

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: Leon vs. SC RETAIL, LLC**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE****CASE NUMBER:**
30-2020-01150886-CU-OE-CXC

I certify that I am not a party to this cause. I certify that a true copy of the above Second Amended Order Granting Approval of PAGA Settlement and Setting Compliance Hearing dated 08/16/22 has been placed for collection and mailing so as to cause it to be mailed in a sealed envelope with postage fully prepaid pursuant to standard court practice and addressed as indicated below. This certification occurred at Santa Ana, California on 8/17/22. Following standard court practice the mailing will occur at Sacramento, California on 8/18/22.

ROBERT W BOLLAR
1800 W KATELLA AVENUE, SUITE 400
ORANGE, CA 92863-4159

Clerk of the Court, by:



, Deputy

I certify that I am not a party to this cause. I certify that the following document(s), Second Amended Order Granting Approval of PAGA Settlement and Setting Compliance Hearing dated 08/16/22, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on August 17, 2022, at 10:49:19 AM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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Clerk of the Court, by:



, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

AUG 16 2022

DAVID H. YAMASAKI, Clerk of the Court

BY: LM, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE- CENTRAL JUSTICE CENTER

MELINDA LEON, on behalf of herself and all
"aggrieved employees" pursuant to Labor Code
§ 2698 *et seq.*,

Plaintiffs,

v.

SC RETAIL, LLC, a Delaware limited liability
company, and DOES 1 through 10, inclusive,

Defendants.

CASE NO: 30-2020-01150886-CU-OE-CXC

*Before the Hon. Glenda Sanders, Dept. CX-
101*

**SECOND AMENDED ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND SETTING COMPLIANCE HEARING**

Date: June 17, 2022

Time: 1:30 p.m.

Dept.: CX101

**Reservation ID #: CONTINUED PER
COURT'S ORDER ON MAY 6, 2022**

Complaint Filed: July 9, 2020

The Court having considered Plaintiff Melinda Leon's ("Leon") Unopposed Motion for an Order Approving Settlement of Claims brought pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Awarding Attorneys' Fees, Costs, General Release Payment, and Reimbursement of Settlement Administration Expenses and Dismissing Action ("Motion for Approval"), he Settlement Agreement and Release of Claims and the Amendment to Settlement Agreement and Release of Claims (together, the "Settlement Agreement"), the supporting papers filed by Plaintiff,

1 and the record in the Action, the Court grants approval of the Settlement and **HEREBY ORDERS**
2 **AND MAKES THE FOLLOWING DETERMINATIONS:**

3 1. Except as otherwise defined in this Order ("Order"), all capitalized terms have the
4 same meaning as defined in the Settlement Agreement that is attached as **Exhibit 1** to this Order.

5 2. The Settlement Agreement and Motion for Approval were submitted to the
6 California Labor Workforce and Development Agency ("LWDA") in accordance with PAGA,
7 California Labor Code § 2699(1)(2), (1)(4). In particular, on the date Plaintiff filed her motion
8 seeking approval of the Settlement with the Court, she submitted a copy of the Settlement
9 Agreement and the motion for approval to the LWDA, via electronic submission, in compliance
10 with the requirements of PAGA. She subsequently submitted the Amendment to the Settlement
11 Agreement and supplemental briefing and declarations on the same dates those documents were
12 filed with the Court.

13 3. The Court has jurisdiction over the subject matter of this litigation, over all
14 Aggrieved Employees, and over those persons undertaking affirmative obligations under the
15 Settlement.

16 4. The Court finds the Settlement fair, reasonable and adequate in view of PAGA's
17 purposes, and it is hereby approved.

18 5. The Amended PAGA Settlement Notice to Aggrieved Employees, attached as
19 **Exhibit 2** to this Order, fairly and adequately describes the Action, the approved Settlement, and is
20 the best notice practicable under the circumstances.

21 6. The PAGA Gross Settlement Amount, PAGA Net Settlement Amount and the
22 methodology used to calculate the LWDA PAGA Payment and Individual Settlement Payments to
23 Aggrieved Employees, in accordance with the Settlement, is hereby approved.

24 The Court approves the following release of claims by Plaintiff and the Aggrieved
25 Employees, as set forth in the Settlement Agreement: "Upon Court approval of the Settlement,
26 dismissal of the Remaining Claims in the Action with prejudice and all other claims without
27 prejudice, and subject to Defendant's full payment of the PAGA Gross Settlement Amount, Plaintiff
28 and Aggrieved Employees will fully and finally release and discharge Defendant and its former,

1 present and future owners, parents, and subsidiaries, and all of their current, former and future
2 officers, directors, members, managers, employees, consultants, partners, shareholders, joint
3 venturers, agents, successors, assigns, accountants, insurers, or legal representatives ("Released
4 Parties"), from all claims, rights, demands, liabilities and causes of action for civil penalties that
5 arose during the Settlement Period under PAGA related to missed or denied rest periods, including:
6 related recordkeeping penalties, related waiting time penalties, related wage statement penalties or
7 damages, related rest-break premiums and penalties, and related attorneys' fees and expenses - all
8 that would arise solely as a result of missed or denied rest periods. The Released Claims include
9 without limitation all claims related to missed or denied rest periods arising under: California Labor
10 Code section 2698 et seq., California Labor Code section 226.7; Wage Order 7, paragraph 12, of
11 the California Industrial Welfare Commission; and the California Code of Regulations, Title 8,
12 section 110170, par. 12."

13 7. The Court approves ILYM Group, Inc. to act as the Settlement Administrator. The
14 Court awards the Settlement Administrator in this Action its actual fees and costs in accordance
15 with the terms of the Settlement Agreement of \$2,500.

