

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Dennis Gutierrez, on behalf of themselves, other aggrieved employees, and the State of California, on the one hand, and Defendants The TJX Companies, Inc., and HomeGoods, Inc. (collectively “Defendants”) on the other hand, subject to the approval of the Court, that the settlement of the Action (as defined below) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms as used herein shall have the meanings set forth in Section I or elsewhere in this Settlement Agreement and Release.

I. RECITALS

WHEREAS, on June 3, 2020, Plaintiff Gutierrez submitted a letter to the California Labor and Workforce Development Agency pursuant to Labor Code section 2699.3 (the “PAGA Letter”) providing notice of his intent to seek relief under Labor Code section 2698, *et seq.* on behalf of himself and all other non-exempt, hourly employees in Defendants’ California retail stores, contending, *inter alia*, that Defendants violated Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 518, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5, and the applicable Industrial Welfare Commission Wage Orders. Plaintiff alleged in his PAGA Letter that Defendants failed to pay wages for all time worked, including overtime and minimum wages, failed to provide meal and rest breaks, failed to reimburse business expenses, failed to timely pay wages, failed to provide accurate itemized wage statements, failed to maintain accurate payroll records, failed to provide notice of material terms of employment, and failed to provide adequate seating.

WHEREAS, on August 14, 2020, Plaintiff Gutierrez filed a Complaint on behalf of himself and other aggrieved employees against Defendants in San Bernardino County Superior Court, Case No. CIVDS2017556, alleging a single cause of action: (1) Claim for Civil Penalties for Violations of California Labor Code, pursuant to PAGA, §§ 2698, *et seq.* (the “Complaint”). Consistent with the allegations in his PAGA Letter, Plaintiff alleged in his Complaint that he and other aggrieved employees were entitled to PAGA penalties for alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 518, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5, and the applicable Industrial Welfare Commission Wage Orders.

WHEREAS, on April 1, 2022, the parties in the coordinated matter of JCCP Case No. 005098 which was comprised of *Espindola/Elias v. Marshalls of CA, LLC*, Alameda County Superior Court, Case No RG18932337), *Smith v. T.J. Maxx of CA, LLC and The TJX Companies, Inc.*, Alameda County Superior Court, Case No. RG19002144, and *Weems v. The TJX Companies, Inc., T.J. Maxx of CA, LLC and Marshalls of CA, LLC* Los Angeles County Superior Court, Case No. 19STCV42395 reached a global settlement that included the resolution and release of the seating claims alleged by Plaintiff in the Complaint (the “*Weems Settlement*”).

WHEREAS the *Weems Settlement* was approved on June 30, 2022;

WHEREAS, on April 15, 2022, the Court signed the Parties' stipulation and order allowing Plaintiff to file a First Amended Complaint which dismissed Plaintiff's claims for PAGA penalties for Failure to Provide Suitable Seating - Violation of Labor Code section 1198 and California Code of Regulations, Title 8, Section 11070(14)(A) and Failure to Provide Suitable Seating - Violation of Labor Code section 1198 and California Code of Regulations, Title 8, Section 11070(14)(B). Plaintiff will file the First Amended Complaint after the Parties sign this Agreement and before Plaintiff files its Motion for Approval of the Settlement.

WHEREAS, on December 16, 2022, the Court granted Defendants' Motion to Compel Arbitration, and ordered Plaintiff to arbitrate his individual PAGA claims, and stayed the Action pending completion of the arbitration.

WHEREAS, on January 17, 2023, Plaintiff submitted a demand to the American Arbitration Association ("AAA") to arbitrate his individual PAGA and wage and hour claims, which is pending as AAA Case No. 01-23-0000-3598.

WHEREAS, during the course of the litigation the Parties engaged in informal and formal discovery, including Plaintiff's deposition and the exchange of voluminous written discovery responses, documents, and time and pay data.

WHEREAS, on February 23, 2024, the Parties participated in a private mediation with mediator Daniel Turner.

