

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MICHAEL J. IANNONE, JR.,)
and NICOLE A. JAMES, as)
plan participants, on behalf of the)
AUTOZONE, INC. 401(k) Plan,)
and on behalf of others similarly)
situated,)

Plaintiffs,)

v.)

AUTOZONE, INC., as plan sponsor,)
BILL GILES, BRIAN CAMPBELL,)
STEVE BEUSSINK, KRISTIN WRIGHT,)
MICHAEL WOMACK, KEVIN WILLIAMS,)
and RICK SMITH, individually and as)
members of the AUTOZONE, Inc.)
Investment Committee, and NORTHERN)
TRUST CORPORATION and)
NORTHERN TRUST, INC., as)
Investment fiduciaries,)

Defendants.)

CLASS ACTION

Case No.: 2:19-cv-02779-MSN-tmp

[PROPOSED] PRELIMINARY APPROVAL ORDER

Currently before the Court for preliminary approval is a partial Settlement (the “Settlement”) of this class action (the “Action”) wherein the Class Representatives, Michael Iannone and Nicole James (“Plaintiffs”), have asserted claims for alleged violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, *et seq.* (“ERISA”), with respect to the AutoZone, Inc. 401(k) Plan (the “Plan”) against Defendants Northern Trust Corporation and Northern Trust Investments, Inc. (“Northern Trust” or the “Northern Trust Defendants” or the “Non-Settling Defendants”) and AutoZone, Inc. and individual defendants (the “Non-Settling Defendants”, collectively, with the Settling Defendants, the

“Defendants”). The Settlement is between Plaintiffs and the Northern Trust Defendants and does not include any of the other Defendants named in this lawsuit.

The terms of the Settlement are set out in a Settlement Agreement executed on November 30, 2023 (the “Settlement Agreement”) (attached hereto as **Exhibit 1**), which has been signed by Plaintiffs and their Counsel on behalf of the proposed Settlement Class and the Northern Trust Defendants and their counsel (collectively with Plaintiffs, the “Parties”). Capitalized terms not otherwise defined in this Order shall have the same meaning as ascribed to them in the Settlement Agreement. The “Settlement Class” in the Settlement Agreement is consistent with the “Class” defined in Chief Magistrate Judge Pham’s Report and Recommendation to certify the Class, which was adopted by this Court. Doc. 205, at 3-4.

Having considered Plaintiffs’ Motion for Preliminary Approval of Proposed Settlement (the “Motion”, ECF No. ___) and the documents attached thereto in order to determine, among other things, whether the Settlement is sufficient to warrant the issuance of notice to members of the proposed Settlement Class, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

Jurisdiction. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including all Members of the Settlement Class.

Class Findings. The Court preliminarily finds, for purposes of the Settlement, that the requirements of the Federal Rules of Civil Procedure, the United States Constitution, the Rules of the Court and any other applicable law have been met as to the Settlement Class, in that the Court has already certified a class substantially similar to the Settlement Class. The Court’s previous analysis as to the propriety of the Class now applies equally to the propriety of a Settlement Class. See Doc. 205.

Class Certification. Based on the findings set out in Doc. 205 and adopted by this Court, the Court certifies the following Settlement Class under Federal Rule of Civil Procedure 23(b)(1) in this litigation (hereinafter the “Settlement Class”):

All persons, other than AutoZone or Individual Defendants, who were participants as of November 11, 2013 in Plan, and invested in any of the GoalMaker Funds including (i) beneficiaries of deceased participants who, as of November 11, 2013, were receiving benefit payments or will be entitled to receive benefit payments in the future, and (ii) alternate payees under a Qualified Domestic Relations Order who, as of November 11, 2013, were receiving benefit payments or will be entitled to receive benefit payments in the future; and (b) all persons, other than AutoZone, who have been participants or beneficiaries in either the Plan and had account balances in the Plan at any time between November 11, 2013 through today’s date.

The “Settlement Class Period” shall be defined as November 11, 2013, through today’s date.

Nothing in this Order shall alter or otherwise modify the class certified at Doc. 239.

The Court having determined that this Action may proceed as a non-opt out class action under Fed. R. Civ. P. 23(a) and 23(b)(1), Members of the Settlement Class shall be bound by any judgment concerning the Settlement in this Action, subject to the Court’s final determination as to whether this Action may so proceed.