16 8. The Court approves Gaines & Gaines, APLC as PAGA Counsel.

17 9. The Court awards PAGA Counsel attorneys' fees in the amount of \$25,666.66 and
18 actual litigation costs in the amount of \$8,979.38, both of which the Court finds to be fair and
19 reasonable. The Court authorizes the Settlement Administrator to make these payments, in
20 accordance with the terms of the Settlement Agreement.

21 10. The Court authorizes the Settlement Administrator to calculate the PAGA Net
22 Settlement Amount, inclusive of the LWDA PAGA Payment and Individual Settlement Payments
23 to Aggrieved Employees, in accordance with the terms of the Settlement Agreement.

24 11. The Court finds that the LWDA PAGA Payment of \$26,140.47 as its share of the
25 settlement of civil penalties is fair and reasonable. The Court authorizes the Settlement
26 Administrator to pay the LWDA PAGA Payment, in accordance with the terms of the Settlement
27 Agreement.

28 12. The Court finds the Individual Settlement Payments to Aggrieved Employees,

1 totaling \$8,713.49 to be fair and reasonable. The Court authorizes the Settlement Administrator to
2 pay the Individual Settlement Payments to Aggrieved Employees, in accordance with the terms of
3 the Settlement Agreement.

4 .13. The Court approves payment of \$5,000.00 to Plaintiff Leon for her services in
5 bringing a PAGA action on behalf of the Aggrieved Employees and her general release of claims
6 against Defendant. The Court authorizes the Settlement Administrator to pay Leon's Individual
7 Claim Payment, in accordance with the terms of the Settlement Agreement.

8 .14. Funds contained in the settlement checks that are returned as undeliverable and in
9 settlement checks uncashed for more than 180 days after issuance shall be tendered to the LWDA.

10 .15. Upon completion of the Settlement, the Settlement Administrator will prepare a
11 declaration certifying the completion to the Court and counsel for the Parties, which Plaintiff shall
12 lodge with the Court at least **5 court days** prior to the Final Accounting and Compliance Hearing.
13 The Final Accounting and Compliance Hearing is set for **March 29, 2023** at 1:30 p.m. in
14 Department CX101.

15 .16. Without affecting the finality of this order, the Court retains exclusive and continuing
16 jurisdiction over this Action for purposes of addressing: (i) the interpretation and enforcement of
17 the terms of the Settlement Agreement; (ii) settlement administration matters; and (iii) such matters
18 as may be appropriate under court rules or as set forth in the Settlement Agreement, as permitted by
19 Code of Civil Procedure section 664.6 and any other applicable law.

20 .17. Assuming that the Court is satisfied that the Parties and the Settlement Administrator
21 have complied with this Order and the Settlement Agreement in full, following the Final Accounting
22 and Compliance Hearing, Plaintiff's PAGA claim asserted for violations of Labor Code §§ 201-203
23 (late payment of wages at separation), 226(a) and 226.3 (inaccurate wage statements), 510 and 1194
24 (unpaid wages), 226.7 and 512 (failure to pay meal period premium wages), 558 (unpaid wages),
25 and 1198 (failure to provide suitable seating) as set forth in Plaintiff's operative complaint and
26 referred to in paragraph 10 of the Settlement Agreement as those claims "not arising out of the issue
27 of missed or denied rest periods" will be dismissed *without* prejudice.

28 .18. Assuming that the Court is satisfied that the Parties and the Settlement Administrator

1 have complied with this Order and the Settlement Agreement in full, following the Final Accounting
2 and Compliance Hearing, Plaintiff's claim alleged in the operative complaint and referred to in the
3 Settlement which arises from or is related to the issue of missed or denied rest periods will be
4 deemed settled, released and dismissed with prejudice.

5 19. Nothing in this Order or the Settlement shall be construed as an admission or
6 concession by any party. The Settlement and this resulting Order represent a compromise of
7 disputed allegations.

8 20. Plaintiff is directed to submit a copy of this Order to the LWDA within 10 days of
9 its entry.

10
11 **IT IS SO ORDERED:**

12
13 DATED: August 16, 2022

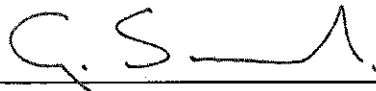
14 
15 Honorable Glenda Sanders
16 Judge of the Superior Court of California
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EXHIBIT 1

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6 Attorneys for Plaintiff Melina Leon, on behalf of
7 herself and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*

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11 Irvine, California 92614
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12 Attorneys for Defendant SC RETAIL, LLC

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**
16

17 MELINDA LEON, on behalf of herself and all
18 "aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*,

19 Plaintiffs,

20 v.

21 SC RETAIL, LLC, a Delaware limited liability
22 company, and DOES 1 to 10, inclusive,

23 Defendants.

Case No. 30-2020-01150886-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO
HON. KIRK NAKAMURA
DEPARTMENT CX103

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Action Filed: July 9, 2020
Trial Date: None Set

24 This Settlement Agreement and Release of Claims ("Agreement") is between Plaintiff
25 Melinda Leon ("Plaintiff"), on behalf of herself and other aggrieved employees, and Defendant SC
26 Retail, LLC ("Defendant" or "Defendant") (collectively, with Plaintiff, the "Parties"). By
27 executing this Agreement, the Parties intend to settle the lawsuit entitled *Leon v. SC Retail, LLC*,
28

1 Case No. 30-2020-01150886 (Orange County Superior Court, filed July 9, 2020) (the "Action")
2 involving claims brought under the California Labor Code Private Attorneys General Act of 2004
3 ("PAGA").
4

5 **DEFINITIONS**

6 1. "Administration Fees" refers to the amount to be paid to the third-party settlement
7 administrator approved by the Parties ("Settlement Administrator") for costs associated with
8 administration of the settlement contemplated by this Agreement, including costs for, among other
9 things, printing, copying, formatting, translation of materials, postage, envelopes, computer
10 searches to locate addresses, calculation of payments to individual class members, calculation of
11 applicable withholdings and taxes (if required by law), costs associated with the process for any
12 uncashed settlement checks, and any other expenses the Settlement Administrator incurs to
13 complete the settlement process according to the terms of this Agreement. The Settlement
14 Administrator will be responsible for establishing a qualified settlement account and issuing all
15 payments and appropriate tax forms (if required by law). The Parties agree that Administration
16 Fees will not exceed \$2,500, all of which are to be taken from the PAGA Gross Settlement
17 Amount (as defined below).