WHEREAS, the Parties desire to settle, compromise, and avoid litigation relating to the Claims described in the Complaint, First Amended Complaint, and LWDA letter in the Action, and have agreed to settle the Action upon the terms and conditions and for the consideration set forth in this Settlement Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed by and between the Parties hereto as follows:

II. SETTLEMENT TERMS

A. Definitions

1. "Action" means the lawsuit entitled *Dennis Gutierrez v. HomeGoods, Inc. and The TJX Companies, Inc., et al.* San Bernardino County Superior Court, Case No. CIVDS2017556, including the Complaints on file, as well as the PAGA Letter submitted by Plaintiff to the California Labor and Workforce Development Agency.

2. "Aggrieved Employee List" means the list of all Aggrieved Employees' full names, most recent mailing addresses, most recent telephone numbers, dates of birth, social security numbers, and number of pay periods worked during the PAGA Period, which Defendants will diligently and in good faith compile from their records.

3. "Aggrieved Employees" means Plaintiff and all of Defendants' current and former non-exempt California employees who worked from August 14, 2019 to March 1, 2024. (Excluded

from this definition are those individuals who may have been employed by Defendants during the PAGA Period but did not work any shift during the PAGA Period.)

4. “Attorneys’ Fees” means such Attorneys’ fees as the Court may award to Plaintiff’s Counsel for the services they have rendered and will render to the Aggrieved Employees in the Action, and which shall not exceed One Million Sixteen Thousand Six Hundred Sixty-Seven Dollars (\$1,016,667).

5. “Attorneys’ Costs” means such litigation costs as the Court may award to Plaintiff’s Counsel for the costs they have incurred and will incur in the investigation, litigation, and resolution of the Action, and in administration of the Settlement, and which shall not exceed Fifty Thousand Dollars (\$50,000).

6. “Complete and General Release” means Plaintiff’s agreement, on behalf of himself individually, in consideration of Defendants’ promises and agreements as set forth herein, to fully release and discharge the Released Parties from any and all Released Claims and also generally release and discharge the Released Parties 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 the Released Parties arising out of any occurrence or failure to act, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful termination of employment. This Complete and General Release specifically includes any and all claims, demands, obligations, and/or causes of action for damages, restitution, penalties, interest, and attorneys’ fees and costs relating to or in any way connected with Plaintiff’s employment with Defendants, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. This Complete and General Release includes all federal and state statutory claims, and federal and state common law claims (including but not limited to, those for contract, tort, and equity), including, without limitation, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. § 1981, 42 U.S.C. § 1983, the Fair Labor Standards Act, the Employee Retirement Security Income Act of 1974, the California Constitution, the California Fair Employment and Housing Act, the California Unfair Competition Act (California Business and Professions Code § 17200 *et seq.*), the California Labor Code, the California Government Code, and the California Civil Code. Plaintiff’s Complete and General Release includes a waiver of all rights and benefits afforded by California Civil Code § 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.

7. “Court” means the Superior Court of the State of California for the County of San Bernardino.

8. “Defense Counsel” means Bradley Schwan, Esq., Jannine E. Kranz, Esq., and Brittany McCarthy, Esq. of Littler Mendelson, P.C.

9. “Effective Date” means the date this Settlement is approved as provided herein and the Court’s order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Settlement, “becomes final and is no longer appealable” shall mean the later of: (a) the day after the last date by which a notice of appeal may be filed pursuant to California Rules of Court 8.406 (i.e., 61 days after entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Settlement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Settlement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Settlement is affirmed. In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Effective Date does not occur for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement from becoming final and binding.

10. “Individual Settlement Payment” means the portion of the PAGA Settlement Fund allocated to each Aggrieved Employee, as calculated pursuant to Paragraph 43 herein. One hundred percent (100%) of the Individual Settlement Payments made to Aggrieved Employees shall be deemed miscellaneous income for which a Form 1099 will be issued.

11. “LWDA” means the California Labor and Workforce Development Agency.

