

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

This Private Attorneys General Act Settlement Agreement and Release (the “Agreement”) is made by and between Wendy Sgontz (“Sgontz”), Vicky Wright (“Wright”), Nicole Gregory (“Gregory”), and Jennifer Shellenbaum (“Shellenbaum”) (collectively, “Plaintiffs”), on behalf of themselves and each of the other alleged “Aggrieved Employees,” as defined herein, on the one hand, and CROSSMARK, Inc. (“CROSSMARK”), on the other hand, and sets forth the basic terms agreed to by the Parties (defined below) to settle and resolve the Actions (defined below) and the Sgontz Individual Action (defined below).

1. DEFINED TERMS

In addition to the defined terms referenced above, as used herein, the following terms are defined as:

1.1 The term “Aggrieved Employees” means all current and former employees of CROSSMARK or a subsidiary or affiliate of CROSSMARK who were or are employed in the State of California and worked or performed services for CROSSMARK as hourly or non-exempt employees during the Settlement Period.

1.2 The term “Actions” means the lawsuit captioned, *Wendy Sgontz v. CROSSMARK, Inc.*, pending in the Superior Court of Orange County, California, Case No. 30-2021-01204377-CU-OE-CXC (the “Sgontz Lawsuit”), the PAGA letter submitted by Nicole Gregory to the LWDA, No. LWDA-CM-970891-23 (the “Gregory PAGA Letter”), the PAGA letter submitted by Vicky Wright to the LWDA, No. LWDA-CM-970986-23 (the “Wright PAGA Letter”), and the lawsuit captioned, *Jennifer Shellenbaum v. CROSSMARK, Inc. and CHI Management Group, LP*, pending in the Superior Court of Orange County, California, Case No. 30-2021-01232903-CU-OE-CXC (the “Shellenbaum Lawsuit”).

1.3 The term “Attorneys’ Fees and Cost Award” means the amount authorized by the Court to be paid to Plaintiffs’ Counsel for the services they have rendered and expenses they have incurred in prosecuting the Actions.

1.4 The term “CROSSMARK” means CROSSMARK, Inc., and shall include CROSSMARK’s parent corporation, affiliates, subsidiaries and related corporations, as well as its divisions, predecessors, insurers, co-employers, successors, and assigns, and each of their current and former officers, directors, employees, attorneys, and agents.

1.5 The term “Court” as used herein means the Superior Court of Orange County.

1.6 The term “Effective Date” means the date on which the order of the Court granting approval of this Settlement becomes Final, where Final means (i) any appeals, review, or writ timely filed are finally resolved and not subject to any further proceedings, or (ii) if no appeals are timely filed, the expiration date of the time for filing or noticing any appeals from the Court's grant of final approval.

1.7 The term “Gross Settlement Amount” means an amount not to exceed One Million One Hundred Seventy Thousand Dollars and Zero Cents (\$1,170,000.00) that will be paid by CROSSMARK into the Qualified Settlement Fund to settle the Actions. The Gross Settlement Amount includes all Individual Settlement Payments, the Attorneys’ Fees and Cost Award, the Settlement Administration Costs, Enhancement Payments, and payment to Labor and Workforce Development Agency (“LWDA”).

1.8 The term “Individual Settlement Payment” means the amount to be paid to an Aggrieved Employee pursuant to Section 6 of this Agreement.

1.9 The term “Net Settlement Amount” means the funds from the Gross Settlement Amount available to be distributed to Aggrieved Employees under this Agreement after payment of the Attorneys’ Fees and Cost Award, the Settlement Administration Costs, the Enhancement Payment, and the portion of the PAGA Payment made to the LWDA.

1.10 The term “Operative Complaint” means the amended complaint to be filed in the Sgontz Lawsuit.

1.11 The term “PAGA Payment” means the net amount to be paid by the Settlement Administrator to the LWDA and Aggrieved Employees after deduction of Settlement Administration Costs, Enhancement Payments, and the Attorneys’ Fees and Costs Award from the Gross Settlement Amount, in full satisfaction of the Released Claims as defined below. This PAGA Payment is made pursuant to Labor Code §2699(i).

1.12 The term “Parties” means Plaintiffs and CROSSMARK.

1.13 The term “Pay Periods” means the aggregate number of pay periods worked by the Aggrieved Employees during the Settlement Period.