18 2. "Aggrieved Employees" means all nonexempt employees of SC Retail in
19 California from April 22, 2019 to November 3, 2020 who worked while there were conflicting
20 policies with regard to remaining on site during rest breaks. Defendant represents there are no
21 more than 65 such employees who worked no more than 1,148 pay periods during the Settlement
22 Period.

23 3. "Attorneys' Fees and Costs" means the amount of money to be paid from the
24 PAGA Gross Settlement Amount (as defined below) to Gaines & Gaines, APLC ("Plaintiff's
25 Counsel") in full satisfaction of all claims Plaintiff and/or Plaintiff's Counsel may have for
26 reasonable attorneys' fees, litigation costs, and expenses incurred in the Action. The amount of
27 attorneys' fees awarded to Plaintiff's Counsel may not exceed 33-1/3 % of the PAGA Gross
28 Settlement Amount, and the amount of litigation costs and expenses (combined) may not exceed

1 \$10,000. Defendant will not object to or otherwise oppose requests consistent with this paragraph.

2 4. "Effective Date" shall be the date after which all possible appeals expire and/or are
3 resolved, and there is no material modification to settlement that SC Retail has not expressly
4 accepted in writing. No money will be distributed unless and until the Effective Date occurs. If
5 no appeal of the Order is filed, then the Effective Date is 65 calendar days after notice of entry of
6 the Order (as defined herein) is served upon Defendant.

7 5. "Individual Settlement Payments to Aggrieved Employees" means the
8 individual payments that shall be made to each Aggrieved Employee under this Agreement, which
9 in the aggregate shall total 25% of the PAGA Net Settlement Amount (as defined below).

10 6. "PAGA Gross Settlement Amount" means Seventy-Seven Thousand Dollars
11 (\$77,000). This amount shall be used to satisfy all liabilities arising from this Agreement,
12 including Attorneys' Fees and Costs, Plaintiff's Individual Claim Payment (as defined below),
13 Individual Settlement Payments to Aggrieved Employees, Administration Fees, and payment to
14 the Labor and Workforce Development Agency ("LWDA"). Defendant shall pay exactly the
15 PAGA Gross Settlement Amount to fulfill all of its obligations under this settlement.

16 7. "PAGA Net Settlement Amount" means the amount, as approved by the Court,
17 after Attorneys' Fees and Costs, Plaintiff's Individual Claim Payment, and Administration Fees
18 are subtracted from the PAGA Gross Settlement Amount.

19 8. "Plaintiff's Individual Claim Payment" means the amounts to be paid to Plaintiff
20 Leon in consideration for her general release of all individually held claims against Defendant, as
21 set forth in Paragraph 23 below. Plaintiff's Individual Claim Payments shall be in addition to the
22 amount payable to Plaintiff as the Individual Settlement Payments to Aggrieved Employees.
23 Plaintiff's Individual Claim Payments shall not exceed \$5,000. Plaintiff will receive IRS Forms
24 1099 from the Settlement Administrator and will be solely responsible for reporting and paying all
25 applicable federal, state and local tax. Defendant will not object to or otherwise oppose requests
26 consistent with this paragraph.

27 9. "Settlement Period" means April 22, 2019 to November 3, 2020.
28

RECITALS AND PROCEDURAL HISTORY

10. Allegations in the Complaint. On July 9, 2020, Plaintiff Leon filed the Action in the Superior Court of California, County of Orange, individually and on behalf of all "aggrieved employees" pursuant to Labor Code §§ 2698 et seq. As part of this Agreement, Plaintiff shall dismiss all claims not arising out of the issue of missed or denied rest periods without prejudice. The claims that are not dismissed and are resolved herein are referred to as the "Remaining Claims."

11. Defendant's Denials. Nothing in this Agreement, or in the Memorandum of Understanding executed by the Parties at mediation, shall constitute an admission on behalf of Defendant of any form of liability or the accuracy of any allegation against it. Defendant denies (1) all the material allegations in the Action; (2) that it violated any applicable laws; and (3) that it is liable for damages, penalties, attorneys' fees, costs, or any other form of compensation or remedy with respect to the claims asserted in the Action. Nevertheless, without admitting any liability or wrongdoing, Defendant has agreed to settle the Action on the terms set forth in this Agreement to avoid the burden, expense, and uncertainty of litigation. Any statements by Defendant in this Agreement are made for settlement purposes only.

12. Counsel's Investigation. Plaintiff's Counsel has investigated the facts relating to the claims alleged in the Action and also has analyzed all defenses. Plaintiff's Counsel also engaged in informal discovery and obtained the production of relevant documentation and data from Defendant prior to mediation on February 9, 2021, to allow Plaintiff's Counsel to further investigate and evaluate the claims and defenses in this Action.