12. “Notice” means the form of notice that will be sent to each Aggrieved Employee accompanying their Individual Settlement Payments, which shall be substantially in the form attached hereto as **Exhibit A**.

13. “Parties” means Plaintiff Dennis Gutierrez, on behalf of himself, other aggrieved employees, and the State of California; and Defendants The TJX Companies, Inc., and HomeGoods, Inc.

14. “PAGA Period” means the period from August 14, 2019, to March 1, 2024.

15. “PAGA Settlement Fund” means the amount from the Total Monetary Settlement Amount that is allocated to resolve Plaintiff’s claims for civil penalties under PAGA. Seventy-five percent (75%) of the PAGA Settlement Fund will be distributed to the LWDA and twenty-five percent (25%) will be distributed to Aggrieved Employees.

16. “Plaintiff’s Counsel” means Raul Perez, Esq. and Roxanna Tabatabaeepour, Esq. of Capstone Law APC.

17. “Released Claims” means all claims for civil penalties under PAGA that were actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of the State of California, himself and the Aggrieved Employees, based on the facts and matters that were

alleged in the original or amended Complaints or the PAGA Letters, including but not limited to any claim: (a) for penalties pursuant to PAGA for violation of Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5 and the corresponding provisions of the applicable Industrial Wage Order(s); (b) for penalties pursuant to PAGA for any alleged failure to provide meal or rest breaks, failure to provide accurate wage statements, failure to pay minimum wages, failure to pay overtime wages, failure to pay wages for off-the-clock work, failure to timely pay wages, failure to timely pay all wages owed at the time of separation, failure to maintain accurate payroll records, failure to provide notice of material terms of employment, and failure to provide expense reimbursements; (c) that Defendants are liable for the Attorneys' fees and costs incurred in the prosecution of this Action on behalf of the Aggrieved Employees; (d) that Defendants are liable for any other remedies under PAGA based on the facts and matters alleged in the original or amended Complaints or PAGA Letter. The release of the Released Claims shall be effective for the period covered by the Release Period. Aggrieved Employees may discover facts in addition to those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, Aggrieved Employees shall be deemed to have, and by operation of the Settlement Approval order shall have, fully, finally, and forever settled and released any and all of the Released Claims, without regard to the subsequent discovery or existence of such different or additional facts. Aggrieved Employees shall not to sue or otherwise make a claim against any of the Released Parties that seeks recovery for any of the Released Claims.

18. "Released Parties" means Defendants The TJX Companies, Inc., and HomeGoods, Inc., and their predecessors, merged entities, subsidiaries, affiliates, parents, attorneys, respective successors and predecessors in interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees, beneficiaries, and agents, and each of their past, present, and future, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers, and reinsurers.

19. "Service Award" means the amount from the Total Monetary Settlement Amount that the Court awards to Plaintiff in recognition of his efforts in obtaining the benefits of the Settlement and as consideration for executing this Settlement Agreement and providing a Complete and General Release of all claims against the Released Parties. The Service Award shall be in the amount of Ten Thousand Dollars (\$10,000).

20. "Settlement Administrator" means, subject to Court's approval, ILYM, a third-party settlement claims administrator agreed to by the Parties for the purposes of administering this Settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. The Settlement Administrator agrees to comply with security protocols required by Defendant regarding the protection of employee data.

21. "Settlement Administration Costs" means the amount from the Total Monetary Settlement Amount which shall be allocated, subject to the Court's approval, to the Settlement Administrator for services rendered in administering the Settlement, and which shall not exceed \$60,000.

22. “Settlement Agreement” and “Settlement” mean the Private Attorneys General Act Settlement Agreement and Release set forth in this document.

23. “Settlement Approval” means the settlement approval order and judgment that will be entered by the Court.

24. “Settlement Fund Account” means the bank account established by the Settlement Administrator pursuant to the terms of this Settlement Agreement, from which all monies payable under the terms of this Settlement shall be paid, as set forth herein.

