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WALMART INC.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES, STANLEY MOSK COURTHOUSE

15 MARK CHEN, on behalf of himself, the
16 STATE of CALIFORNIA, and all other
aggrieved employees, as defined herein,

17 Plaintiff,

18 v.

19 WALMART, INC.,

20 Defendant.
21

Case No. 20STCV43043

(Assigned for All Purposes to the Honorable
Timothy P. Dillon, Dept. 73)

PAGA SETTLEMENT AGREEMENT

Date Action Filed: November 10, 2020

Trial Date: September 12, 2022

22
23 This PAGA Settlement Agreement (the “Agreement”) is entered into by and between
24 plaintiff Mark Chen (“Plaintiff”), individually and on behalf of the State of California and all
25 PAGA Group Members (defined below), and defendant Walmart Inc. (“Defendant” or
26 “Walmart”), subject to the approval of the Court. In consideration of the promises and mutual
27 covenants and agreements herein contained, Plaintiff and Defendant (collectively, the “Parties”)
28 hereby covenant and agree as follows:

1 **1. RECITALS**

2 1.1 On November 10, 2020, Plaintiff filed a representative action complaint (the
3 “Complaint”) against Defendant in the Superior Court of the State of California, County of Los
4 Angeles, entitled *Mark Chen v. Walmart, Inc.*, Case No. 20STCV43043 (the “Action”). The
5 Complaint asserts one cause of action under the Labor Code Private Attorneys General Act of
6 2004 (“PAGA”) for alleged violations of Labor Code section 1198 and Industrial Welfare
7 Commission Wage Order 7-2001, section 14(A) due to Walmart’s alleged failure to provide
8 suitable seats to Plaintiff and other allegedly “aggrieved employees.”

9 1.2 On December 21, 2020, Defendant filed its answer to the Complaint, generally
10 denying all of the allegations contained in it and asserting a number of affirmative defenses.

11 1.3 On October 20, 2021, the Parties appeared before this Court for their third case
12 management conference in the Action. At the conference, the Court directed the Parties to select
13 a mediator by December 30, 2021 and complete mediation by May 31, 2022. In compliance with
14 this order, on December 16, 2021, the Parties selected the Honorable Jay C. Gandhi (Ret.) of
15 JAMS as their mediator. Soon thereafter, the Parties scheduled the mediation for May 24, 2022.

16 1.4 Since the outset of the Action, the Parties engaged in extensive discovery.
17 Defendant served and Plaintiff responded to one set of requests for production of documents, and
18 Defendant took Plaintiff’s deposition. Plaintiff served and Defendant responded to one set of
19 requests for production of documents, one set of form interrogatories, and two sets of special
20 interrogatories. Plaintiff served four separate person most knowledgeable (PMK) deposition
21 notices, which in total included 64 topics, in addition to multiple sub-topics, and took four
22 separate PMK depositions. Plaintiff also took four percipient witness depositions. Defendant
23 produced over 2,500 pages of documents and extensive data in the Action. Before the May 24,
24 2022 mediation and at Plaintiff’s informal request, Defendant provided Plaintiff with updated
25 numbers of PAGA Group Members in California and pay periods worked by these Members as of
26 March 5, 2022.

27 1.5 In these and other ways, the Parties investigated the facts and analyzed the relevant
28 legal issues with regard to the claims and defenses in the Action. Based on this investigation and

1 analysis, Plaintiff believes the Action has merit, while Defendant believes the Action has no
2 merit.

3 1.6 On May 24, 2022, the Parties participated in a mediation conducted by the
4 Honorable Jay C. Gandhi (Ret.), at the conclusion of which the Parties agreed in principle to a
5 settlement of the Action, memorialized by a Memorandum of Understanding that was fully
6 executed on May 31, 2022.

7 1.7 The Parties have each considered the uncertainties of continued litigation and the
8 benefits to be obtained under the proposed settlement, and have considered the costs, risks, and
9 delays associated with the continued prosecution of the Action and the likely appeals of any
10 rulings in favor of either Plaintiff or Defendant. At all times, the Parties' settlement negotiations
11 have been non-collusive, adversarial, and at arm's length.

12 1.8 It is the Parties' intention and the objective of this Agreement to avoid the costs of
13 further litigation and trial, and to settle and dispose of, fully and completely and forever, the
14 claims released herein and described below.