13. Negotiation of Settlement. Plaintiff's Counsel engaged in arms-length negotiations with Defendant at a mediation on February 9, 2021, with experienced mediator Lisa Klerman with a view toward achieving substantial benefits for the Aggrieved Employees and the State of California, while avoiding the cost, delay, and uncertainty of further litigation.

TERMS OF THE AGREEMENT

14. Court Approval of the Settlement. The Parties will present this Agreement to the Court and will request that the Court issue an order approving and incorporating by reference the

1 terms and conditions of this Agreement, dismissing the Remaining Claims in the Action with
2 prejudice, and dismissing all other claims without prejudice (the "Order"). Plaintiff's Counsel will
3 be responsible for drafting and filing all documents necessary to obtain the Order.

4 **15. Delivery of the List of Aggrieved Employees.** As soon as practicable, but no later
5 than five business days after the Effective Date, Defendant will provide the Settlement
6 Administrator with a confidential list containing the Aggrieved Employees' names, last known
7 addresses, last known telephone numbers, and social security numbers, which will be used to send
8 the PAGA notice letters and Individual Settlement Payments to Aggrieved Employees. Defendant
9 will also provide the Settlement Administrator with the number and date ranges of the pay periods
10 worked by each Aggrieved Employee during the Settlement Period. Data provided by Defendant
11 shall be kept confidential by the Settlement Administrator except for purposes of administering the
12 settlement. The Settlement Administrator shall not share any personally-identifying Aggrieved
13 Employee data with Plaintiff's Counsel, but may disclose the number of Aggrieved Employees,
14 the date ranges of the pay periods worked by each Aggrieved Employee during the Settlement
15 Period (with names redacted), and their Individual Settlement Payments (with names redacted). If
16 an Aggrieved Employee contacts Plaintiff's Counsel with questions or comments about the
17 Settlement and/or their Individual Settlement Payment, the Settlement Administrator shall provide
18 Plaintiff's Counsel with the Aggrieved Employee's pay periods worked and their Individual
19 Settlement Payment.

20 **16. Funding of the Settlement.** Within five business days after the Effective Date,
21 Defendant will deposit the PAGA Gross Settlement Amount into a Qualified Settlement Account
22 ("QSA") to be established by the Settlement Administrator.

23 **17. Settlement Payments.** Within 21 calendar days of the funding of the QSA, the
24 Settlement Administrator shall issue the following payments from the QSA: (a) the Individual
25 Settlement Payments to Aggrieved Employees (including Plaintiff); (b) the LWDA PAGA
26 Payment (as defined below) to the LWDA; (c) Plaintiff's Individual Claim Payment to Plaintiff;
27 (d) Attorney's Fees and Costs to Plaintiff's Counsel; and (e) the Administration Fees to itself. The
28 Settlement Administrator, and not Defendant, will issue appropriate tax forms for all payments

1 issued under this Settlement, if and as required by law as determined by the Settlement
2 Administrator. Because the payments made under this Agreement will be made with respect to
3 only the PAGA claims for all Aggrieved Employees and the individual claims for Plaintiff, this
4 Agreement is not subject to the rules governing the settlement of class or collective actions.
5 Accordingly, the settlement payments shall be distributed without a claims process or an
6 opportunity to object or opt out.

7 **18. Calculation of Individual Settlement Payments to Aggrieved Employees.** The
8 PAGA Net Settlement Amount will be distributed as follows:

9 a. 75% of the PAGA Net Settlement Amount shall be paid to the LWDA (the
10 "LWDA PAGA Payment"); and

11 b. The remaining 25% of the PAGA Net Settlement Amount (the "Aggrieved
12 Employee Settlement Amount") shall be distributed to all Aggrieved Employees, with each
13 Aggrieved Employee receiving an Individual Settlement Payment based on the number of pay
14 periods he or she worked for Defendant in California during the Settlement Period. The
15 Aggrieved Employee Settlement Amount will be divided by the total number of such pay periods
16 to yield the Pay Period Value. Each Aggrieved Employee shall be paid an Individual Settlement
17 Payment equal to their individual number of pay periods multiplied by the Pay Period Value.

18 **19. Representation Regarding the Number of Pay Periods Worked by Aggrieved**
19 **Employees.** Defendant represents that there are no more than 1,148 pay periods worked by
20 Aggrieved Employees in California ("Affected Pay Periods") during the Settlement Period. If the
21 actual number of Affected Pay Periods during the Settlement Period is more than 10% greater than
22 this number (i.e., if there are more than 1,263 Affected Pay Periods during the Settlement Period),
23 Defendant shall increase the PAGA Gross Settlement Amount in proportion to the increase in
24 Affected Pay Periods over 10% (e.g., if the number of Affected Pay Periods in the Settlement
25 Period is 12% greater than 1,148, Defendant will increase the PAGA Gross Settlement Amount by
26 2%).

27 **20. Distribution of Individual Settlement Payments to Aggrieved Employees.** The
28 Settlement Administrator will issue to each Aggrieved Employee a check in the amount of his or

1 her Individual Settlement Payment, along with an explanatory PAGA notice letter in the form
2 attached hereto as Exhibit A, within the time parameters set forth in paragraph 17 above. Checks
3 shall remain negotiable for 180 days. Any checks returned as non-deliverable on or before the
4 check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding
5 address affixed thereto. If no forwarding address is provided, the Settlement Administrator will
6 promptly attempt to determine the correct address using a skip-trace, or other search using the
7 name, address, or Social Security number of the Aggrieved Employee, and will then perform a
8 single re-mailing. Funds contained in the settlement checks that are returned as undeliverable and
9 in settlement checks uncashed for more than 180 days after issuance will be tendered to the
10 LWDA. All settlement payments to Aggrieved Employees will be treated as miscellaneous
11 income for which a 1099 will be issued to the extent required by law.