1.14 The term “Plaintiffs’ Counsel” means Zachary M. Crosner, Jamie K. Serb, and Sepideh Ardestani of Crosner Legal, PC and Blumenthal Nordrehaug Bhowmik De Blouw LLP.

1.15 The term “Qualified Settlement Fund” shall be the fund established and administered by the Settlement Administrator pursuant to Internal Revenue Code Section 1.468B-1 in connection with the Settlement.

1.16 The term “Enhancement Payment” means the amount the Court authorizes to be paid to Sgontz, Gregory, Wright and Shellenbaum in recognition of their effort and work in prosecuting the Actions on behalf of the Aggrieved Employees, and for their general release of claims, not to exceed \$10,000 individually for each.

1.17 The term “Settlement” means the settlement described in this Agreement.

1.18 The term “Settlement Administration Costs” means all Settlement Administrator fees and costs incurred in administering the Settlement.

1.19 The term “Settlement Administrator” means ILYM Group, Inc., the firm that the Parties mutually agree shall be responsible for the administration of the Settlement, pursuant to the terms of this Agreement.

1.20 The term “Settlement Period” means the period beginning December 8, 2019 through December 1, 2023,.

2. SCOPE, PURPOSE, AND BENEFITS OF THE SETTLEMENT

2.1 As detailed below, this Agreement establishes a procedure to resolve all Aggrieved Employees’ claims for penalties, attorneys’ fees, costs, and interest under PAGA that were alleged or which could have been alleged based on the factual allegations in the Actions, including the Operative Complaint, directly or indirectly. The Parties believe that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests. In light of these realities, the Parties believe that this Settlement is the best way to resolve the disputes between them.

2.2 The Parties believe this Agreement constitutes a fair, adequate, and reasonable settlement of the Actions and have arrived at this Agreement in arms-length negotiations, following a mediation before well-respected mediator, Lisa Klerman, taking into account all relevant factors, present and potential, and will so represent to the Court. This Settlement was reached after extensive informal and formal discovery and negotiations. In addition, the Parties have conducted significant investigation of the facts and law during the prosecution of this Actions. The Parties have also investigated the applicable law as applied to the facts discovered regarding the alleged claims of Plaintiffs and potential defenses thereto, and the civil penalties claimed by Plaintiffs.

3. JURISDICTION

The Court has jurisdiction over the Parties and the subject matter of this dispute. The Actions include claims that, while CROSSMARK denies them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the California laws cited therein. If the Settlement is approved, the Court will retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

4. STATEMENT OF NO ADMISSION

4.1 The Parties agree that this Agreement reflects their good faith compromise of the claims raised in the Actions, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel. This Agreement does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission of liability by CROSSMARK as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Actions.

4.2 Neither this Agreement, nor any action taken or made in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to the Agreement, is intended by the Parties (nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding) as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, the Agreement may be used in any proceeding that has as its purpose the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered into in connection therewith.

4.3 Evidence produced or created by the Parties in connection with the Settlement procedure do not constitute, are not intended to constitute, and will not be deemed to constitute, an admission by CROSSMARK of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

4.4 In the event that this Settlement is not approved by the Court, is terminated, or otherwise fails to be enforceable, CROSSMARK will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Actions.

5. WAIVER, RELEASE, AND DISMISSAL

5.1 Release and Waiver of Claims by the LWDA and Aggrieved Employees. As of the Effective Date, the LWDA, all Aggrieved Employees, including Plaintiffs, and their successors, assigns, and/or agents, and the LWDA, shall be deemed to have fully and finally released and forever discharged CROSSMARK, CHI Management Group, LP, CHI Management Group, LLC, Sam's West, Inc., WellPath Management, Inc., Walmart Inc., CVS Health Corporation, CVS Pharmacy, Inc., Target Corporation, Target Brands, Inc., Rite Aid Corporation, The Kroger Co., Albertsons Companies, Inc., and each of their past, present, and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, affiliates, alter-egos, and affiliated organizations, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns, and each of them (collectively, the "Released Parties"), from the "PAGA Released Claims." For purposes of this Agreement, the "PAGA Released Claims" constitute any and all claims, debts, liabilities, demands, actions, or causes of action for civil penalties that were alleged or which could have been alleged based on the factual allegations in the Operative Complaint, as amended, that occurred during the Settlement Period, including all claims for civil penalties for Released Parties' alleged failure to pay all wages due, including minimum wages, overtime wages and regular wages; failure to pay for all hours worked; off-the-clock work; failure to pay overtime compensation at the regular rate of pay; failure to pay meal and/or rest period penalties at the regular rate of pay; the calculation of the regular rate of pay; failure to provide meal and/or rest periods; failure to pay proper meal or rest period penalties; refusal to make and/or falsely denied payments due; failure to provide paid sick days; failure to pay sick pay at the regular rate of pay; failure to place employees on notice of their workplace

