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Attorneys for Plaintiff
WILLIAM HOLMES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, STANLEY MOSK COURTHOUSE

WILLIAM HOLMES,

Plaintiff,

v.

LESLIE'S POOLMART, INC. and DOES
1 to 25, inclusive,

Defendants.

Case No. 20STCV24698

ASSIGNED FOR ALL PURPOSES TO HON.
HOLLY J. FUJIE, DEPT. 56

**JOINT STIPULATION RE PAGA
SETTLEMENT AND DISMISSAL OF
LAWSUIT**

Complaint Filed: June 30, 2020
FSC: February 1, 2022
Trial Date: February 14, 2022

1 Plaintiff William Holmes ("Plaintiff") and Defendant Leslie's Poolmart, Inc. ("Defendant")
2 and, together with Plaintiff, the "Parties") stipulate and agree as follows:

3 **WHEREAS**, from approximately September 2008 until April 12, 2019, Plaintiff was
4 intermittently employed by Defendant in various positions at various locations until Plaintiff's
5 employment was separated;

6 **WHEREAS**, in a letter, dated March 23, 2020 ("PAGA Notice"), Plaintiff filed an
7 administrative complaint with the California Labor and Workforce Development Agency ("LWDA")
8 that asserted claims against Defendant under California's Private Attorneys General Act of 2004
9 ("PAGA") and, thereafter, more than sixty-five days elapsed after Plaintiff's PAGA Notice with the
10 LWDA never indicating its intention to pursue PAGA claims described in Plaintiff's PAGA Notice;

11 **WHEREAS**, on June 30, 2020, Plaintiff filed a Complaint ("Complaint") in the Superior Court
12 of the State of California for the County of Los Angeles against Defendant Leslie's Poolmart, Inc., in
13 the above-entitled action, in which Plaintiff asserted a single cause of action for violation of the Private
14 Attorneys General Act ("PAGA") based on claims for (1) failure to pay overtime at the correct rate;
15 (2) failure to provide meal periods; (3) failure to timely pay wages under California Labor Code section
16 204; (4) failure to provide accurate wage statements; (5) waiting time penalties; (6) failure to keep
17 accurate and complete payroll records under California Labor Code section 1174(d); and (7) failure to
18 reimburse for business expenses (the "Lawsuit");

19 **WHEREAS**, on July 8, 2020, Plaintiff filed a separate demand for arbitration with JAMS
20 asserting various claims under the California Fair Employment and Housing Act, among others (the
21 "Arbitration");

22 **WHEREAS**, following extensive meet and confer efforts, on November 18, 2020, Plaintiff
23 filed a First Amended Complaint ("FAC") in the Lawsuit that limited the temporal scope of all of his
24 claims with the exception of the expense reimbursement claim to the time period following the release
25 period of the class action and PAGA settlement in *Geoffrey Suazo v. Leslie's Poolmart, Inc.*, Case No.
26 RIC 1825126, Riverside Superior Court;

27 **WHEREAS**, on December 9, 2020, Defendant timely filed an Answer to Plaintiff's FAC in
28 the Lawsuit and generally and specifically denied each and every claim and cause of action set forth

1 in the FAC and asserted defenses;

2 **WHEREAS**, on April 27, 2021, after the Parties participated in a full-day, arms-length Zoom
3 mediation with experienced mediator Steve Mehta, Esq., the Parties agreed to resolve all differences
4 between them in the Lawsuit and Arbitration and, among other things, subject to the approval of this
5 Court, Plaintiff agreed to settle and release his PAGA claims *with prejudice* as to Plaintiff's status as
6 a PAGA "aggrieved employee" on behalf of the State of California and *without prejudice* as to the
7 claims of all other putative PAGA "aggrieved employees" of Defendant and to dismiss the Lawsuit;

8 **THEREFORE**, subject to the approval of the Court, the Parties stipulate and agree as follows:

9 1. **No Admission.** Nothing in this Joint Stipulation Re PAGA Settlement and Dismissal
10 of Lawsuit ("Joint Stipulation") shall be construed as or deemed to be an admission by Plaintiff,
11 Defendant or the Released Parties (defined below) of any liability whatsoever to any other Party or to
12 any other person, or as an admission of any violation of any other Party's rights or any other person's
13 rights, or a breach of any duty or obligation pursuant to any order, law, statute, duty, or contract
14 whatsoever. Defendant and the Released Parties deny any liability to Plaintiff for any alleged violation
15 or breach of his rights or his duties for any alleged violation or breach of duty with respect to any
16 order, law, statute, duty, contract or otherwise, and Defendant and the Released Parties deny all
17 liability for the claims asserted in the Lawsuit and the Arbitration. Through this Joint Stipulation, the
18 Parties are resolving Plaintiff's disputed PAGA claims as to Plaintiff alone (in his capacity as a
19 putative "aggrieved employee") and securing a release of those claims to avoid the expense and
20 interruption of further litigation and the Parties seek the dismissal of the Lawsuit in accordance with
21 the terms of this Joint Stipulation.

22 2. **Release of PAGA Claims.** In exchange for the consideration, undertakings and
23 covenants of the Parties, as of the Effective Date, Plaintiff hereby releases Defendant and the Released
24 Parties from all Released Claims. For purposes of this Joint Stipulation, the capitalized terms shall
25 have the following meanings:

26 a. "Released Claims" means all known and Unknown Claims for alleged
27 violations of California Private Attorneys General Act of 2004 ("PAGA") that were actually asserted,
28 or that could have been asserted, in Plaintiff's Complaint and/or in the FAC on behalf of Plaintiff in

his status as a PAGA “aggrieved employee” by and on behalf of the State of California (but not on behalf of any other current or former employee of Defendant as putative “aggrieved employees” under PAGA), based upon the facts and claims and Causes of Action asserted in the Complaint and/or the FAC in the Lawsuit, or that could have been asserted in the Complaint and/or in the FAC in the Lawsuit including, but not limited to, PAGA claims based upon any and all known or Unknown Claims for, among other things, unpaid overtime, meal period premiums, unreimbursed expenses, penalties, interest, damages, liquidated damages, attorneys’ fees, and any and all other monetary and non-monetary claims and relief under PAGA, which are based in whole or in part on Plaintiff’s claims and causes of action asserted in the Lawsuit, as amended, for, among other things, unpaid overtime wages (based on alleged miscalculation of the correct overtime rate), meal period violations and failure to pay meal period premiums, failure to timely pay wages under California Labor Code section 204, failure to provide accurate wage statements, failure to timely pay wages upon termination, failure to keep accurate and complete payroll records under California Labor Code section 1174(d), and failure to reimburse for business expenses, and specifically including, without limitation, all claims under California Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 2698 *et seq.*, 2800, and 2802, all related provisions of the California Code of Regulations, the applicable IWC Wage Orders, civil penalties, attorneys’ fees, costs and interest, or otherwise; provided, however, nothing in this Joint Stipulation settles or waives or releases any claim under PAGA on behalf of or for the benefit of any other person other than Plaintiff;

b. “Unknown Claims” or “Unknown Released Claims” means any Claim, which arises out of the wage and hour and payroll practices alleged or which could have been alleged under the facts pled in the Complaint and/or the FAC in the Lawsuit, which Plaintiff does not know or suspect to exist in his favor at the time of the release of the Released Persons that, if known by him, might have affected his settlement with and the release of the Released Persons. As set forth herein, with respect to the Released Claims, the Parties stipulate and agree that, upon the Effective Date, Plaintiff shall be deemed to have, and by operation of the order granting approval of the settlement contemplated by this Joint Stipulation and the issuance and entry of the order of dismissal, expressly waived, released and relinquished all Released Claims including Unknown Released Claims as to

1 Defendant and the Released Parties;

2 c. "Released Parties" means Defendant Leslie's Poolmart, Inc. and each of its
3 parent, subsidiary and affiliated corporations and entities, and each of their respective present and
4 former officers, directors, shareholders, investors, agents, employees, and each of their insurance
5 carriers and attorneys, and each of their agents and employees, and all of their respective predecessors,
6 successors, and assigns; and

7 d. "Effective Date" means the date of the Court's Order approving this Joint
8 Stipulation and dismissing the Lawsuit in accordance with the terms of this Joint Stipulation.