12 **21. Attorneys' Fees and Costs.** As referenced above, Plaintiff's Counsel intends to
13 request, and Defendant agrees not to oppose, that the Court award Plaintiff's Counsel, (a)
14 attorneys' fees in an amount up to 33-1/3% of the PAGA Gross Settlement Amount, and (b) costs
15 and expenses incurred in representing the interests of the Aggrieved Employees up to \$10,000.
16 These amounts shall be paid from the PAGA Gross Settlement Amount. Defendant shall have no
17 liability for any other attorneys' fees or costs. If the Court approves a lesser amount for either fees
18 or costs and expenses, this will not impact the enforceability of this Agreement and the difference
19 will remain part of the PAGA Net Settlement Amount. The Settlement Administrator shall issue
20 Plaintiff's Counsel the Attorneys' Fees and Costs within the time parameters set forth in paragraph
21 17 above, together with Forms 1099. Plaintiff's Counsel agree that they are solely responsible for
22 paying all applicable taxes on any payments they receive hereunder.

23 **22. Release of PAGA Claims.** Upon Court approval of the Settlement, dismissal of
24 the Remaining Claims in the Action with prejudice and all other claims without prejudice, and
25 subject to Defendant's full payment of the PAGA Gross Settlement Amount, Plaintiff and
26 Aggrieved Employees will fully and finally release and discharge Defendant and its former,
27 present and future owners, parents, and subsidiaries, and all of their current, former and future
28 officers, directors, members, managers, employees, consultants, partners, shareholders, joint

1 venturers, agents, successors, assigns, accountants, insurers, or legal representatives ("Released
2 Parties"), from all claims, rights, demands, liabilities and causes of action for civil penalties that
3 arose during the Settlement Period under PAGA related to missed or denied rest periods,
4 including: related recordkeeping penalties, related waiting time penalties, related wage statement
5 penalties or damages, related rest-break premiums and penalties, and related attorneys' fees and
6 expenses - all that would arise solely as a result of missed or denied rest periods. The Released
7 Claims include without limitation all claims related to missed or denied rest periods arising under:
8 California Labor Code section 2698 et seq., California Labor Code section 226.7; Wage Order 7,
9 paragraph 12, of the California Industrial Welfare Commission; and the California Code of
10 Regulations, Title 8, section 110170, par. 12.

11 **23. Additional Release of Claims by Plaintiff Leon and Promise Not to Prosecute.**

12 a. In addition to the release given by each Aggrieved Employee, and subject to
13 Defendant's full payment of the PAGA Gross Settlement Amount, Plaintiff Leon fully releases
14 and discharges the Released Parties from any and all claims, demands, obligations, causes of
15 action, rights, or liabilities of any kind, known or unknown, arising out of any acts or omissions by
16 Defendant or any of the Released Parties through the date of her execution of this Agreement.
17 This release by Plaintiff specifically includes, but is not limited to, any and all claims, demands,
18 obligations, causes of action, rights, or liabilities under any federal, state, or local laws, statutes, or
19 regulations (including, but not limited to, the California Labor Code, the California Fair
20 Employment and Housing Act, Title VII of the Civil Rights Act, the Equal Pay Act, and the Fair
21 Labor Standards Act), whether or not known or suspected to exist, and whether or not specifically
22 or particularly described herein.

23 b. Because Plaintiff Leon is releasing claims that she may not know about,
24 Plaintiff Leon waives all rights and benefits afforded to her by California Civil Code section 1542,
25 which provides:

26 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
27 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
28 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE

RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY

c. Plaintiff Leon agrees that she shall not, at any time hereafter, with the
exception of the Action, commence, maintain or prosecute any action, suit, proceeding,
investigation, complaint, claim, grievance or charge with any court, administrative agency,
arbitrator or any other body or person, under PAGA, or under any other Federal, State law or
regulation, arising out of or in any way connected with any of the claims released in this
Agreement.

24. No Credit Toward Benefit Plan. Payments to Aggrieved Employees, including
Plaintiff, as referenced herein will not be utilized to calculate any additional benefits under any
benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to
profit-sharing plans, bonus plans, 401(k) or 403(b) plans, vacation plans, sick leave plans, PTO
plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not
affect any rights, contributions, or amounts to which any Aggrieved Employee may be entitled
under any benefit plans.

25. Circular 230 Disclaimer. Each Party to this Settlement Agreement acknowledges
and agrees that (1) no provision of this Agreement, and no written communication or disclosure
between or among the Parties or their attorneys or other advisors, is or was intended to be, nor will
any such communication or disclosure constitute or be construed or be relied upon as, tax advice
within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as
amended); (2) each Party (a) has relied exclusively upon her or its own, independent legal and tax
counsel for advice (including tax advice) in connection with this agreement, (b) has not entered
into this Agreement based upon the recommendation of any other Party or any attorney or advisor
to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any
attorney or advisor to any other Party to avoid any tax penalty that may be imposed on the Party;
and (3) no attorney or advisor to any other Party has imposed any limitation that protects the
confidentiality of any such attorney's or advisor's tax strategies (regardless of whether such

1 limitation is legally binding) upon disclosure by the Party of the tax treatment or tax structure of
2 any transaction, including any transaction contemplated by this Agreement.

3 **26. No Prior Assignment.** Plaintiff represents and warrants that she has not assigned
4 or transferred any portion of any claims, demands, obligations, causes of action, rights, or
5 liabilities that, but for such assignment or transfer, would be released under this Agreement.

