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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE ONLINE DVD RENTAL ANTITRUST LITIGATION	Master File No. 4:09-md-2029 PJH MDL No. 2029 Hon. Phyllis J. Hamilton
This document relates to: ALL ACTIONS	[PROPOSED] REVISED ORDER GRANTING CONDITIONAL CLASS CERTIFICATION AND PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT AND FORM AND PLAN OF NOTICE

1 This matter has come before the Court for (1) certification of a Settlement Class pursuant to the
2 terms of a Settlement Agreement dated July 1, 2011 (the “Agreement”); (2) preliminary approval of
3 the Settlement; and (3) approval of the Plan of Notice to members of the Settlement Class of the
4 Settlement.

5 The Court hereby ORDERS that (1) the Settlement Class is certified for purposes of settlement;
6 (2) the Settlement is Preliminarily Approved; and (3) the Plan of Notice is approved.

7 Certification of the claims advanced by the Settlement Class will achieve a definite and certain
8 result for the benefit of the Settlement Class and is preferable to continuing litigation in which the
9 Settlement Class would necessarily encounter substantial risk, uncertainty, delay, and cost. This Order
10 is entered exclusively for this Settlement purpose. Capitalized terms in this Order shall have the same
11 meanings as set forth in the Agreement.

12 Preliminarily, this Court finds that the following terms and conditions shall apply to this Order:

13 1. This Order includes a conditional class certification for Settlement purposes only.

14 2. This Order applies to claims against Defendants Wal-Mart Stores, Inc., Walmart.com,
15 USA LLC, and related persons and entities described in the Agreement (collectively, “Wal-Mart”)
16 only.

17 3. The Agreement pursuant to which this Order is entered contains a claims process by
18 which members of the Settlement Class may submit a Claim Form to receive a portion of the Gift Card
19 Component by way of either a Gift Card or, at the Settlement Class Member’s election, a cash payment
20 of equal value instead of a Gift card, as provided for in the Agreement.

21 4. If for any reason this Court does not finally approve the Agreement, or if the Settlement
22 Effective Date as defined in the Agreement does not occur, the conditional certification of the
23 Settlement Class shall be deemed null and void without further action by this Court or any of the
24 Parties. In such circumstances each Party shall retain all of its respective currently existing rights to
25 seek or to object to the certification of this litigation as a class action under Fed. R. Civ. P. 23 or any
26 other California State or Federal Rule, statute, law, or provision, and to contest and appeal any grant or
27 denial of certification in this litigation or in any other litigation on any other grounds.

1 settle the claims against Netflix; and is hereby preliminarily approved, subject to further consideration
2 at a final fairness hearing to be scheduled at a later time.

3 13. The Court appoints Rust Consulting as Claims Administrator, with responsibility for
4 class notice and claims administration. Rust Consulting will be assisted with class notice by its
5 subsidiary Kinsella Media.

6 14. The Court finds the form and manner of giving notice to the Settlement Class set forth
7 in the declaration of Dr. Shannon Wheatman (the “Wheatman Declaration”) fully satisfies the
8 requirements of Rule 23 of the Federal Rules of Civil procedure, the Due Process Clause of the United
9 States Constitution, and any and all other applicable laws, constitutes the best notice practicable under
10 the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

11 15. The Court ORDERS the following schedule:

12 Notice shall be issued expeditiously pursuant to the plan of notice in the Wheatman
13 Declaration. The e-mail Notice shall be first e-mailed to Settlement Class Members within thirty (30)
14 days following the Claims Administrator’s receipt of the Class List information (or signed agreement
15 between Netflix and Plaintiffs regarding Netflix’s dissemination of the notice to the Class and the
16 protocol assigned thereto), or within thirty (30) days following the District Court’s preliminary
17 approval of the Settlement, whichever is later. Notice by Online and Earned Media—comprising
18 banner advertisements and a press release distributed on PR Newswire’s US1 Newswire, as described
19 in the Wheatman Declaration—shall begin on the soonest practicable date after the e-mail notice is
20 first e-mailed to Settlement Class Members. From the date on which the first e-mail Notice is sent, the
21 following deadlines apply:

- 22 o Deadline for fee petition(s) and motion for final approval: 75 days
- 23 o Deadline for opt outs: 90 days
- 24 o Deadline for objections: 90 days
- 25 o Deadline for final approval replies and responses to objections (if any): 104 days
- 26 o Final approval hearing: ~~120 days~~ February 15, 2012 at 9:00 a.m.