25. “Release Period” means the period from August 14, 2019 through and including the date of the approval of the Settlement.

26. “Total Monetary Settlement Amount” means the amount of Three Million Fifty Thousand Dollars and Zero Cents (\$3,050,000.00) that Defendants will pay if the Court approves this Settlement and the Effective Date occurs. The Total Monetary Settlement Amount will be used to pay: (a) the PAGA Settlement Fund to the LWDA and Aggrieved Employees; (b) the award of Attorneys’ Fees to Plaintiff’s Counsel; (c) the award of Attorneys’ Costs to Plaintiff’s Counsel; (d) the Service Award to Plaintiff; and (e) Settlement Administration Costs. Under no circumstances will Defendants be required to pay more than Three Million Fifty Thousand Dollars and Zero Cents (\$3,050,000.00). In no event will any money revert to Defendant.

27. “Void Date” means the 181st day after issuance of Individual Settlement Payment checks to Aggrieved Employees, upon which the Individual Settlement Payment checks will no longer be valid and negotiable.

B. Consideration

28. No Admission of Liability. Defendants have contended and continue to contend that the allegations in the Action have no merit and do not give rise to liability. Defendants specifically deny all of the allegations in the original and amended Complaints and PAGA Letter. Defendants further deny the allegations that they violated the Labor Code and maintain that they have lawful and compliant wage and hour policies and practices. This Settlement Agreement is a compromise of such disputed claims. Nothing contained in this Settlement Agreement and no documents referred to herein and no action taken to carry out this Settlement Agreement may be construed or used as an admission by or against Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever.

29. Monetary Settlement Components. Provided that the Court approves the Settlement and the Effective Date occurs, Defendants will pay the Total Monetary Settlement Amount, which amounts to Three Million Fifty Thousand Dollars (\$3,050,000). The Total Monetary Settlement Amount shall consist of five components: (a) Attorneys’ Fees; (b) Attorneys’ Costs; (c) Plaintiff’s Service Award; (d) Settlement Administration Costs; and (e) the PAGA Settlement Fund. All of these components shall be paid from the Total Monetary Settlement Amount. All amounts to be paid by Defendants shall be deposited into the Settlement Fund Account, which shall be administered by the Settlement Administrator. All amounts to be paid to

anyone pursuant to this Settlement Agreement shall be paid out of the Settlement Fund Account and Defendants shall not be expected to pay any amounts related to this Settlement over and above the Total Monetary Settlement Amount.

- a. Attorneys' Fees. Plaintiffs will apply for an award of Attorneys' Fees not to exceed One Million Sixteen Thousand Six Hundred Sixty-Seven Dollars (\$1,016,667) payable from the Total Monetary Settlement Amount. Any portion of the Attorneys' Fees not awarded to Plaintiff's Counsel will be added to the PAGA Settlement Fund.
 - b. Attorneys' Costs. Plaintiffs will apply for an award of Attorneys' Costs not to exceed Fifty Thousand Dollars (\$50,000), payable from the Total Monetary Settlement Amount. Any portion of the Attorneys' Costs not awarded to Plaintiff's Counsel will be added to the PAGA Settlement Fund.
 - c. Plaintiff's Service Award. Plaintiff will apply for a Service Award, payable from the Total Monetary Settlement Amount, in the amount of Ten Thousand Dollars (\$10,000). Any portion of the Service Award not awarded to Plaintiff will be added to the PAGA Settlement Fund. Plaintiff understands and agrees that he will be solely responsible for the payment of any taxes and penalties assessed on the Service Award.
 - d. Settlement Administration Costs. Defendants shall pay for reasonable third-party administration fees that are necessary to administer the Settlement. The Settlement Administration Costs to be paid to the Settlement Administrator are subject to the Court's approval and will be paid only from the Total Monetary Settlement Amount. Any portion of the Settlement Administration Costs not awarded by the Court will be added to the PAGA Settlement Fund.
 - e. PAGA Settlement Fund. The PAGA Settlement Fund is the amount remaining in the Total Monetary Settlement Amount after the amounts awarded by the Court in Attorneys' Fees, Attorneys' Costs, Service Award, and Settlement Administration Costs are deducted. Pursuant to the PAGA, seventy-five percent (75%) of the PAGA Settlement Fund will be paid to the LWDA. The remaining twenty-five percent (25%) will be paid to all Aggrieved Employees pursuant to the calculation method set forth in Paragraph 43.
30. Plaintiff's Complete and General Release. Plaintiff hereby provides the Released Parties with a Complete and General Release, as defined above, which shall become effective as of the Effective Date, in consideration of Defendants' promises and agreements as set forth herein.
31. Aggrieved Employees' Release. Upon the Effective Date, Plaintiff, on behalf of himself, the State of California, and all Aggrieved Employees, release the Released Parties from the Released Claims. This release shall be effective for the Release Period. It is the intent of the Parties that the Settlement Approval order entered by the Court shall have full *res judicata* effect and be final and binding upon Aggrieved Employees regarding the Released Claims.