9 3. **Settlement Payment; Fairness.** In consideration for Plaintiff's settlement and release
10 of PAGA claims in relation to Plaintiff's status as a PAGA "aggrieved employee" and dismissal of the
11 Lawsuit, Defendant agrees to pay a gross, total Settlement Payment of One Thousand Dollars and Zero
12 Cents (\$1,000.00), within fifteen (15) days following the Effective Date. 75% of the Settlement
13 Payment (or \$750.00) shall be paid to the LWDA by Defendant or, more precisely, by Plaintiff's
14 counsel, and 25% of the Settlement Payment (or \$250.00) shall be paid to Plaintiff to account for the
15 release of PAGA claims in his status as a PAGA "aggrieved employee." This portion of the Settlement
16 Payment shall be paid in the form of a check in the amount of \$1,000.00 and made payable to Plaintiff's
17 counsel's client trust account and delivered to Plaintiff's counsel with no withholdings or deductions
18 and Plaintiff's counsel shall pay the \$750.00 payment to the LWDA and the \$250.00 payment to
19 Plaintiff within ten (10) days of receipt of this portion of the Settlement Payment. Counsel for Plaintiff
20 and Defendant agree that the settlement contemplated by this Joint Stipulation, which effectuates the
21 settlement and dismissal of Plaintiff's PAGA claim as to Plaintiff's status as a PAGA "aggrieved
22 employee" only (and does not settle or dismiss the potential claims of any other putative PAGA
23 "aggrieved employee" of Defendant) is fair and reasonable under all of the surrounding the
24 circumstances.

25 4. **No Other Payments; Waiver of Appeal.** Other than the Settlement Payment
26 described in paragraph 3, above, the Parties agree that neither Plaintiff nor his counsel are entitled to
27 any other monetary or non-monetary payments for PAGA penalties, attorneys' fees, costs, interest or
28 otherwise associated with the claims in the Lawsuit. Plaintiff, Defendant and their attorneys waive

1 any and all right to appeal the Court's order approving this Joint Stipulation (so long as the Court
2 approves the Joint Stipulation without material alteration from the terms set forth in this Joint
3 Stipulation).

4 5. **Dismissal of Lawsuit.** Upon the Court's approval of this Joint Stipulation, the Parties
5 agreed that the Lawsuit, which asserted a single PAGA claim, shall be dismissed *with prejudice* as to
6 Plaintiff's status as a PAGA "aggrieved employee" on behalf of the State of California and *without*
7 *prejudice* as to the claims of putative PAGA "aggrieved employees" of Defendant (other than Plaintiff)
8 but the Court shall retain jurisdiction pursuant to Code of Civil Procedure 664.6 to enforce or declare
9 either Parties' rights under this Joint Stipulation. Accordingly, upon entry of the Court's Order
10 approving this Joint Stipulation, the Parties stipulate and agree that all of Plaintiff's claims in the
11 Lawsuit asserted in Plaintiff's capacity as a PAGA "aggrieved employee" shall be and hereby are
12 dismissed **WITH PREJUDICE**; and all PAGA claims on behalf of all other putative PAGA
13 "aggrieved employees" of Defendant (other than Plaintiff) shall be and hereby are dismissed
14 **WITHOUT PREJUDICE**; and, except as set forth in the Joint Stipulation and/or in the Parties'

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1 Confidential Settlement and Release Agreement, each Party shall bear his or its own attorneys' fees
2 and costs incurred in connection with the prosecution or defense of the Lawsuit and the Arbitration.

3 **SO STIPULATED.**

4 Dated: April 27, 2021

DocuSigned by:

Harout Messrelan

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HAROUT MESSRELIAN
MESSRELIAN LAW INC.
Attorneys for Plaintiff
WILLIAM HOLMES

7 Dated: April 27, 2021

DocuSigned by:

William Holmes

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Plaintiff WILLIAM HOLMES

10 Dated: April 27, 2021

DocuSigned by:

Douglas A. Wickham

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DOUGLAS A. WICKHAM
IAN T. MAHER
LITTLER MENDELSON, P.C.
Attorneys for Defendant
LESLIE'S POOLMART, INC.