6 **27. Nullification of Settlement Agreement.** Unless otherwise noted herein, if (i) the
7 Court does not approve the settlement as provided or (ii) the settlement does not become final for
8 any other reason, then this Agreement, the Memorandum of Understanding, and any documents
9 generated to bring it into effect will be null and void, and the Parties will be returned to their
10 original, respective positions.

11 **28. No Publicity; Confidentiality.** No party hereto (including the Parties' attorneys)
12 shall publicize this settlement, this Agreement, any terms of this Agreement (including, but not
13 limited to, the PAGA Gross Settlement Amount), or any information about the negotiations
14 leading to the execution of this Agreement. This includes, but not limited to, communications
15 through any social media, unless so ordered by the Court. Nothing herein limits or purports to
16 limit Plaintiff's Counsel's ability or right to respond to Aggrieved Employee inquiries about this
17 Settlement or to submit this Settlement to the LWDA and the Court for the purpose of obtaining
18 approval of the Settlement and in compliance with the requirements of PAGA.

19 **29. Confidential Information.** Plaintiff's Counsel will destroy all confidential
20 documents and information provided by Defendant for mediation purposes within 60 calendar
21 days after the completion of the administration of this Agreement. Plaintiff's Counsel agrees that
22 none of the information provided by Defendant shall be used for any purpose other than the
23 litigation.

24 **30. Continued Jurisdiction.** After entry of the Order, the Court shall retain, and will
25 have continuing, jurisdiction solely for purposes of addressing: (i) the interpretation and
26 enforcement of the terms of this Agreement; (ii) settlement administration matters; and (iii) such
27 matters as may be appropriate under court rules or as set forth in this Agreement, as permitted by
28 Code of Civil Procedure section 664.6 and any other applicable law.

1 **31. Entire Agreement.** This Agreement constitutes the entirety of the Parties'
2 settlement terms. No other prior or contemporaneous written or oral agreements may be deemed
3 binding on the Parties.

4 **32. Amendment or Modification.** This Agreement may be amended or modified only
5 by a written instrument, signed by both Parties, their successors-in-interest, or their counsel.

6 **33. Authorization to Enter into a Settlement Agreement.** Counsel for all Parties
7 warrant and represent they are expressly authorized by the Parties whom they represent to
8 negotiate this Agreement and to take all appropriate action required or permitted to be taken by
9 such Parties pursuant to this Agreement. The Parties and their counsel will cooperate with each
10 other and use their best efforts to effect the implementation of the settlement.

11 **34. Binding on Successors and Assigns.** This Agreement will be binding upon, and
12 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13 **35. Governing Law.** All terms of this Agreement shall be governed by, and
14 interpreted according to, the laws of the State of California.

15 **36. Execution and Counterparts.** This Agreement is subject only to the execution of
16 all Parties. However, the Agreement may be executed in one or more counterparts. All executed
17 counterparts and each of them, including fax and scanned copies of the signature page, will be
18 deemed to be one and the same instrument.

19 **37. Invalidity of any Provision.** Before declaring any provision of this Settlement
20 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
21 extent possible consistent with applicable precedents so as to define all provisions of this
22 Settlement Agreement valid and enforceable.

23 **38. Construction and Interpretation.** Headings and paragraph titles are inserted as a
24 matter of convenience and for reference, and in no way define, limit, extend or describe the scope
25 of this Agreement or any of its provisions. Each term of the Agreement is contractual.

26 **39. Waiver.** No waiver of any condition or covenant contained in this Agreement or
27 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
28 constitute a further waiver by such party of the same or any other condition, covenant, right or

1 remedy.

2 **40. Enforcement Action.** In the event that one or more of the Parties institutes any
3 legal action or other proceeding against any other Party or Parties to enforce the provisions of this
4 Agreement or to declare rights and/or obligations under this Agreement, the successful Party will
5 be entitled to recover from the unsuccessful Party reasonable attorneys' fees and costs, including
6 expert witness fees incurred in connection with any enforcement action.

7 **41. Mutual Preparation.** The Parties have had a full opportunity to negotiate the
8 terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more
9 strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
10 one of the Parties, it being recognized that, because of the arm's-length negotiations between the
11 Parties, all Parties have contributed to the preparation of this Agreement.

12 **42. Representation by Counsel.** The Parties acknowledge that they have been
13 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
14 and that this Agreement has been executed with the consent and advice of counsel and reviewed in
15 full.

16 **43. Cooperation and Execution of Necessary Documents; Stipulation/Motion for**
17 **Court Approval.** All Parties will cooperate in good faith and execute all documents to the extent
18 reasonably necessary to effectuate the terms of this Agreement. Plaintiff's Counsel shall prepare
19 and file a motion for Court approval of the Settlement as soon as practicable. Plaintiff's Counsel
20 shall submit the motion to Defendant's counsel for approval a reasonable time prior to filing.

21 **44. Binding Agreement.** The Parties warrant that they understand and have full
22 authority to enter into this settlement, and further intended that this Agreement will be fully
23 enforceable and binding on all Parties, and agree that it will be admissible and subject to
24 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
25 provisions that otherwise might apply under federal or state law.

26 **45. Compliance with PAGA's Procedural Requirements.** Plaintiff agrees that
27 Plaintiff's Counsel will notify the LWDA of the Settlement at the same time this Settlement is
28

PAYNE & FEARS LLP
ATTORNEYS AT LAW
4 PARK PLAZA, SUITE 1100
IRVINE, CALIFORNIA 92614
(949) 351-1100

1 submitted to the Court for approval, and perform any and all statutory tasks as required by law
2 necessary to effectuate consummation and approval of this Settlement.

3 SO AGREED:

5 THE PLAINTIFF

6 April 30, 2021

7 Dated: _____, 2021

DocuSigned by:

MELINDA LEON

D1C1043BF40B46A...