rights, including paid sick leave rights; failure to maintain accurate records documenting the hours worked and paid sick days accrued and used; unlawfully retaining paid sick leave; failure to keep accurate and complete time records; rounding; failure to provide and maintain accurate itemized wage statements; unlawful deductions; failure to keep accurate employee payroll records; failure to timely pay wages during employment; failure to timely pay wages at separation of employment; failure to reimburse business expenses; failure to provide suitable seating; unlawful non-compete and/or non-solicitation agreements; misclassification; unlawful criminal and/or financial background checks as a condition of hire and/or continued employment; unlawful request to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment or otherwise impermissible inquired into employee criminal history on employment applications; requirement that employees agree in writing to terms or conditions that violate the law as a condition of employment; failure to provide a safe and healthful place of employment; waiting-time penalties; and claims based on the facts of the Operative Complaint for alleged violations of California Labor Code Sections 201-204, 208, 210, 216, 218.5, 218.6, 221-223, 225.5, 226, 226.3, 226.6, 226.7, 226.8, 227.3, 233, 234, 245-248.6, 256, 351, 432, 432.5, 432.7, 510, 511, 512, 551, 552, 558, 558.1, 1024.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198-1199, 1198.5, 2350, 2802, 2804, 2810.5, 2698 *et seq.*, 6400-6404, 6406-6407, 6409.6, 6432, for alleged violations of California Code of Regulations, title 9, sections 1527, 3203, 3364, 3365, 3366, 3457, and 8397.4, and applicable California Industrial Welfare Commission (“IWC”) Wage Orders during the Settlement Period, against the Released Parties.

5.2 Plaintiffs’ Release. As of the Effective Date, Plaintiffs fully and finally release the Released Parties from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including but not limited to claims arising from or related to their employment with CROSSMARK and compensation while an employee of CROSSMARK (“Plaintiffs’ Released Claims”). Plaintiffs’ Released Claims include, but are not limited to, all claims arising from or reasonably related to the Actions, whether plead or not plead, and, additionally, as to Sgontz, all claims arising from or reasonably related to the Sgontz Individual Action, whether plead or not plead. Plaintiffs’ Released Claims also include all claims for failure to pay all wages due, including minimum wages, overtime wages and regular wages; failure to pay for all hours worked; off-the-clock work; failure to pay overtime compensation at the regular rate of pay; failure to pay meal and/or rest period penalties at the regular rate of pay; the calculation of the regular rate of pay; failure to provide meal and/or rest periods; failure to pay proper meal or rest period penalties; refusal to make and/or falsely denied payments due; failure to provide paid sick days; failure to pay sick pay at the regular rate of pay; failure to place employees on notice of their workplace rights, including paid sick leave rights; failure to maintain accurate records documenting the hours worked and paid sick days accrued and used; unlawfully retaining paid sick leave; failure to keep accurate and complete time records; rounding; failure to provide and maintain accurate itemized wage statements; unlawful deductions; failure to keep accurate employee payroll records; failure to timely pay wages during employment; failure to timely pay wages at separation of employment; failure to reimburse business expenses; failure to provide suitable seating; unlawful non-compete and/or non-solicitation agreements; misclassification; unlawful criminal and/or financial background checks as a condition of hire and/or continued employment; unlawful request to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment or otherwise impermissible inquired into employee criminal history on employment applications; requirement