15 **2. DEFINITIONS**

16 As used in this Agreement, the terms set forth in this Section 2 shall have the meanings
17 ascribed to them below.

18 2.1 **Action.** "Action" means the above-captioned action entitled *Mark Chen v.*
19 *Walmart, Inc.*, Case No. 20STSCV43043, currently pending in the Superior Court of the State of
20 California, County of Los Angeles.

21 2.2 **Agreement.** "Agreement" means this PAGA Settlement Agreement, including all
22 Exhibits referred to herein and attached hereto.

23 2.3 **Approval Date.** "Approval Date" means the date on which the Court enters the
24 Order Approving Settlement and Judgment Thereon.

25 2.4 **Approval Order or Judgment.** "Approval Order" or "Judgment" means the
26 Order Approving Settlement and Judgment Thereon approving the Settlement and this
27 Agreement, which shall substantially conform to Exhibit A hereto.

1 2.5 **Defendant or Walmart.** “Defendant” or “Walmart” means Walmart Inc., sued
2 herein as Walmart, Inc.

3 2.6 **Complaint.** “Complaint” means the complaint filed by Plaintiff in the Action on
4 November 10, 2020.

5 2.7 **Court.** “Court” means the Superior Court of the State of California, County of
6 Los Angeles.

7 2.8 **Covered Positions.** “Covered Positions” means any of the following positions:
8 Apparel Team Associate, Auto Care Center Sales Associate, Cosmetics Cashier, Electronics Sales
9 Associate, Entertainment Team Associate, Frontend Services Host Team Associate, Fuel Sales
10 Associate, Hardlines Team Associate, Home Team Associate, Jewelry Sales Associate, Lawn and
11 Garden Sales Associate, Money Center Cashier, Seasonal Team Associate, Service Desk
12 Associate, Smokeshop Cashier, Specialty Shop Cashier, Sporting Goods Sales Associate, and
13 Wireless Sales Associate. “Covered Positions” also includes positions that are equivalent to the
14 foregoing positions but which may have different position titles as a result of position changes by
15 Walmart through the Approval Date.

16 2.9 **Defendant’s Counsel.** “Defendant’s Counsel” means the law firm of Morrison &
17 Foerster LLP.

18 2.10 **Effective Date.** “Effective Date” means either (a) the date 60 days after entry of
19 the Approval Order and Judgment, if no motions for reconsideration and no appeals or other
20 efforts to obtain review have been filed, or (b) in the event a motion for reconsideration, an appeal
21 or other effort to obtain review of the Approval Order and Judgment, the date 60 days after such
22 reconsideration, appeal, or review has been finally concluded and is no longer subject to review,
23 whether by appeal, petition for rehearing, petition for review, or otherwise.

24 2.11 **Fee and Expense Award.** “Fee and Expense Award” means such award of
25 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Plaintiff’s Counsel for
26 the services they have rendered in the Action.

1 2.12 **General Release Payment.** “General Release Payment” means the payment
2 authorized by the Court to Plaintiff, if any, separate and apart from any Settlement Payment, to be
3 paid from the Gross Settlement Amount.

4 2.13 **Gross Settlement Amount.** “Gross Settlement Amount” means Five Million
5 Nine Hundred Thousand Dollars and No Cents (\$5,900,000.00), which is the maximum total
6 amount that Defendant shall be required to pay for any and all purposes under this Agreement.
7 The following shall be paid from the Gross Settlement Amount pursuant to the Plan of Allocation
8 set forth in Section 4.4, below: (a) the LWDA Payment, (b) the Settlement Payments to PAGA
9 Group Members, (c) the Fee and Expense Award, (d) the General Release Payment, and (e) the
10 Settlement Administration Costs. Under no circumstances shall Defendant pay any sum in excess
11 of the Gross Settlement Amount in connection with the Settlement.

12 2.14 **LWDA.** “LWDA” means the California Labor and Workforce Development
13 Agency.

14 2.15 **LWDA Payment.** “LWDA Payment” means the portion of the Gross Settlement
15 Amount to be paid to the LWDA under this Agreement, which shall equal 75 percent of the Net
16 Settlement Sum.