Melinda Leon
Plaintiff

9 THE DEFENDANT

11 Dated: 5/3, 2021

SC RETAIL, LLC

By: Robert Bollar
Its Corporate Secretary

14 APPROVED AS TO FORM

16 Dated: 4/30/2021, 2021

GAINES & GAINES, APLC

Daniel F. Gaines
Attorneys for Plaintiff Melinda Leon

20 Dated: May 5, 2021

PAYNE & FEARS LLP

Amy Patton
Attorney for SC Retail, LLC

23 4816-1666-3775.2

EXHIBIT A

Date

NOTICE OF SETTLEMENT

Orange County Superior Court Case No. 30-2020-01150886-CU-OE-CXC

Case Name: *Melinda Leon v. SC Retail, LLC*

«FirstName» «LastName»

«Address1» «Address2»

«City» «State» «Zip»

You are receiving the enclosed check in settlement of a lawsuit entitled MELINDA LEON, on behalf of herself and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*, ("Plaintiff") v. SC RETAIL, LLC, a Delaware limited liability company, and DOES 1 through 10, inclusive, ("Defendant"), Superior Court of the State of California, County of Orange, Case Number 30-2020-01150886-CU-OE-CXC (the "Lawsuit").

In the Lawsuit, Plaintiff pursued various claims for penalties against Defendant under the California Private Attorneys General Act of 2004 ("PAGA"). Only claims related to missed and denied rest breaks are resolved by this Settlement. Defendant denies Plaintiff's claims in their entirety, and asserts it complied with the applicable law. However, the parties believe that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests and, therefore, agreed to settlement of this lawsuit.

The court has not ruled on the merits of this lawsuit, but it has approved the civil penalties settlement amount to be paid by Defendant. A portion of the civil penalty settlement amount goes to the State of California's Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to the nonexempt employees of SC Retail employed in California from April 22, 2019 to November 3, 2020 who worked while there were conflicting policies with regard to remaining on site during rest breaks (the "Aggrieved Employees").

According to Defendant's records, you are an Aggrieved Employee and are therefore entitled to a share of the settlement. Enclosed with this Notice is your settlement check. The settlement check shall remain valid for one hundred eighty (180) calendar days. Checks remaining un-cashed for more than 180 days after issuance will become void and the outstanding balance will be tendered to the California Labor and Workforce Development Agency.

While you were not a party to the Lawsuit, you and the State of California have been bound by the settlement and resulting judgment entered in this matter by the Court as to civil penalties. If you have any questions, you can contact the settlement administrator at [toll free number].

Very Truly Yours,

Settlement Administrator

Daniel F. Gaines, Esq. SBN 251488
daniel@gaineslawfirm.com
Alex P. Katofsky, Esq. SBN 202754
alex@gaineslawfirm.com
Evan S. Gaines, Esq., SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Tel: (818) 703-8985 / Fax: (818) 703-8984

Attorneys for Plaintiff Melina Leon, on behalf of
herself and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*

Amy R. Patton, Bar No. 203877
arp@paynefears.com
PAYNE & FEARS LLP
Attorneys at Law
4 Park Plaza, Suite 1100
Irvine, California 92614
Tel: (949) 851-1100 / Fax: (949) 851-1212

Attorneys for Defendant SC RETAIL, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

MELINDA LEON, on behalf of herself and all
"aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*,

Plaintiffs,

v.

SC RETAIL, LLC, a Delaware limited liability
company, and DOES 1 to 10, inclusive,

Defendants.

Case No. 30-2020-01150886-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO
HON. GLENDA SANDERS
DEPARTMENT CX101

**AMENDMENT TO SETTLEMENT
AGREEMENT AND RELEASE OF
CLAIMS**

Action Filed: July 9, 2020
Trial Date: None Set

Plaintiff Melinda Leon ("Plaintiff"), on behalf of herself and other aggrieved employees, and Defendant SC Retail, LLC ("Defendant" or "Defendant") (collectively, with Plaintiff, the "Parties") hereby agree to amend the Settlement Agreement and Release of Claims executed by Parties as of April 2021 (the "Agreement") as follows:

WHEREAS, Paragraph 32 of the Agreement as signed stated:

32. Amendment or Modification. This Agreement may be amended or modified only by a written instrument, signed by both Parties, their successors-in-interest, or their counsel.

WHEREAS, the Court issued a Minute Order dated May 6, 2022 directing the Parties to modify paragraph 32 of Agreement so the Parties would be required to obtain the Court's approval if they wished to enter into any amendments or modifications of the Agreement.

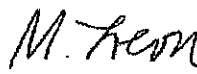
WHEREAS, the Parties further agreed to modify the Notice of Settlement to remove a single reference to entry of judgment so that it also complies with the Order (the "Amended Notice"). A true and correct copy of the Amended Notice is attached hereto as **Exhibit A**.

THEREFORE, the Parties hereby approve of the Amended Notice and agree that Paragraph 32 of the Agreement shall be replaced by this Amendment to read as follows:

32. Amendment or Modification. This Agreement may be amended or modified only by a written instrument, signed by both Parties, their successors-in-interest, or their counsel, and only upon obtaining the approval of the Court.