that employees agree in writing to terms or conditions that violate the law as a condition of employment; failure to provide a safe and healthful place of employment; waiting-time penalties; and claims arising under or based upon the alleged violations of California Labor Code (including, but not limited to, sections 201-204, 208, 210, 216, 218.5, 218.6, 221-223, 225.5, 226, 226.3, 226.6, 226.7, 226.8, 227.3, 233, 234, 245-248.6, 256, 351, 432, 432.5, 432.7, 510, 511, 512, 516, 551, 552, 558, 558.1, 1024.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198-1199, 1198.5, 2350, 2802, 2804, 2810.5, 2698 *et seq.*, 6400-6404, 6406-6407, 6409.6, 6432); all claims arising under: the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (“PAGA”); California Business and Professions Code section 17200, *et seq.*; the California Civil Code, to include but not limited to, sections 3287, 3336 and 3294; 8 CCR § 11010; 8 CCR § 11040; California Code of Civil Procedure § 1021.5; the California common law of contract; the FLSA, 29 U.S.C. § 201, *et seq.*; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* (“ERISA”). Plaintiffs’ Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, discrimination, harassment, punitive damages, and attorneys’ fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act; and the law of contract and tort. This release excludes the release of claims not permitted by law. Plaintiffs’ general release does not extend to any claims or actions to enforce this Agreement, or to any claims for, unemployment benefits, social security benefits, or workers’ compensation benefits that arose at any time.

Plaintiffs’ Released Claims include all claims, whether known or unknown. Even if Plaintiffs discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of Plaintiffs’ Released Claims, those claims will remain released and forever barred. Thus, Plaintiffs expressly waive and relinquish the provisions, rights and benefits of Section 1542 of the California Civil Code, which reads: **“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.”**

Furthermore, this Agreement constitutes a knowing and voluntary waiver of any and all rights or claims that Plaintiffs have or may have under the Federal Age Discrimination In Employment Act, as amended by the Older Workers' Benefit Protection Act of 1990, 29 U.S.C. §§ 621 *et seq.* This paragraph and this Agreement are written in a manner calculated to be understood by Plaintiffs. Plaintiffs are hereby advised in writing to consult with an attorney before signing this Agreement. Plaintiffs have had a reasonable time of up to 21 days in which to consider signing this Agreement. If Plaintiffs decide not to use all 21 days, Plaintiffs knowingly and voluntarily waive any claims that Plaintiffs were not given the 21-day period or did not use the entire 21 days to consider this Agreement. Plaintiffs may revoke this Agreement at any time within the 7-day period following the date Plaintiffs sign this Agreement by providing written notice of revocation to CROSSMARK’s counsel of record. The Agreement shall not become effective or enforceable until after this 7-day revocation period has expired. If Plaintiffs revoke the Agreement, Plaintiffs will not receive the consideration set forth in the Agreement.

6. COMPUTATION AND DISTRIBUTION OF PAYMENTS

6.1 Gross Settlement Amount. The Gross Settlement Amount of One Million One Hundred Seventy Thousand Dollars and Zero Cents (\$1,170,000.00) is on an all-in, non-reversionary basis to settle the Actions and to resolve all released claims, penalties, attorneys' fees, costs, administrative fees, and interest in connection with the Actions. In no event shall CROSSMARK be liable for more than One Million One Hundred Seventy Thousand Dollars and Zero Cents (\$1,170,000.00) as a result of this Settlement, and any of the attorneys' fees, costs, administrative fees, penalties, and sums specified in this Agreement shall be paid from this amount, except as otherwise noted in this Agreement. This Gross Settlement Amount of One Million One Hundred Seventy Thousand Dollars and Zero Cents (\$1,170,000.00) has been agreed to by Plaintiffs and CROSSMARK. It is expressly understood that if the Court awards less than the total amounts requested by Plaintiffs' Counsel to be awarded for attorneys' fees and costs and/or service awards requested by Plaintiffs, the difference in any such amounts will be included in the PAGA Payment.

6.2 Deposit of the Gross Settlement Amount into the Qualified Settlement Fund. Not later than thirty (30) days following the Effective Date, CROSSMARK shall deposit the Gross Settlement Amount into the Qualified Settlement Fund. At no time will CROSSMARK have any obligation to make that deposit or otherwise fund the Settlement, in whole or in part, until after the Effective Date. All payments that are required to be made pursuant to the Agreement shall be made from the Qualified Settlement Fund.

6.3 Distribution Formula. The Settlement Administrator shall distribute the PAGA Payment to the LWDA and Aggrieved Employees as described in this Section 6.3.

Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Payment will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees.

The net amount of the Aggrieved Employees' share of the PAGA Payment shall be paid pro rata to all Aggrieved Employees based on the number of Pay Periods worked.

No Aggrieved Employee shall be required to file a claim in order to receive such payment.

For tax purposes, all Individual Settlement Payments will constitute penalties and will be reported on an IRS Form-1099, which the Settlement Administrator will provide to Aggrieved Employees, if necessary, as required by law. No person or entity shall have any claim against CROSSMARK, CROSSMARK's counsel, Plaintiffs, any Aggrieved Employees, Plaintiffs' Counsel, or the Settlement Administrator based upon distributions and payments made in accordance with this Agreement.