C. Settlement Administration Procedures

32. Settlement Approval Motion. Following full execution of this Settlement Agreement, Plaintiff will promptly request a hearing before the Court to seek approval of the Settlement on a mutually available date. In conjunction with such hearing, Plaintiff's Counsel will present this Settlement Agreement to the Court and will request that the Court issue a Settlement Approval Order and Judgment approving and incorporating by reference the terms and conditions of the Settlement Agreement. Plaintiff's Counsel will be primarily responsible for drafting all documents necessary to obtain approval of the Settlement, though the Parties will meet and confer on such materials. Defendants agrees not to oppose Plaintiff's motion for Settlement Approval unless the motion is inconsistent with the terms set forth in this Settlement Agreement.

33. LWDA Notice. Pursuant to California Labor Code § 2699(I), Plaintiff will provide a copy of this Settlement to the LWDA concurrently with the filing of the motion for Settlement Approval. Plaintiff will also file a declaration in support of his motion for Settlement Approval confirming that he has submitted the Settlement to the LWDA in compliance with Labor Code § 2699(I).

34. Judgment and Continued Jurisdiction. After entry of the Final Approval order and judgment, the Court will have continuing and exclusive jurisdiction pursuant to C.C.P. §664.6 solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b) matters relating to the administration of the Settlement; and (c) such post-Judgment matters as may be appropriate under applicable law, Court rules or as set forth in this Settlement Agreement.

35. Settlement Administrator. The Parties will retain ILYM as the third-party Settlement Administrator to administer this Settlement. The Settlement Administrator will be responsible for: establishing the Settlement Fund Account; calculating Individual Settlement Payments; preparing, printing, and mailing the Individual Settlement Checks and accompanying Notice to Aggrieved Employees; disbursing payment of Attorneys' Fees and Attorneys' Costs to Plaintiff's Counsel; disbursing payment of the Service Award to Plaintiff; disbursing payment to the LWDA consisting of seventy-five percent (75%) of the PAGA Settlement Fund; printing and providing Aggrieved Employees, Plaintiff, and Plaintiff's Counsel with IRS Forms 1099 as required under this Settlement Agreement and applicable law; providing a due diligence declaration for submission to the Court upon completion of the terms of the Settlement; and for such other tasks as the Parties mutually agree or the Court orders. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities. Any legally mandated tax reports, tax filings, or other tax documents required by the administration of this Settlement shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such preparation shall be part of the Settlement Administration Costs. The Settlement Administrator agrees to comply with security protocols required by Defendant regarding the protection of employee data.