17 2.16 **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount
18 less the following: (a) the Fee and Expense Award, (b) the General Release Payment, and
19 (c) the Settlement Administration Costs.

20 2.17 **Notice of Settlement.** “Notice of Settlement” means the notice to be mailed to
21 PAGA Group Members with their Settlement Payments, which shall substantially conform to
22 Exhibit B hereto.

23 2.18 **PAGA.** “PAGA” means the Labor Code Private Attorneys General Act of 2004
24 (Lab. Code, § 2698, et seq.).

25 2.19 **PAGA Group Members or Members.** “PAGA Group Members” or “Members”
26 means Plaintiff and all other current and former associates employed at a Walmart Supercenter or
27 Discount (Division 1) Store in California at any time from August 26, 2019 to the Approval Date
28 in any of the Covered Positions.

1 2.20 **PAGA Group Members Payment.** “PAGA Group Members Payment” means
2 the aggregate sum of all Settlement Payments that the Settlement Administrator determines are
3 owed to PAGA Group Members under this Agreement, which shall equal 25 percent of the Net
4 Settlement Sum.

5 2.21 **PAGA Period.** “PAGA Period” means the time period from August 26, 2019 to
6 the Approval Date.

7 2.22 **Parties.** “Parties” means plaintiff Mark Chen, on behalf of himself, the State of
8 California, and all PAGA Group Members, and defendant Walmart Inc., sued herein as Walmart,
9 Inc.

10 2.23 **Pay Periods.** “Pay Periods” means the number of pay periods in the PAGA
11 Period during which a PAGA Group Member worked at a Walmart Supercenter or Discount
12 (Division 1) Store in California for at least one day. Pay Periods will be calculated according to
13 Defendant’s records.

14 2.24 **Plaintiff.** “Plaintiff” means plaintiff Mark Chen.

15 2.25 **Plaintiff’s Counsel.** “Plaintiff’s Counsel” means the law firms of Righetti
16 Glugoski, P.C. and Jones Law Firm LLC.

17 2.26 **Plan of Allocation.** “Plan of Allocation” means the manner in which the Net
18 Settlement Sum shall be paid to the LWDA and PAGA Group Members as set forth in
19 Section 4.4, below.

20 2.27 **Released Claims.** “Released Claims” means any and all claims, causes of action,
21 complaints, charges, and demands that are alleged in the Action and/or Plaintiff’s PAGA notice
22 that was submitted to the LWDA on or about August 26, 2020, or that could have been alleged
23 based on the facts alleged in the Action and/or the PAGA notice, based on alleged violations of
24 Labor Code sections 1198 and 2698, et seq. and Industrial Welfare Commission Wage Order 7-
25 2001, section 14(A) that arose during the PAGA Group Members’ employment at a Walmart
26 Supercenter or Discount (Division 1) Store in California at any time from August 26, 2019 to the
27 Approval Date in any of the Covered Positions. The Released Claims are released by both the
28 State of California and the PAGA Group Members as part of this Settlement.

1 2.28 **Released Parties.** “Released Parties” means defendant Walmart Inc., its present,
2 former, or future parents, subsidiaries, affiliates, divisions, corporations in common control,
3 predecessors, successors and assigns, and each of their respective present, past, or future officers,
4 directors, employees, partners (both general and limited), shareholders, agents, attorneys,
5 insurers, and any other successors, assigns, or legal representatives.

6 2.29 **Settlement.** “Settlement” means this Agreement and all actions taken pursuant to
7 and in furtherance of this Agreement.

8 2.30 **Settlement Administration Costs.** “Settlement Administration Costs” means the
9 amount approved by the Court to be paid to the Settlement Administrator from the Gross
10 Settlement Amount for administration of the Settlement, estimated to be no more than
11 \$77,000.00.

12 2.31 **Settlement Administrator.** “Settlement Administrator” means Phoenix
13 Settlement Administrators or such professional, third-party administrator as may be approved by
14 the Court, which shall be responsible for administering the Settlement pursuant to the terms of
15 this Agreement and the Judgment. The Settlement Administrator shall agree to confidentiality
16 terms as may be required by Defendant regarding personnel, payroll, and any other data provided
17 to the Settlement Administrator.

18 2.32 **Settlement Payment.** “Settlement Payment” means the amount that the
19 Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan of
20 Allocation described in Section 4.4, below.