6.4 Distribution to the Aggrieved Employees. Individual Settlement Payments shall be paid out of the Net Settlement Amount pursuant to the Distribution Formula set forth in Section 6.3 of this Agreement.

Not later than thirty (30) days following the Effective Date, CROSSMARK shall send a list of all Aggrieved Employees to the Settlement Administrator containing: (1) name; (2) last known home address; (3) number of pay periods as an Aggrieved Employee during the Settlement Period; and (4) social security number. This shall be known as the "Group List." CROSSMARK shall transmit the Group List in Excel or similar format, or other method as agreed to by the Parties in good faith as technology requires to transmit the data.

Not later than three (3) days following receipt of the Group List, the Settlement Administrator shall email the Parties confirming receipt of the Group List and stating the number of Aggrieved Employees and the number of Pay Periods included therein.

Not later than ten (10) days following receipt of the Group List, the Settlement Administrator shall cross-reference all the addresses provided in the Group List with the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information.

Not later than fifteen (15) days following receipt of the Gross Settlement Amount from CROSSMARK, the Settlement Administrator shall make the following payments from those proceeds: (1) the Individual Settlement Payments; (2) the Enhancement Payments (which shall be delivered to Plaintiffs' Counsel); (3) the Attorneys' Fees and Cost Award; (4) the portion of the PAGA Payment to the LWDA; and (5) payment to the Settlement Administrator for administration of the Settlement.

The Settlement Administrator shall mail via U.S. First Class mail each Individual Settlement Payment to each Aggrieved Employee's last known address with directions to the Postmaster to deliver the checks to any applicable forwarding address and to return all undeliverable checks to the Settlement Administrator. The date of the initial mailing of the check shall be conclusively determined according to the records of the Settlement Administrator.

A letter substantially in the form of Exhibit "A" hereto will be included in the mailing of each Aggrieved Employee's Individual Settlement Payment.

Individual Settlement Payments shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. If there are uncashed checks following this period, the uncashed funds shall escheat to the State of California Unclaimed Property Fund in the name of the Aggrieved Employee whose check went uncashed.

The Settlement Administrator's determination of eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement, shall be conclusive, final, and binding on all Aggrieved Employees, including Plaintiffs.

6.5 Enhancement Payments. Sgontz, Gregory, Wright, and Shellenbaum will request, and CROSSMARK will not oppose, an Enhancement Payment not to exceed Ten Thousand Dollars (\$10,000.00) to each of them for their time and effort in bringing and prosecuting the Actions and as compensation for the release of their individual claims, including their wage and

hour claims. The Parties agree that a decision by the Court to award Plaintiffs an amount less than the amount stated above shall not be a basis for Plaintiffs' Counsel to void this Agreement. The Settlement Administrator shall issue a Form 1099 for the Enhancement Payments. Any amounts awarded for an Enhancement Payment to Sgontz, Gregory, Wright, and Shellenbaum less than the amount listed above will result in the non-awarded funds being part of the Net Settlement Amount available for distribution to the Aggrieved Employees. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on their respective payment and shall hold harmless the Released Parties from any claim or liability for taxes, penalties or interest arising as a result of the payment.

CROSSMARK makes no representations as to the tax treatment or legal effect of the payments called for herein, and Plaintiffs are not relying on any statement or representation by CROSSMARK in this regard. Plaintiffs understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payment described herein.

6.6 Attorneys' Fees and Costs. Plaintiffs' Counsel shall request, and CROSSMARK will not oppose, an award of attorneys' fees of up to 33.33% or Three Hundred Eighty-Nine Thousand Sixty-One Dollars and Zero Cents (\$389,961.00) of the Gross Settlement Amount, and litigations costs not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), subject to court approval. The attorneys' fees awarded by the Court shall be allocated 50% to Crosner Legal, PC and 50% to Blumenthal Nordrehaug Bhowmik De Blouw LLP. The litigations costs awarded by the Court shall be allocated based upon the Plaintiffs' Counsel's respective declarations as to litigation costs incurred. The Attorneys' Fees and Cost Award shall be binding on the Parties and shall not otherwise affect the validity of the Settlement. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs' Counsel reflecting the awarded attorneys' fees, costs and expenses. Should Plaintiffs and/or Plaintiffs' Counsel request a lesser amount for attorneys' fees than stated above and/or the Court approve a lesser amount, the difference shall be added to the Net Settlement Amount. In consideration of the Attorneys' Fees and Cost Award, Plaintiffs' Counsel waive all claims to any further attorneys' fees and expenses in connection with the litigation of the Actions. Plaintiffs, Plaintiffs' Counsel, and Aggrieved Employees shall assume full responsibility and liability for the payment of taxes due on such awards.