Class Members. Defendant AutoZone, Inc. is hereby ORDERED within thirty (30) days of the entry of this Order to 1) obtain and produce to Plaintiffs the list of Settlement Class Members along with their contact information in a usable database, which shall include the most recent mailing addresses, full names, and Social Security numbers, and 2) obtain and produce to Plaintiffs the Plan participant data described in the Plan of Allocation.

Preliminary Approval of Settlement and Plan of Allocation. The Settlement documented in the Settlement Agreement as well as the submitted Plan of Allocation is hereby **PRELIMINARILY APPROVED**, as the Court preliminarily finds that: (a) the proposed Settlement resulted from arm’s-length negotiations; (b) the Settlement Agreement was executed

only after Class Counsel had researched and investigated multiple legal and factual issues pertaining to Plaintiffs' claims; (c) there is a genuine controversy between the Parties involving Defendant's compliance with the fiduciary requirements of ERISA; (d) the Settlement and Plan of Allocation appear on their face to be fair, reasonable, and adequate; and (e) the Settlement, evidenced by the Settlement Agreement, is sufficiently fair, reasonable, and adequate to warrant sending notice of the Action and the Settlement to the Settlement Class.

Fairness Hearing. A hearing (the "Fairness Hearing") pursuant to Fed. R. Civ. P. 23(e) is hereby **SCHEDULED** to be held before the Court on _____ 2024, at ___ a.m. in Courtroom ___ at the Odell Horton Federal Building, 167 North Main Street, Memphis, TN 38103 to determine finally, among other things:

- (a) Whether the Settlement should be approved as fair, reasonable, and adequate;
- (b) Whether the litigation against the Northern Trust Defendants should be dismissed with prejudice pursuant to the terms of the Settlement Agreement;
- (c) Whether the Final Approval Order attached to the Settlement Agreement should be entered and whether the Released Parties should be released of and from the Released Claims, as provided in the Settlement Agreement;
- (d) Whether the notice and notice methodology implemented pursuant to the Settlement Agreement (i) were reasonably calculated, under the circumstances, to apprise Members of the Settlement Class of the pendency of the litigation, their right to object to the Settlement, and their right to appear at the Fairness Hearing; (ii) were reasonable and constituted due, adequate, and sufficient notice to all persons entitled to notice; and (iii) met all applicable requirements of the Federal Rules of Civil Procedure, and any other applicable law;
- (e) Whether the proposed Plan of Allocation of the Net Settlement Fund is fair, reasonable, and adequate and should be approved by the Court;

- (f) Whether the Settlement has been negotiated at arm's length by Class Counsel on behalf of the Plan and the Settlement Class, whether Plaintiffs have acted independently, whether Plaintiffs' interests are identical to the interests of the Plan and the Settlement Class, and whether the negotiations and consummation of the Settlement by Plaintiffs on behalf of the Plan and the Settlement Class do not constitute "prohibited transactions" as defined by ERISA §§ 406(a) or (b), including whether Prohibited Transaction Exemption 2003-39 or another class exemption from the prohibited transaction rules applies;
- (g) Whether the application for attorneys' fees and expenses to be filed by Class Counsel should be approved;
- (h) Whether incentive awards should be awarded to Plaintiffs; and
- (i) Any other issues necessary for approval of the Settlement.

Class Notice. The Parties have presented to the Court a proposed Class Notice, which is appended to the Settlement Agreement as **Exhibit A**, and includes a postcard notice and a long-form notice. The Court **APPROVES** the form and content of the Class Notice finding that it fairly and adequately: (1) describes the terms and effect of the Settlement Agreement and of the Settlement; (2) gives notice to the Settlement Class of the time and place of the Fairness Hearing; and (3) describes how the recipients of the Class Notice may object to approval of the Settlement. By no later than 60 days before the Fairness Hearing, Plaintiffs shall cause the Class Notice, with such non-substantive modifications thereto as may be agreed upon by the Parties, to be disseminated to the last known address of each Member of the Settlement Class who can be identified by reasonable effort and posted on the Settlement Administrator website. The Court finds that such proposed manner of dissemination is adequate.

At or before the Fairness Hearing, Class Counsel shall file with the Court a proof of timely compliance with the foregoing notice requirements.