21 2.33 **Settlement Fund.** “Settlement Fund” means the fund established and
22 administered by the Settlement Administrator for the purpose of receiving and disbursing
23 amounts to be paid to the LWDA, the PAGA Group Members, Plaintiff, Plaintiff’s Counsel, and
24 the Settlement Administrator pursuant to this Agreement. The Settlement Fund shall be funded
25 by Defendant following the Effective Date in accordance with Section 4.6.1, below.

26 2.34 **Settlement Fund Amount.** “Settlement Fund Amount” means the total amount
27 that Defendant shall remit to the Settlement Administrator in accordance with Section 4.6.1,
28 below, which shall consist of the following amounts, the aggregate of which shall not exceed the

1 Gross Settlement Amount: (a) the LWDA Payment, (b) the PAGA Group Members Payment,
2 (c) the Fee and Expense Award, (d) the General Release Payment, and (e) the Settlement
3 Administration Costs.

4 **3. SETTLEMENT TERMS**

5 3.1 **Motion to Approve PAGA Settlement.** Promptly upon the Parties' execution of
6 this Agreement, Plaintiff shall file a motion for an order approving the Settlement, including
7 (without limitation) the payment to the LWDA of 75 percent of the Net Settlement Sum.
8 Concurrently therewith, Plaintiff shall submit a copy of this Agreement to the LWDA, in
9 accordance with Labor Code section 2699, subdivision (l)(2). Plaintiff will have sole
10 responsibility for drafting and filing the motion for approval of the Settlement but will provide his
11 proposed moving papers to Defendant for review and comment at least three business days before
12 filing them with the Court.

13 3.2 **Attorneys' Fees and Costs.** Defendant agrees not to oppose Plaintiff's
14 application for attorneys' fees of up to \$1,966,666.65 and costs not to exceed \$85,000.00, which
15 shall be subject to the Court's approval. Plaintiff agrees not to apply for attorneys' fees of more
16 than \$1,966,666.65 or for costs of more than \$85,000.00, and in no event shall Defendant be
17 liable for any attorneys' fees or costs in excess of these amounts. The Fee and Expense Award
18 shall represent payment for all claims for Plaintiff's Counsel's attorneys' fees and costs, past and
19 future, incurred in the Action. The Fee and Expense Award shall be paid from the Gross
20 Settlement Amount, and Defendant shall not otherwise be required to pay for any portion of
21 Plaintiff's Counsel's attorneys' fees, costs, or expenses. The Fee and Expense Award shall be
22 paid to Plaintiff's Counsel following the Effective Date, in accordance with Section 4.6.2, below.
23 An award by the Court of attorneys' fees or costs that is less than the amounts applied for will not
24 be grounds for Plaintiff or Plaintiff's Counsel to challenge or withdraw from the Settlement, and
25 any amounts not awarded in attorneys' fees or costs will be included in the Net Settlement Sum.

26 3.3 **General Release Payment.** Defendant agrees not to oppose Plaintiff's application
27 for a General Release Payment of up to \$15,000.00, which shall be for Plaintiff's efforts as
28 representative of the PAGA Group Members and in consideration of Plaintiff's general release of

1 claims set forth in Section 5.2, below. The General Release Payment shall be reported by the
2 Settlement Administrator on IRS Form 1099-MISC as non-wage income. The General Release
3 Payment is separate from and in addition to any Settlement Payment to be paid to Plaintiff as a
4 PAGA Group Member hereunder. An award by the Court of a General Release Payment that is
5 less than the amount applied for will not be grounds for Plaintiff or Plaintiff's Counsel to
6 challenge or withdraw from the Settlement, and any amount not awarded in the General Release
7 Payment will be included in the Net Settlement Sum.

8 **3.4 Delivery of Settlement Amount by Defendant.** In full settlement of the Released
9 Claims and following the Effective Date, Defendant shall deliver the Settlement Fund Amount to
10 the Settlement Administrator for establishment of the Settlement Fund, in accordance with
11 Section 4.6.1, below.

12 **3.5 Interim Stay of Proceedings.** Except as set forth in Section 3.1, above, the
13 Parties agree to the entry of a formal stay of all proceedings in the Action, except such
14 proceedings as may be necessary to implement and complete the Settlement.