36. Aggrieved Employee List. On or before the Effective Date, Defendants will provide the Settlement Administrator with the Aggrieved Employee List, which shall be used

solely for the administration of this Settlement and for no other purpose, and which shall not be shared with any persons or entity not employed by the Settlement Administrator and working on the administration of this Settlement. Because Aggrieved Employees' sensitive personal information is included in the Aggrieved Employee List, the Settlement Administrator shall maintain the Aggrieved Employee List securely and in confidence and comply with security protocols required by Defendant regarding the protection of employee data. Access to the Aggrieved Employee List shall be limited to employees of the Settlement Administrator with a need to use the Aggrieved Employee List for administration of this Settlement. Defendants shall promptly provide Plaintiff's Counsel with good faith estimates of (a) minimum Individual Settlement Payment to an Aggrieved Employee, and (b) the maximum Individual Settlement Payment to an Aggrieved Employee, both based on the payment formula set forth in Paragraph 43.

37. Funding of the Settlement. Within fourteen (14) calendar days following the Effective Date, Defendants shall fund the Settlement by depositing the Total Monetary Settlement Amount into the Settlement Fund Account to be established by the Settlement Administrator.

38. Payment of Attorneys' Fees and Attorneys' Costs Within twenty-one (21) calendar days following receipt of the Total Monetary Settlement Amount, the Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Attorneys' Fees and Attorneys' Costs to Plaintiff's Counsel. Plaintiff's Counsel agrees to provide the Settlement Administrator with an executed IRS Form W-9 before payments for Attorneys' Fees and Attorneys' Costs are issued. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff's Counsel for the payments made pursuant to this paragraph. This Settlement is not contingent upon the Court awarding Plaintiff's Counsel any particular amount in attorneys' fees and costs.

Neither Plaintiff's Counsel nor any other current or past counsel for Plaintiffs shall be permitted to petition the Court for, or to accept, any additional payments for Attorneys' fees, costs, interest, or any other amount from Defendants except as specified above. Defendants' payment of the Attorneys' Fees and Attorneys' Costs shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law firm, including but not limited to Plaintiff's Counsel, or Attorneys' fees, expenses, and/or costs in the Action incurred by any other attorney or law firm for Attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of Plaintiff and/or Aggrieved Employees. The Parties further agree that Plaintiff's Counsel's Attorneys' Fees and Attorneys' Costs shall be for all Attorneys' fees, expenses, and/or costs, incurred in the Action by all attorneys working on behalf of Plaintiff and/or Aggrieved Employees.

39. Payment of Service Award. Within twenty-one (21) calendar days following receipt of the Total Monetary Settlement Amount, the Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Service Award to Plaintiff. Plaintiff agrees to provide the Settlement Administrator with an executed IRS Form W-9 before the Service Award is issued. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for this payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on his Service Award and shall not bring any claims against Defendants or Released Parties regarding any liability for taxes, penalties, or interest arising as a result of the Service Award. The Service Award shall be in addition to Plaintiff's Individual Settlement Payment, which they shall receive

as Aggrieved Employees. Plaintiffs shall not have the right to revoke their agreement to the Settlement on the grounds the Court does not approve any or all of the requested Service Award.

40. Settlement Administration Costs. Within twenty-one (21) calendar days of receipt of the Total Monetary Settlement Amount, the Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Settlement Administration Costs.

41. Payment to LWDA. Within twenty-one (21) calendar days of receipt of the Total Monetary Settlement Amount, the Settlement Administrator shall issue from the Settlement Fund Account a check payable to the LWDA for seventy-five percent (75%) of the PAGA Settlement Fund.

42. Individual Settlement Payments. Within twenty-one (21) calendar days of receipt of the Total Monetary Settlement Amount, the Settlement Administrator shall issue from the Settlement Fund Account Individual Settlement Payments based on the twenty-five percent (25%) of the PAGA Settlement Fund to Aggrieved Employees' last known mailing address. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the Void Date will be sent promptly via regular First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will then perform a single re-mailing. Any check re-mailings will not extend the 180-day period to cash a check. Any checks issued to Aggrieved Employees shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance and then shall become void on the 181st day after issuance, *i.e.*, the Void Date. The Parties agree that, within fourteen (14) calendar days after the Void Date, any unclaimed funds in the Settlement Fund Account as a result of the failure to cash Individual Settlement Payment checks prior to the Void Date shall be transmitted by the Settlement Administrator to The Justice Gap Fund maintained by The State Bar of California.

