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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

JAZZMIN MENDEZ, as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"), on behalf of the State of
California and other aggrieved employees,

Plaintiff,

vs.

DILLARD STORE SERVICES, INC., an
Arizona corporation; DILLARDS, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. STK-CV-UOE-2020-0004857

PAGA SETTLEMENT AGREEMENT

PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the Superior Court of the State of California for the County of San Joaquin (“Court”), Plaintiff Jazzmin Mendez (“Plaintiff”) and Defendants Dillard Store Services, Inc. and Dillard’s, Inc. (“Defendants”) (collectively with Plaintiff, the “Parties”) hereby agree to the following binding settlement (“Settlement” or “Settlement Agreement”) of the action entitled *Mendez v. Dillard Store Services, Inc.*, No. STK-CV-UOE-2020-0004857 (San Joaquin County Superior Court) (the “Action”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Mendez v. Dillard Store Services, Inc.*, No. STK-CV-UOE-2020-0004857 (San Joaquin County Superior Court).
2. “Aggrieved Employees” means all persons who were employed by Defendants in non-exempt positions in the State of California at any time from April 6, 2019 to October 22, 2021.
3. “Court” means the Superior Court for the State of California, County of San Joaquin.
4. “LWDA” means the California Labor and Workforce Development Agency.
5. “Maximum Settlement Amount” means the maximum settlement amount of Six Hundred Seventy Five Thousand Dollars (\$675,000) to be paid by Defendants in full satisfaction of all Settled Claims arising from the Action, which includes all payments to Aggrieved Employees, Plaintiff, Plaintiff’s Counsel, the LWDA, and the Settlement Administrator.
6. “PAGA Penalties Fund” means the Maximum Settlement Amount less the Attorneys’ Fees and Costs, Service Award, and Settlement Administrator Costs.
7. “Plaintiff’s Counsel” means Capstone Law APC.
8. “Service Award” means the amount to be paid to Plaintiff as payment for her service on behalf of the LWDA and Aggrieved Employees and for a general release of all claims arising out of her employment with Defendants.
9. “Settled Claims” means any and all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged or could have been

alleged to have been violated in the Action with respect to Aggrieved Employees based on the facts alleged in the Action during the Settlement Period.

10. "Settlement Period" means April 6, 2019 to October 22, 2021.

TERMS

11. Maximum Settlement Amount. In consideration for Plaintiff's promises and representations described in this Settlement Agreement, and subject to all of the conditions of the Settlement being met, Defendants will pay the Maximum Settlement Amount, which, with the exception of Paragraph 12(c) below, represents the maximum amount payable in this Settlement by Defendants, and includes attorneys' fees, litigation costs and expenses, consideration for Plaintiff's service on behalf of the LWDA and Aggrieved Employees, Settlement Administration Costs, and payments to Aggrieved Employees and the LWDA for their share of the PAGA Penalties Fund. No portion of the Maximum Settlement Amount will be retained by, or revert to, Defendants.

12. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees and the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action with respect to Aggrieved Employees. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees according to the following formula:

12(a) Defendants will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the Settlement Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the Settlement Period.

12(b) To determine each Aggrieved Employee's payment from the PAGA Penalties Fund, Defendants will use the following formula: Settlement Payment = 25% of PAGA Penalties Fund × [Pay Periods Worked by Individual Aggrieved Employee During the Settlement Period ÷ Total Pay Periods Worked by All Aggrieved Employees during the Settlement Period].

12(c) The Parties agree that the number of Pay Periods covered by the Settlement is a meaningful term and that in reaching a settlement both Parties relied upon Defendants' representation that there were 35,075 Pay Periods at issue. If the number of Pay Periods worked by all Aggrieved Employees from April 6, 2019 to October 22, 2021 is greater than 36,829 ("Maximum Pay Period Count"), then Defendants will proportionally increase the PAGA Penalties Fund by the same percentage by which the total amount of Pay Periods worked by Aggrieved Employees during the Settlement Period ("Total Pay Period Count") increased over the Maximum Pay Period Count. For example, if the Total Pay Period Count is 37,934, that exceeds the Maximum Pay Period Count by 1,105 pay periods which equals 3% of the Maximum Pay Period Count. So, the PAGA Penalties Fund would be increased by 3%.