15 **4. SETTLEMENT PROCEDURES**

16 **4.1 Notification to the LWDA.** Plaintiff shall submit to the LWDA a copy of the
17 Judgment within ten (10) days after its entry, in accordance with Labor Code section 2699,
18 subdivision (l)(3).

19 **4.2 Information Regarding PAGA Group Members.** Within five (5) business days
20 from the Effective Date, Defendant will provide the Settlement Administrator the following
21 information with respect to each PAGA Group Member: (i) name, (ii) last known residence
22 address of record with Defendant, (iii) social security number, and (iv) number of Pay Periods
23 worked by the PAGA Group Member in a Covered Position(s). The information Defendant
24 provides to the Settlement Administrator, along with any updated contact information identified
25 by the Settlement Administrator as set forth in Section 4.3, below, shall be used solely to
26 administer the Settlement Payment process described herein, shall remain confidential, and shall
27 not be disclosed to anyone, except pursuant to the express written authorization of Defendant or
28

1 the PAGA Group Member in question, by order of the Court, or to the extent necessary to fulfill
2 the Settlement Administrator's reporting obligations hereunder.

3 **4.3 Settlement Administrator Duties.** The Settlement Administrator's duties shall
4 include, without limitation: (i) taking receipt of and safeguarding the Settlement Fund Amount
5 and establishing the Settlement Fund; (ii) calculating and distributing the LWDA Payment,
6 Settlement Payments to PAGA Group Members, Fee and Expense Award, and General Release
7 Payment, provided such amounts are approved by the Court; (iii) issuing all tax forms required by
8 law; (iv) filing reports with the taxing authorities as required by law; and (v) establishing a
9 toll-free number for PAGA Group Members to call the Settlement Administrator with any
10 questions regarding the Settlement, together with such other tasks as the Parties may mutually
11 agree or the Court may order the Settlement Administrator to perform. The Settlement
12 Administrator shall take all reasonable steps to ensure that (a) the highest percentage of PAGA
13 Group Members receive their Settlement Payments, and (b) it has the most current and accurate
14 addresses for the PAGA Group Members, including but not limited to performing an initial
15 National Change of Address database search on all formerly employed PAGA Group Members.
16 In addition, the Settlement Administrator shall perform standard searches, also known as "batch,"
17 "skip trace," or "credit header" searches, on all addresses returned as undeliverable. The
18 Settlement Administrator shall immediately re-mail returned checks tendered to the PAGA Group
19 Members to all updated addresses obtained through its efforts to locate their most current and
20 accurate addresses. The Settlement Administrator shall also re-mail returned checks to PAGA
21 Group Members who, before any unclaimed funds or uncashed checks are redistributed to a third
22 party, update their most current and accurate addresses by providing notification of new address
23 to the Settlement Administrator that is sufficient and satisfactory to the Settlement Administrator.

24 **4.4 Plan of Allocation: Calculation of Settlement Payments.** The Settlement
25 Administrator shall be responsible for the calculation of Settlement Payments to the PAGA Group
26 Members. The Settlement Payments will be paid on a pro rata basis as follows:

27 **4.4.1** Before computing the amounts of any Settlement Payments to be paid to
28 PAGA Group Members, the Settlement Administrator shall determine the amount of the PAGA

1 Group Members Payment by deducting from the Gross Settlement Amount the following: (a) the
2 LWDA Payment, (b) the Fee and Expense Award, (c) the General Release Payment, and (d) the
3 Settlement Administration Costs.

4 4.4.2 The Settlement Payment for each PAGA Group Member shall be the
5 PAGA Group Member's pro-rata share of the PAGA Group Members Payment, calculated as
6 follows: The Settlement Administrator shall calculate the total number of Pay Periods worked by
7 all PAGA Group Members in a Covered Position(s) during the PAGA Period. The Settlement
8 Administrator will then divide the PAGA Group Members Payment by the total number of Pay
9 Periods, resulting in a per Pay Period value for each PAGA Group Member. The Settlement
10 Administrator will then take the per Pay Period value and multiply it by the number of Pay
11 Periods worked by each PAGA Group Member in a Covered Position(s).

