 163 Cal.App.4th 410, 433-34 (2008). Plaintiffs' counsel represented that they would cure the error in naming Scott Caldwell as a class representative without having obtained his written consent by submitting a revised proposed order for conditional class certification of the settlement class as to the claims against Walmart. Subject to that representation, the court denies defendant's motion to decertify the class and further determines that it is unnecessary to disqualify Mr. Abrams and Baker & Hostetler LLP.

To alleviate any concerns about potential prejudice to unnamed class members in the form of adverse witness treatment of Walmart that is less than zealous, in the event

1 that this matter proceeds to trial, any live cross-examination of Walmart witnesses shall be
2 conducted by another law firm that represents plaintiffs.

3 **IT IS SO ORDERED.**

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5 Dated: September 28, 2011



6 PHYLLIS J. HAMILTON
7 United States District Judge

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