The Attorney's Fees and Cost Award shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, costs or expenses in the Actions incurred by any attorney on behalf of Plaintiffs and the Aggrieved Employees, and shall relieve the Released Parties and the Settlement Administrator of any other claims or liability to any other attorney or law firm for any attorneys' fees, costs and expenses to which any of them may claim to be entitled on behalf of Plaintiffs and/or the Aggrieved Employees.

6.7 Settlement Administrator. The settlement administrator will be paid the Settlement Administration Costs in an amount estimated not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00), subject to court approval. Any amount not awarded for costs of administration to the Settlement Administrator will result in the non-awarded amount being made part of the PAGA Payment, available for distribution to the LWDA and the Aggrieved Employees. A Form 1099 shall be issued to the Settlement Administrator.

The Settlement Administrator shall calculate the portion of the PAGA Payment to be paid to the LWDA and the Individual Settlement Payments to be paid to the Aggrieved Employees in accordance with the terms and provisions of this Agreement; pay any applicable state and/or federal taxes; make payment to the LWDA and mail the Individual Settlement Payment checks to the Aggrieved Employees along with the letter substantially in the form of Exhibit “A,” attached hereto; resolve any disputes regarding the calculation or application of the formula for determining the Individual Settlement Payments; issue 1099 forms; calculate and disburse any Attorneys’ Fees and Cost Award, Enhancement Payments, and/or applicable taxes from the Gross Settlement Amount; and perform such other tasks necessary to effectuate the terms of this Agreement or as the Parties mutually agree or the Court orders the Parties to perform.

Any disputes relating to the Settlement Administrator’s ability and need to perform its duties shall be referred to the Court.

6.8 Escalator Clause. It was estimated for purposes of mediation that there were approximately 159,859 pay periods for the period December 8, 2019 to September 1, 2023. This number would be expected to increase proportionately for the passage of time between September 1, 2023 and the date the Court enters an order approving the Settlement. If the pay periods as of the date the Court enters an order approving the Settlement exceeds the referenced pay periods by more than 10% (i.e., exceeds 175,845 pay periods), CROSSMARK, at its discretion, agrees to elect one of two possible options: (a) the first option is to increase the Gross Settlement Fund on a pro rata basis according to the number of additional compensable pay periods over 175,845 pay periods; or (b) the second option is that CROSSMARK may elect to close the Settlement Period before the date the pay periods exceed the 175,845 pay period limit. It is in CROSSMARK’s sole discretion whether to choose option (a) or (b) as set forth herein.

7. INTEREST

7.1 The Gross Settlement Amount includes any and all interest accruals and no additional interest shall be due under any circumstances.

8. TAXATION

8.1 Plaintiffs and, through Plaintiffs’ Counsel, Aggrieved Employees represent and warrant that they understand that it is their sole obligation to pay appropriate federal, state, and local income taxes on any amounts they receive under this Agreement that lawfully qualify as taxable income.

8.2 Neither the Parties nor their respective counsel provide or purport to provide any tax advice to the Aggrieved Employees in connection with this Agreement or otherwise. The Parties agree that they shall not rely upon any terms of this Agreement for the purpose of determining or avoiding federal, state, or local tax obligations.

9. COURT'S APPROVAL

9.1 The Parties agree that no later than 10 calendar days after the signing of the long-form settlement agreement, Sgontz will amend her PAGA letter as necessary to comport with the Release and Waiver of Claims by Aggrieved Employees defined herein. Further, Sgontz will file with the Court a First Amended Complaint (the "Operative Complaint") in the Sgontz Lawsuit which includes Gregory, Wright, and Shellenbaum as named plaintiffs and includes all claims, rights, demands, liabilities, and causes of action set forth in the Release and Waiver of Claims by Aggrieved Employees defined herein, which is intended to include all claims alleged in the Sgontz Lawsuit, the Shellenbaum Lawsuit, the Gregory PAGA Letter, and the Wright PAGA Letter.