Objections to Settlement. “Objector” shall mean any Member of the Settlement Class who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, to the Plan of Allocation, to any term of the Settlement Agreement, to the proposed case contribution awards, or to the proposed award of attorney fees and expenses. Any Objector must submit a statement of his, her, or its objection(s), specifying the reason(s), if any, for each such objection made, including any legal support or evidence that such Objector wishes to bring to the Court’s attention or introduce in support of such objection. Any objection must be signed by the Settlement Class member. The Objector must mail the objection and all supporting law and evidence to Plaintiffs’ Counsel at the address below:

PLAINTIFFS’ COUNSEL
D.G. Pantazis, Jr.
Wiggins Childs Pantazis Fisher
Goldfarb
301 19th Street North
Birmingham, AL 35203

All objections must be postmarked at least twenty-one (21) calendar days prior to the Fairness Hearing, or by no later than _____, 2024. Any Member of the Settlement Class or other person who does not timely serve a written objection complying with the terms of this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement and any untimely objection shall be barred.

Appearance at Fairness Hearing. An Objector who serves a timely, written objection in accordance with the paragraph above may also appear and speak at the Fairness Hearing either in person or through counsel retained at the Objector’s expense. Objectors or their attorneys intending to appear and speak at the Fairness Hearing must also serve of a “Notice of Intention to Appear” setting forth, among other things, the name, address, and telephone number of the Objector (and, if

applicable, the name, address, and telephone number of the Objector's attorney). Any "Notice of Intention to Appear" must be served on Plaintiffs' Counsel at the address listed above and postmarked at least twenty-one (21) calendar days prior to the Fairness Hearing, or by no later than _____, 2024. Any Objector who does not timely submit a "Notice of Intention to Appear" in accordance with this paragraph shall not be permitted to appear and speak at the Fairness Hearing, except for good cause shown. The Parties' counsel shall promptly furnish each other with copies of any and all Objections and Notices of Intention to Appear that come into their possession.

Response to Objectors. The Parties shall respond to any Objector at least seven (7) calendar days prior to the Fairness Hearing, or by no later than _____, 2024, by filing the Objection (and Notice of Intention to Appear, if any) and response to the Objection with the Court. The Parties may submit joint or separate responses to the Objection.

Compliance with Class Action Fairness Act. Northern Trust shall, on or before ten (10) calendar days prior to the Fairness Hearing, file with the Court proof of compliance with the Class Action Fairness Act of 2005, as specified in 28 U.S.C. § 1715 and Section 2.2.6 in the Settlement Agreement.

Notice Expenses. Reasonable expenses of effectuating Class Notice shall be paid out of the Settlement Fund.

Fees and Expenses Incurred by the Independent Fiduciary and Settlement Administrator. The Court understands that Northern Trust has retained or will retain an Independent Fiduciary for the purpose of evaluating the Settlement to determine whether to authorize the Settlement on behalf of the Plan. All fees and expenses incurred by the Independent Fiduciary (including fees and expenses incurred by consultants, attorneys, and other professionals

retained or employed by the Independent Fiduciary) in the course of evaluating and authorizing the Settlement on behalf of the Plan, shall be paid by Northern Trust. The expenses incurred by the Settlement Administrator in administering the Settlement and allocating the Settlement Fund pursuant to the Plan of Allocation approved by the Court, including any payable expenses of the Settlement Administrator, shall be paid out of the Settlement Fund.

Application for Attorneys' Fees. Any application by Class Counsel for attorneys' fees and reimbursement of expenses, for an Incentive Award to the Named Plaintiffs, and all papers in support thereof, shall be filed with the Court and served on all counsel of record at least twenty-eight (28) calendar days prior to the Fairness Hearing, or by no later than _____, 2024.

Motion for Final Approval of Settlement and Plan of Allocation. Class Counsel shall file with the Court a motion for entry of the Final Approval Order at least twenty-eight (28) calendar days prior to the Fairness Hearing, or by no later than _____, 2024.

Injunction. Pending final determination of whether the Settlement should be approved, all Members of the Settlement Class and the Plan are each hereby **BARRED AND ENJOINED** from instituting or prosecuting any action that asserts any Released Claim against the Released Parties or any of them.

Termination of Settlement. If the Settlement is terminated in accordance with the Settlement Agreement or does not become Final under the terms of the Settlement Agreement for any other reason, this Order and all Class Findings shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order.

Use of Order. In the event this Order becomes of no force or effect, no part of it shall be construed or used as an admission, concession, or declaration by or against the Northern Trust Defendants of any fault, wrongdoing, breach, or liability, nor shall the Order be construed or used as an admission, concession, or declaration by or against Plaintiffs or the Settlement Class that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or claims he, she, or it may have.

Continuance of Hearing. The Court reserves the right to continue the Fairness Hearing without further written notice.

SO ORDERED this _____ day of _____, 2023.

Hon. Mark S. Norris
United States District Court Judge