12(d) The Parties further agree that if the Total Pay Period Count exceeds the Maximum Pay Period Count by more than ten percent (10%), Defendants have the right to withdraw from and void this Settlement Agreement, at which time the Parties would revert to their positions prior to entering into this Settlement Agreement.

13. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or motion by Plaintiff's Counsel for Attorneys' Fees and Costs of not more than Two Hundred Twenty Five Thousand Dollars (\$225,000), plus the reimbursement of all out-of-pocket costs and expenses associated with Plaintiff's Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Twenty Five Thousand Dollars (\$25,000), both of which will be paid from the Maximum Settlement Amount. Any portion of the Attorneys' Fees and Costs not awarded to Plaintiff's Counsel will be added to the PAGA Penalties Fund.

14. Service Award. For a general release of all claims Plaintiff may have against Defendants arising out of her employment, and for her service on behalf of the LWDA and Aggrieved Employees, Defendants agree not to oppose or impede any application or motion by Plaintiff for a service award of

up to Ten Thousand Dollars (\$10,000) ("Service Award"). Upon receipt of the Service Award, Plaintiff will be deemed to have fully released and discharged Defendants from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against Defendants arising out of, or relating to, Plaintiff's employment with Defendants or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful termination of employment. This release specifically includes any and all claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by the Settlement) relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. Specifically, Plaintiff will be deemed to have waived all rights and benefits afforded by California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO 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.

15. Settlement Administration Costs. The Parties will retain ILYM Group, Inc. as the third-party settlement administrator ("Settlement Administrator"). The Settlement Administrator will be responsible for establishing a qualified settlement fund ("QSF") and issuing payments and appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. The Settlement Administration Costs will be paid from the Maximum Settlement Amount. Based on the estimate that there are approximately One Thousand (1,000) Aggrieved Employees, Settlement Administration Costs are estimated at Four Thousand Dollars (\$4,000).

16. Court Approval of the Settlement and Distribution of Settlement Payments. The Parties will present this Settlement Agreement to the Court and the LWDA. The Parties will request that the Court issue an order and judgment approving and incorporating by reference the terms and conditions of the Settlement Agreement (the "Order and Judgment").

17. List of Aggrieved Employees. Within seven (7) calendar days after entry of the Order

1 and Judgment, Defendants will provide the Settlement Administrator a complete list of all Aggrieved
2 Employees (“Aggrieved Employee List”). The Aggrieved Employee List will be formatted in Microsoft
3 Office Excel and will include each Aggrieved Employees full name; most recent mailing address and
4 telephone number; Social Security number; the respective number of pay periods during which each
5 Aggrieved Employee worked during the Settlement Period; and any other relevant information needed to
6 calculate settlement payments.

7 18. Funding of the Settlement. Within seven (7) calendar days after entry of the Order and
8 Judgment, Defendant will deposit the Maximum Settlement Amount into the QSF to be established by
9 the Settlement Administrator. Within fourteen (14) calendar days of the funding of the Settlement, the
10 Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and
11 Workforce Development Agency; (c) Plaintiff; (d) Plaintiff’s Counsel; and (e) itself. The Settlement
12 Administrator, and not Defendants, will issue the appropriate tax forms for all payments issued under
13 this Settlement.

14 19. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue
15 each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an
16 explanatory letter which will be mutually approved by the parties. Prior to mailing, the Settlement
17 Administrator will perform a search based on the National Change of Address Database for information
18 to update and correct for any known or identifiable address changes. Any checks returned as non-
19 deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S.
20 Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement
21 Administrator will promptly attempt to determine the correct address using a skip-trace, or other search
22 using the name, address or Social Security number of the Aggrieved Employee involved, and will then
23 perform a single re-mailing. Checks will remain negotiable for 180 days. Those funds represented by un-
24 cashed checks which remain outstanding 180 days after the mailing of the Settlement checks by the
25 Settlement Administrator will be tendered to the LWDA. All settlement payments to Aggrieved
26 Employees will be treated as miscellaneous income for which a 1099 will be issued.

27 20. Settled Claims. Upon entry of the Order and Judgment, Plaintiff and all Aggrieved
28 Employees will be forever barred from pursuing against Defendants any and all Settled Claims during

1 the Settlement Period. Aggrieved Employees, other than Plaintiff, will not be deemed to have released
2 any individual wage and hour claims by virtue of this Settlement.