9.2 The Parties agree that no later than 10 calendar days after filing of the Operative Complaint which is to include Shellenbaum as a named plaintiff, Shellenbaum will file with the Court in the Shellenbaum Lawsuit a Request for Dismissal in the PAGA Only action pending with the Orange County Superior Court, Case No. 30-2021-01232903-CU-OE-CXC without prejudice as to Shellenbaum's individual PAGA claim and without prejudice as to other allegedly aggrieved employees.

9.3 The Parties agree that no later than thirty (30) calendar days after the Effective Date, Shellenbaum will file a Request for Dismissal with prejudice in its entirety in Shellenbaum's individual arbitration pending with AAA, Case No. 01-23-0000-3872, with each side to bear their own respective attorneys' fees and costs ("Shellenbaum Arbitration Action"). The Parties agree to stay the Shellenbaum Arbitration Action upon signing of this Agreement, including any discovery or other deadlines therein. The Parties agree to promptly notify AAA of the settlement and request to vacate any pending hearings or status conferences in the Shellenbaum Arbitration Action pending approval of the settlement, such that no further invoice deposit will be issued to the Parties.

9.4 Plaintiffs will promptly move the Court for approval of the Settlement pursuant to Labor Code § 2699(l). The Parties agree to use their best efforts to obtain approval as quickly as possible, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining the Court's approval of the Agreement in all respects. The Parties also agree that in the event the Court does not approve the Settlement, the Parties will work in good faith to amend the Settlement to comport with the Court's instructions.

9.5 In the event an appeal or petition for writ of mandamus is filed from the Court's order granting approval of the Settlement, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

10. INDIVIDUAL ACTION

10.1 The Parties agree that no later than thirty (30) calendar days after the Effective Date, CROSSMARK agrees to pay to Plaintiff Sgontz's counsel in the individual action, The Work Justice Firm, the total sum of Thirty Thousand Dollars and Zero Cents (\$30,000.00), less applicable withholdings, as a full and complete settlement of Sgontz's individual claims asserted in the Sgontz Lawsuit, as well as all claims alleged in Sgontz's separate individual action entitled

Wendy Sgontz v. CROSSMARK, Inc., originally filed in Superior Court of Orange County, California, Case No. 30-2023-01307932-CU-OE-CJC, removed to federal court, Case No. 8:23-cv-00547-CJC-KES, and subsequently initiated in arbitration with AAA, Case No. 01-23-0002-0338 (“Sgontz Individual Action”). This settlement payment will be made in two checks: (1) one check for alleged lost wages may payable to Sgontz in the amount of \$7,762.39, less applicable withholdings; and (2) one check for alleged emotional distress, physical injury, penalties, interest, attorneys fees and costs, made payable to The Work Justice Firm in the amount of \$22,237.61, subject to the issuance of an IRS Form 1099. The foregoing payment is conditioned on the following: No later than ten (10) calendar days after the Effective Date, CROSSMARK is provided with a completed IRS W-9 for Sgontz and Sgontz’s counsel, and a completed Request for Dismissal of the Sgontz Individual Action with prejudice as to all parties and all causes of action executed by Sgontz’s counsel. The Parties agree to stay the Sgontz Individual Action upon signing of this Agreement, including any discovery or other deadlines therein. The Parties agree to promptly notify AAA of the settlement and request to vacate any pending hearings or status conferences in the Sgontz Individual Action pending approval of the settlement, such that no further invoice deposit will be issued to the Parties

11. PUBLICITY

Plaintiffs and Plaintiffs’ counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communications with the press about the facts, amount, or terms of the settlement. Plaintiffs’ counsel may respond to press inquiries by stating the matter has been resolved and refer the press to court filings. In addition, Plaintiffs and Plaintiffs’ counsel agree that they will not engage in any advertising or distribute any marketing materials specifying any material terms relating to the Settlement of the Actions or of the Sgontz Individual Action, including but not limited to any postings on any websites maintained by Plaintiffs’ Counsel and including but not limited to the identity of CROSSMARK and/or any information that identifies CROSSMARK and/or the Released Parties. The Settlement Administrator shall not create nor maintain any separate website regarding this Settlement at any time. Any communication about the Settlement to Aggrieved Employees prior to the Court-approved mailing of the Notice will be limited to a statement that a settlement has been reached and the details will be communicated in a forthcoming Court-approved notice. Plaintiffs are prohibited from discussing the terms or the fact of the settlement with third parties other than (1) their immediate family members, and/or (2) their accountants or lawyers as necessary for tax purposes. Furthermore, Plaintiffs and Plaintiffs’ counsel will undertake any and all disclosures and submissions of papers that are required to be made to the LWDA in conformity with PAGA.