IT IS SO AGREED:

Dated: 05 / 31 / 2022, 2021


Melinda Leon
Plaintiff

Dated: _____, 2021

SC RETAIL, LLC

By: Robert Bollar
Its Corporate Secretary

[SIGNATURES CONTINUED ON NEXT PAGE]

PAYNE & FEARS LLP

ATTORNEYS AT LAW
4 PARK PLAZA, SUITE 1100
IRVINE, CALIFORNIA 92614
(949) 951-1100

1 Plaintiff Melinda Leon ("Plaintiff"), on behalf of herself and other aggrieved employees,
2 and Defendant SC Retail, LLC ("Defendant" or "Defendant") (collectively, with Plaintiff, the
3 "Parties") hereby agree to amend the Settlement Agreement and Release of Claims executed by
4 Parties as of April 2021 (the "Agreement") as follows:

5 WHEREAS, Paragraph 32 of the Agreement as signed stated:

6 **32. Amendment or Modification.** This Agreement may be amended or modified
7 only by a written instrument, signed by both Parties, their successors-in-interest, or
8 their counsel.

9 WHEREAS, the Court issued a Minute Order dated May 6, 2022 directing the Parties to
10 modify paragraph 32 of Agreement so the Parties would be required to obtain the Court's approval
11 if they wished to enter into any amendments or modifications of the Agreement.

12 WHEREAS, the Parties further agreed to modify the Notice of Settlement to remove a single
13 reference to entry of judgment so that it also complies with the Order (the "Amended Notice"). A
14 true and correct copy of the Amended Notice is attached hereto as **Exhibit A**.

15 **THEREFORE**, the Parties hereby approve of the Amended Notice and agree that Paragraph
16 32 of the Agreement shall be replaced by this Amendment to read as follows:

17 **32. Amendment or Modification.** This Agreement may be amended or modified
18 only by a written instrument, signed by both Parties, their successors-in-interest, or
19 their counsel, and only upon obtaining the approval of the Court.

20 IT IS SO AGREED:

21 Dated: _____, 2021

22 Melinda Leon
23 Plaintiff

24 Dated: 5/31/2022, 2021

25 SC RETAIL, LLC

26 Executed by:
27 Robert W. Bollar
28 By: Robert Bollar
Its Corporate Secretary

[SIGNATURES CONTINUED ON NEXT PAGE]

PAYNE & FEARS LLP

ATTORNEYS AT LAW
4 PARK PLAZA, SUITE 1100
IRVINE, CALIFORNIA 92614
(949) 851-1100

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APPROVED AS TO FORM

Dated: 05/31/2022, 2021

GAINES & GAINES, APLC

Daniel F. Gaines

Daniel F. Gaines
Attorneys for Plaintiff Melinda Leon

Dated: _____, 2021

PAYNE & FEARS LLP

Amy Patton
Attorney for SC Retail, LLC

PAYNE & FEARS LLP

ATTORNEYS AT LAW
4 PARK PLAZA, SUITE 1100
IRVINE, CALIFORNIA 92614
(949) 851-1100

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APPROVED AS TO FORM

Dated: _____, 2021

GAINES & GAINES, APLC

Daniel F. Gaines
Attorneys for Plaintiff Melinda Leon

Dated: _____, 2021

PAYNE & FEARS LLP

Amy R. Patton
Digitally signed by Amy R. Patton
DN: cn=Amy R. Patton, o=Payne & Fears
LLP, ou, email=arp@paynefears.com, c=US
Date: 2022.05.31 14:44:46 -0700

Amy Patton
Attorney for SC Retail, LLC

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Date

NOTICE OF SETTLEMENT

Orange County Superior Court Case No. 30-2020-01150886-CU-OE-CXC
Case Name: Melinda Leon v. SC Retail, LLC

«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You are receiving the enclosed check in settlement of a lawsuit entitled MELINDA LEON, on behalf of herself and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*, ("Plaintiff") v. SC RETAIL, LLC, a Delaware limited liability company, and DOES 1 through 10, inclusive, ("Defendant"), Superior Court of the State of California, County of Orange, Case Number 30-2020-01150886-CU-OE-CXC (the "Lawsuit").

In the Lawsuit, Plaintiff pursued various claims for penalties against Defendant under the California Private Attorneys General Act of 2004 ("PAGA"). Only claims related to missed and denied rest breaks are resolved by this Settlement. Defendant denies Plaintiff's claims in their entirety, and asserts it complied with the applicable law. However, the parties believe that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests and, therefore, agreed to settlement of this lawsuit.

The court has not ruled on the merits of this lawsuit, but it has approved the civil penalties settlement amount to be paid by Defendant. A portion of the civil penalty settlement amount goes to the State of California's Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to the nonexempt employees of SC Retail employed in California from April 22, 2019 to November 3, 2020 who worked while there were conflicting policies with regard to remaining on site during rest breaks (the "Aggrieved Employees").

According to Defendant's records, you are an Aggrieved Employee and are therefore entitled to a share of the settlement. Enclosed with this Notice is your settlement check. The settlement check shall remain valid for one hundred eighty (180) calendar days. Checks remaining un-cashed for more than 180 days after issuance will become void and the outstanding balance will be tendered to the California Labor and Workforce Development Agency.

While you were not a party to the Lawsuit, you and the State of California have been bound by the settlement and the resulting dismissal of the action entered in this matter by the Court as to civil penalties. If you have any questions, you can contact the settlement administrator at [toll free number].

Very Truly Yours,
Settlement Administrator

Date

NOTICE OF SETTLEMENT
Orange County Superior Court Case No. 30-2020-01150886-CU-OE-CXC
Case Name: *Melinda Leon v. SC Retail, LLC*

«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You are receiving the enclosed check in settlement of a lawsuit entitled MELINDA LEON, on behalf of herself and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*, ("Plaintiff") v. SC RETAIL, LLC, a Delaware limited liability company, and DOES 1 through 10, inclusive, ("Defendant"), Superior Court of the State of California, County of Orange, Case Number 30-2020-01150886-CU-OE-CXC (the "Lawsuit").

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Very Truly Yours,
Settlement Administrator