43. Calculation of Individual Settlement Payments. All Aggrieved Employees will receive an Individual Settlement Payment. The amount of each Aggrieved Employee's Individual Settlement Payment will be calculated based on the total number of pay periods, according to Defendants' records, each Aggrieved Employee performed work for HomeGoods, Inc. during the PAGA Period. All Aggrieved Employees will be deemed to have worked during at least one pay period during the PAGA Period. The Individual Settlement Payment to each Aggrieved Employee will be determined by dividing that person's pay periods by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then multiplying that number by the PAGA Settlement Fund. If there are any settlement funds remaining in the Settlement Fund Account due to rounding to the nearest cent, those funds will be paid to the LWDA in addition to the LWDA's seventy-five percent (75%) share of the PAGA Settlement Fund.

44. Pay Periods Covered by the Settlement. Plaintiff has entered into this Settlement based on Defendants' representation that Aggrieved Employees worked during a combined total of approximately 942,038 pay periods as of March 1, 2024. If the number of pay periods during

the PAGA Period is greater than 5% (989,140) more than the amount represented, then Defendants will have the option of either: (i) increasing the Total Monetary Settlement Amount on a pro-rata basis equal to the percentage increase in the number of pay periods worked by the Aggrieved Employees above 989,140, or (ii) advance the PAGA Period end date from March 1, 2024 to the last date on which the total number of pay periods was not in excess of 989,140.

45. Tax Treatment of Individual Settlement Payments. One hundred percent (100%) of each Individual Settlement Payment shall be allocated to miscellaneous income for which an IRS Form 1099 will issue, if required by law.

46. Administration of Taxes. The Settlement Administrator will be responsible for issuing to Plaintiff, Aggrieved Employees, and Plaintiff's Counsel Form 1099s or other tax forms as may be required by law for all amounts paid pursuant to this Settlement, and for forwarding all penalties to the appropriate government authorities.

47. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties. Plaintiff's Counsel shall file this declaration with the Court within five (5) business days of receipt.

D. Miscellaneous Provisions

48. No Effect on Employee Benefits. Amounts paid to Plaintiff and other Aggrieved Employees pursuant to this Settlement Agreement do not count as earnings or compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendants.

49. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Parties are not relying on any statement, representation, or calculation by any of the Parties or by the Settlement Administrator in this regard. Each Party to this Settlement (for purposes of this section, the "Acknowledging Party" and each Party to this Settlement Agreement other than the Acknowledging Party, an "other Party") acknowledges and agrees that: (a) no provision of this Settlement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, 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); (b) the Acknowledging Party (i) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Settlement, (ii) has not entered into this Settlement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (iii) 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 Acknowledging Party; and (c) no attorney or advisor to any other Party has imposed any limitation that protects the confidentiality of any such Attorneys' or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

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

51. No Pending Lawsuits By Plaintiffs. Other than this Action and the Arbitration, Plaintiff represents that he does not have any pending lawsuits, administrative complaints, or charges against Defendants or the Released Parties in any local, state, or federal court or administrative agency. Plaintiff further acknowledges that all claims raised therein, if any, shall be fully and finally extinguished by virtue of this Settlement Agreement and the Court's Settlement Approval order.

52. Dismissal of Gutierrez's Arbitration. Within 7 calendar days of the date of the Parties' execution of this Agreement, Plaintiff Gutierrez agrees to dismiss without prejudice his individual arbitration, AAA Case No. 01-23-0000-3598.

53. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

54. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in the Settlement Agreement and its Exhibits.

55. Amendment or Modification. This Agreement may be amended or modified only by a formal written instrument signed by counsel for all Parties or their successors-in-interest.