12. INAPPLICABILITY OF CALIFORNIA CIVIL PROCEDURE CODE SECTION 384

The Parties agree that California Civil Procedure Code (“CCP”) section 384 is not applicable to the Gross Settlement Amount. Neither Plaintiffs nor Plaintiffs’ Counsel shall take, or cause any other person to take, a position before the Court that CCP section 384 applies to the Gross Settlement Amount.

13. MISCELLANEOUS PROVISIONS

13.1 Headings. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

13.2 Interpretation of the Agreement. The Agreement will be interpreted and enforced under the laws of the State of California without regard to its conflict of law provisions.

13.3 Final Agreement. This Agreement constitutes the exclusive and final understanding and expression of all agreements between the Parties with respect to the resolution of the Actions and supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof. Plaintiffs, on Plaintiffs' own behalf and as representatives for the Aggrieved Employees, and CROSSMARK enter into this Agreement based solely upon its terms and not in reliance upon any representations or promises other than those contained in this Agreement. The Agreement may be modified only by a writing signed by the Parties, or their successors, and approved by the Court.

13.4 Counterparts/Facsimile/Electronic. The Agreement may be executed in one or more actual, telecopied or electronic counterparts, all of which will be considered one and the same instrument and all of which will be considered duplicate originals. A signature on this Agreement delivered by facsimile or electronically shall be as legally binding as an original signature, although the Parties will provide original signatures to each other for their records.

13.5 Authority. Counsel for all Parties represent and warrant they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effectuate the implementation of the Settlement. In the event 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 shall seek the assistance of the Court to resolve such disagreement. The persons signing this Agreement on behalf of CROSSMARK represent and warrant that they are authorized to sign this Agreement on behalf of CROSSMARK.

13.6 No Effect on Employee Benefits. The Individual Settlement Payments and Enhancement Payments shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of Plaintiffs or any Aggrieved Employee. The payment of the Individual Settlement Payments does not represent any modification of Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by CROSSMARK. Further, any Individual Settlement Payment or Enhancement Payments shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by CROSSMARK.

13.7 No Injunctive Relief. CROSSMARK shall not be required to enter into any consent decree, nor shall CROSSMARK be required to agree to any provision for injunctive relief, or to modify or eliminate any of its personnel, compensation, or payroll practices, or adopt any new personnel, compensation, or payroll practices.

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

13.9 Cooperation and Drafting. Each of the Parties has cooperated in the drafting and preparation of this Agreement. Hence, in any construction made to this Agreement, the same shall not be construed against any of the Parties.

13.10 Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

13.11 Defense. To the extent permitted by law, this Settlement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceedings that may be instituted, prosecuted, or attempted with respect to the Released Claims in breach of or contrary to this Settlement.

WHEREFORE, Plaintiffs, as representative of themselves and Aggrieved Employees, and CROSSMARK, have executed this Agreement as of the dates set forth below.

PLAINTIFF WENDY SGONTZ

Dated: 03 / 13 / 2024, 2023



Wendy Sgontz, Plaintiff

PLAINTIFF VICKY WRIGHT

Dated: 03 / 13 / 2024, 2023



Vicky Wright, Plaintiff

PLAINTIFF NICOLE GREGORY

Dated: 03 / 13 / 2024, 2023



Nicole Gregory, Plaintiff

PLAINTIFF JENNIFER SHELLENBAUM

Mar 12, 2024
Dated: _____, 2023


Jennifer Shellenbaum (Mar 12, 2024 12:08 PDT)

Jennifer Shellenbaum, Plaintiff

DEFENDANT CROSSMARK, INC.

Dated: _____, 2023

Full Name: _____

Title: _____

On behalf of CROSSMARK, Inc.

PLAINTIFF JENNIFER SHELLENBAUM

Dated: _____, 2023

Jennifer Shellenbaum, Plaintiff

DEFENDANT CROSSMARK, INC.

Dated: _____, 2023

03/20/2024

Richard Baxter
78B424DCBF840BB5F1B22C7FA01283D0 contractworks

Full Name: **Richard Baxter**

Title: **CFO**

On behalf of CROSSMARK, Inc.