12 4.4.3 The Settlement Administrator shall determine the Settlement Payment that
13 each PAGA Group Member is entitled to receive, pursuant to the formula set forth in
14 Section 4.4.2, above. In order to determine the amount of the Settlement Payment to which each
15 PAGA Group Member is entitled, the Settlement Administrator shall use the information
16 provided by Defendant pursuant to Section 4.2, above.

17 4.5 **Taxes.**

18 4.5.1 **PAGA Group Member Obligations.** Each PAGA Group Member shall
19 be individually responsible for remitting and paying applicable federal, state, and local income
20 taxes, if any, on all amounts such person receives pursuant to this Agreement, and Defendant
21 shall have no liability therefor.

22 4.5.2 **Settlement Administrator Responsibilities Regarding Taxes.** It shall be
23 the responsibility of the Settlement Administrator or its designee to timely and properly prepare
24 and deliver the necessary tax documentation to all necessary parties and to report all necessary
25 information to the applicable government entities as required by law. All payments to the
26 LWDA, PAGA Group Members, Plaintiff, and Plaintiff's Counsel pursuant to this Agreement
27 shall be reported on IRS Form 1099-MISC, to the extent required by law.
28

1 4.5.3 **No Claims.** No person shall have any claim against Defendant, the
2 Released Parties, Defendant's Counsel, Plaintiff, Plaintiff's Counsel, or the Settlement
3 Administrator based on mailings, distributions, and payments made in accordance with or
4 pursuant to this Agreement.

5 4.6 **Distribution of Settlement Payments.** After the Effective Date, the Settlement
6 Payments shall be distributed to PAGA Group Members in accordance with the procedures set
7 forth below:

8 4.6.1 **Remittance of Settlement Fund Amount.** Within seven (7) business
9 days from the Effective Date, Defendant will remit the Settlement Fund Amount to the Settlement
10 Administrator for the establishment of the Settlement Fund.

11 4.6.2 **Delivery of Payments.** Within five (5) days after Defendant's remittance
12 to the Settlement Administrator of the Settlement Fund Amount, the Settlement Administrator
13 shall establish the Settlement Fund and distribute (a) the LWDA Payment, (b) the Settlement
14 Payments to PAGA Group Members, (c) the Fee and Expense Award, (d) the General Release
15 Payment, and (e) the Settlement Administration Costs. No payments shall be made until the
16 Judgment is final (meaning the right to appeal or otherwise seek review of the Judgment has
17 expired) and on the condition that no appeals from the Judgment have been filed.

18 4.6.3 **Negotiation of Settlement Checks.** Settlement checks tendered to PAGA
19 Group Members shall remain valid and negotiable for one hundred eighty (180) days following
20 the date of their issuance and shall thereafter be automatically voided if not cashed by the PAGA
21 Group Member within that time. Upon the voiding of a PAGA Group Member's check, the
22 PAGA Group Member's right to participate in the Settlement shall be extinguished, although the
23 individual shall remain a PAGA Group Member bound by the Judgment entered in the Action. In
24 the event any checks remain uncashed for any reason after this 180-day period, the Settlement
25 Administrator shall remit to the LWDA the proceeds of all such checks. Administration of the
26 Settlement shall be completed no later than two hundred and seventy (270) days after the
27 Effective Date.
28

1 **4.7 Discharge of Defendant's Obligations.** Defendant shall fully discharge its
2 obligations to Plaintiff, the LWDA, and the PAGA Group Members after providing the
3 information on the PAGA Group Members to the Settlement Administrator as set forth in
4 Section 4.2, above, and following the remittance of the Settlement Fund Amount to the
5 Settlement Administrator as set forth in Section 4.6.1, above, regardless of whether checks
6 representing individual Settlement Payments are actually received and/or negotiated by PAGA
7 Group Members. Once Defendant has complied with its obligations set forth in Sections 4.2
8 and 4.6.1, above, it will be deemed to have satisfied all terms and conditions to which it is subject
9 under this Agreement, shall be entitled to all protections afforded to it under the Agreement, and
10 shall have no further obligations under the Agreement, regardless of what occurs with respect to
11 the further administration of the Settlement.