56. Authorization to Enter Into Settlement Agreement. The Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms. The person or persons signing this Settlement Agreement on behalf of Defendants represent and warrant that he/she/they are authorized to sign this Settlement Agreement on behalf of Defendants. Plaintiff represents and warrants that he is authorized to sign this Settlement Agreement and that he has not assigned any claim covered by this Settlement to a third party.

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

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

59. California Law Governs. All terms of this Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California, without regard to its conflict of law rules.

60. Execution and Counterparts. This Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts. Electronic signatures (*e.g.*, Docu-signed signatures) may be used to execute this Settlement Agreement.

61. Acknowledgement that the Settlement is Fair, Adequate and Reasonable. The Parties believe this Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations facilitated by an experienced wage and hour class action mediator, and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness, adequacy and reasonableness of this Settlement.

62. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

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

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

65. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

66. Publicity. The Parties agree that Plaintiff and Plaintiff's Counsel will not initiate contact with the press, or otherwise affirmatively publish information concerning this Settlement.

If Plaintiff and/or Plaintiff's Counsel are contacted by the press or any other entity regarding this Settlement, Plaintiff and/or Plaintiff's Counsel agree that they may disclose only information in the public record regarding this Settlement. Otherwise, Plaintiff and/or Plaintiff's Counsel agree to decline to comment publicly on the matter or the settlement thereof. The Parties and their respective counsel also agree that any publications regarding this Settlement on their website will be limited to information that is disclosed in the public record.

67. Notices. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Agreement shall be: (a) in writing; (b) deemed given on the third business day after mailing; and (c) sent via United States registered or certified mail, return receipt requested, addressed as follows:

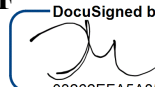
To Plaintiffs:	To Defendant:
Raul Perez Roxanna Tabatabaeepour Capstone Law APC 1875 Century Park East, Suite 1000 Los Angeles, CA 90067	Bradley Schwan Jannine Kranz Littler Mendelson, P.C. 2049 Century Park East, 5 th Floor Los Angeles, CA 90067

It is hereby agreed.

Dated: 9/13/2024

PLAINTIFF

DocuSigned by:



09262EFA5A05459...

Dennis Gutierrez

**DEFENDANTS TJX COMPANIES,
INC., HOMEGOODS, INC.**

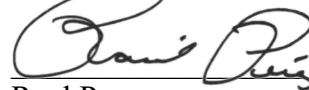
Dated: _____

By: _____

Its: _____

Dated: 9/16/24

CAPSTONE LAW APC



Raul Perez

Attorney for Plaintiff Dennis Gutierrez

Exhibit 1

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

**Re: Payment From *Gutierrez v. HomeGoods, Inc.*, No. CIVDS2017556
(San Bernardino County Superior Court)**

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Gutierrez v. HomeGoods, Inc.*, No. CIVDS2017556 (San Bernardino County Superior Court) (the “Action”).

The Action was filed against Defendants The TJX Companies, Inc., and HomeGoods, Inc. (“Defendants”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). The Action was brought by a former employee of Defendants on behalf of the State of California and all allegedly “aggrieved employees” of Defendants. You have been identified as one of the employees on whose behalf the case was brought.

The Plaintiff in the Action claimed that Defendants owed civil penalties recoverable under PAGA for alleged violations of the California Labor Code and California Wage Orders. Defendants deny that they violated the Labor Code or California Wage Orders. Moreover, in agreeing to this settlement, Defendants do not admit that they are liable in any way for any penalties.

The Court has not ruled on the merits of the Action but it has approved the settlement of PAGA civil penalties, of which 75% will be paid to the California Labor and Workforce Development Agency, and the remaining 25% will be paid to aggrieved employees. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties.

Aggrieved employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims based on alleged violations of the Labor Code or of a California Wage Order, for which they have a private right of action, by virtue of the Settlement.

You are not a party to this lawsuit, but you and the government will be bound by the settlement in this matter as to civil penalties, and you are bound to the release as set forth in the agreement which can be found on the Court's website using the case number reference listed above. If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter).

Very Truly Yours,

[Administrator]