16 Dated: April 27, 2021

DocuSigned by:

Ben Lindquist

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VP

Defendant LESLIE'S POOLMART, INC.

17 4842-8206-6406.1 / 053451-1039

Electronically Received 05/17/2021 10:00 AM

05/19/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: O. Chavez Deputy

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Attorneys for Plaintiff
WILLIAM HOLMES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, SPRING STREET COURTHOUSE

WILLIAM HOLMES,

Plaintiff,

v.

LESLIE'S POOLMART, INC. and DOES
1 to 25, inclusive,

Defendants.

Case No. 20STCV24698

ASSIGNED FOR ALL PURPOSES TO HON.
HOLLY J. FUJIE, DEPT. 56

**[PROPOSED] ORDER GRANTING JOINT
STIPULATION RE PAGA SETTLEMENT
AND DISMISSAL OF LAWSUIT AND
DISMISSING LAWSUIT**

Complaint Filed: June 30, 2020
FSC: February 1, 2022
Trial Date: February 14, 2022

1 Having read and considered the Joint Stipulation Re PAGA Settlement and Dismissal of
2 Lawsuit (“Joint Stipulation”) of Plaintiff William Holmes and Defendant Leslie’s Poolmart, Inc.
3 (“Defendant” and, together with Plaintiff, the “Parties”), and **GOOD CAUSE APPEARING**
4 **THEREFOR**, it is **HEREBY ORDERED, ADJUDGED** and **DECREED** as follows:

5 1. The Parties’ Joint Stipulation is **GRANTED**;

6 2. The Parties’ settlement of Plaintiff’s Private Attorneys General Act of 2004 (“PAGA”)
7 claim is **APPROVED** in accordance with the terms of the Joint Stipulation;

8 3. Defendant shall timely make the settlement payment described in the Joint Stipulation
9 (and, upon receipt of the money allocated to the PAGA settlement, Plaintiff’s counsel shall cause such
10 amount to be paid to the California Labor and Workforce Development Agency in accordance with
11 the terms of the Joint Stipulation);

12 4. As of the date of this Order (and provided that Defendant satisfies its obligation to pay
13 the settlement payment in accordance with the terms of the Joint Stipulation), by operation of
14 Plaintiff’s waiver and release set forth in the Joint Stipulation and pursuant to this Order, Plaintiff shall
15 be deemed to have released Defendant and the “Released Parties” from all “Released Claims” (and,
16 for purposes of this Order, the capitalized terms shall have the meanings set forth in the Joint
17 Stipulation, which definitions are incorporated by reference herein);

18 5. In accordance with the Parties’ Joint Stipulation, Plaintiff’s PAGA claim in Plaintiff’s
19 capacity as a PAGA “aggrieved employee” is **DISMISSED WITH PREJUDICE** and all PAGA
20 claims on behalf of all other putative PAGA “aggrieved employees” of Defendant (other than Plaintiff)
21 are hereby **DISMISSED WITHOUT PREJUDICE**;

22 6. Except as set forth in the Parties’ Joint Stipulation and the Parties’ Confidential
23 Settlement and Release Agreement, Plaintiff and Defendant shall bear his or its own attorneys’ fees
24 and costs incurred in connection with the prosecution or defense of this action; and

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1 7. Even though this entire action has been, and hereby is, dismissed, the Court shall retain
2 jurisdiction to enforce the Parties' Joint Stipulation pursuant to Code of Civil Procedure section
3 664.6.

4 **SO ORDERED.**



Holly J. Fujie

5 05/19/2021

Holly J. Fujie / Judge

6 Dated: _____

7 HON. HOLLY J. FUJIE
8 JUDGE, SUPERIOR COURT FOR THE COUNTY
9 OF LOS ANGELES

10 4822-1047-7030.1 / 053451-1039