3 21. No Right to Exclusion or Objections by Representative Action Members. Because this
4 settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a
5 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no
6 Aggrieved Employee has the right to exclude himself or herself from the Settlement. Aggrieved
7 Employees will be bound by the terms of the Settlement Agreement, upon its approval by the Court,
8 regardless of whether he or she cashes any payment received as a result of this Settlement. The Parties
9 also agree that no Aggrieved Employee has the right to object to the terms of the Settlement Agreement.

10 22. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced
11 herein will not be utilized to calculate any additional benefits under any benefit plans to which any
12 Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans,
13 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit
14 plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights,
15 contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

16 23. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
17 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
18 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
19 action or right herein released and discharged.

20 24. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve
21 the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then
22 this Settlement Agreement, and any documents generated to bring it into effect, will be null and void,
23 and the Parties will be returned to their original respective positions.

24 25. Judgment and Continued Jurisdiction. After entry of the Order and Judgment, the Court
25 will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement
26 of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters
27 as may be appropriate under court rules or as set forth in this Settlement.

28 26. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties'

1 settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding
2 on the Parties.

3 27. Amendment or Modification. This Settlement Agreement may be amended or modified
4 only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all
5 Parties.

6 28. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
7 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
8 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
9 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
10 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each
11 other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to
12 reach agreement on the form or content of any document needed to implement the Settlement, or on any
13 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
14 may seek the assistance of the Court to resolve such disagreement.

15 29. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
16 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

17 30. California Law Governs. All terms of this Settlement Agreement will be governed by
18 and interpreted according to the laws of the State of California.

19 31. Execution and Counterparts. This Settlement Agreement is subject only to the execution
20 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
21 executed counterparts and each of them, including electronic signatures (e.g., Docusign), facsimiles, and
22 scanned copies of the signature pages, will be deemed to be one and the same instrument.

23 32. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
24 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
25 Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that
26 they are each represented by competent counsel and that they have had an opportunity to consult with
27 their counsel regarding the fairness and reasonableness of this Settlement.

28 33. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that

1 Plaintiff may appeal any reduction to the Attorneys' Fees and Costs below the amount they request from
2 the Court, and either party may appeal any court order that materially alters the Settlement's terms.

3 34. Invalidity of Any Provision. Before declaring any provision of this Settlement
4 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
5 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
6 valid and enforceable.

7 35. Captions. The captions and section numbers in this Settlement Agreement are inserted
8 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
9 provisions of this Settlement Agreement.

10 36. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
11 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
12 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

13 37. Enforcement Action. In the event that one or more of the Parties institutes any legal
14 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
15 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
16 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
17 expert witness fees incurred in connection with any enforcement actions.

18 38. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
19 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
20 more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
21 one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties,
22 all Parties have contributed to the preparation of this Settlement Agreement.

23 39. Representation By Counsel. The Parties acknowledge that they have been represented
24 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
25 that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed
26 in full.

27 40. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
28 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this

1 Settlement Agreement.

2 41. Binding Agreement. The Parties warrant that they understand and have full authority to
3 enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and
4 binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to
5 enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply
6 under federal or state law.

7 42. Denial of Liability. The Parties expressly recognize that the making of this agreement
8 does not in any way constitute an admission or concession of wrongdoing on the part of Defendant.
9 Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements,
10 discussions or communications, nor any materials prepared, exchanged, issued or used during the
11 pendency of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be
12 introduced, be used or be admissible in any way in any other judicial, arbitral, administrative,
13 investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law,
14 statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.
15 Notwithstanding the foregoing, this agreement may be used in any proceeding in the Court that has as its
16 purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments
17 of the Court entered into in connection therewith.

18 **READ CAREFULLY BEFORE SIGNING**

19 **PLAINTIFF**

20 Dated: 2/25/2022

DocuSigned by:

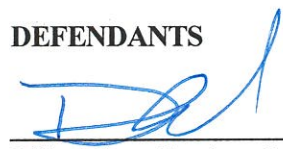
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23 **DEFENDANTS**

24 Dated: 2/28/22

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26 Dillard Store Services, Inc. and Dillard's, Inc.
27 By: Dean Worley, General Counsel
28