12 **4.8 Notification and Certification by Settlement Administrator.** The Settlement
13 Administrator shall keep Defendant's Counsel and Plaintiff's Counsel apprised of the status of the
14 settlement administration process and its distribution of Settlement Payments. Upon completion
15 of administration of the Settlement, the Settlement Administrator shall provide a detailed, written
16 certification of such completion to the Parties, including the amounts paid to the LWDA, PAGA
17 Group Members (in the aggregate), Plaintiff's Counsel, Plaintiff, and the Settlement
18 Administrator.

19 **4.9 Nullification of Settlement Agreement If Settlement Not Approved.** In the
20 event the Court does not approve the Settlement as provided herein, this Agreement shall be null
21 and void *ab initio* (with the exception of this Section 4.9) and any decision or order by the Court
22 in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of the
23 Parties. In such case, the Parties shall be returned to their respective statuses as of May 23, 2022.

24 **5. RELEASE AND WAIVER OF CLAIMS**

25 **5.1 PAGA Release.** Effective upon the Effective Date and conditional on the
26 remittance of the Settlement Fund Amount as set forth in Section 4.6.1, above, the State of
27 California and all PAGA Group Members (including Plaintiff) shall be deemed to have, and by
28 operation of the Judgment shall have, expressly released, waived, and discharged the Released

1 Parties from the Released Claims, and they shall be bound by the Approval Order and Judgment
2 and be forever barred from pursuing any of the Released Claims against any of the Released
3 Parties.

4 **5.2 Plaintiff's General Release.** In addition to his release of the Released Parties
5 from the Released Claims as set forth in Section 5.1, above, effective upon the Effective Date and
6 remittance of the Settlement Fund Amount, Plaintiff hereby expressly releases and waives any
7 and all claims, demands, rights, liabilities, and causes of action he has or has ever had against any
8 of the Released Parties, whether for economic damages, noneconomic damages, exemplary
9 damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys' fees, costs, or
10 any other form of monetary or non-monetary relief in any way arising out of or relating to any
11 facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or
12 failures to act at any time up to and including the Approval Date, including but not limited to any
13 claims arising from or related to his employment. This general release by Plaintiff includes all
14 statutory claims, common law claims (including but not limited to those sounding in contract,
15 tort, and equity), and claims for compensation to the fullest extent permitted by law. Plaintiff
16 further agrees not to sue or otherwise make a claim against any of the Released Parties for any of
17 the claims that are released pursuant to this Section 5.2.

18 **5.3 Waiver of Civil Code Section 1542.** Plaintiff, for himself only, acknowledges
19 that his general release herein includes potential claims and costs that may not be known or
20 suspected by him to exist, and he hereby expressly and affirmatively waives and relinquishes any
21 and all rights and benefits that he may otherwise have relating to the claims released in
22 Section 5.2, above, pursuant to Civil Code section 1542 and any similar law of any state or
23 territory of the United States. Civil Code section 1542 states as follows:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
25 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
26 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
27 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
28 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
 OR RELEASED PARTY.

1 **6. ADDITIONAL PROVISIONS**

2 **6.1 No Admission of Liability.** Defendant contends that all of its employment
3 practices comply and at all times have complied with applicable law, including Industrial Welfare
4 Commission Wage Order 7-2001, section 14(A). Defendant denies any wrongdoing or liability
5 arising out of any of the facts or conduct alleged in the Action and contends that all of Plaintiff's
6 claims and allegations lack merit and Defendant has valid defenses to each of them. This
7 Agreement reflects the compromise and settlement of disputed claims between the Parties, and its
8 provisions and any and all drafts, communications, or discussions relating thereto do not
9 constitute, are not intended to constitute, and will not under any circumstances be deemed to
10 constitute an admission by Defendant as to the merits, validity, or accuracy of any of the
11 allegations or claims in the Action, nor a waiver of any defense.

12 **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have
13 been represented in negotiations for and in the preparation of this Agreement by independent
14 counsel of their own choosing, they have read this Agreement and have had it fully explained to
15 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal
16 effect.

17 **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without
18 duress or undue influence on the part of or on behalf of either Party, or of any other person, firm,
19 or entity. Each Party has made such investigation of the facts pertaining to this Agreement and of
20 all other matters pertaining hereto as he or it deems necessary.

21 **6.4 No Public Comment.** Unless they first obtain Defendant's express written
22 consent, Plaintiff's Counsel and Plaintiff shall not (a) discuss, reveal, disclose, publicize, or
23 promote the terms of this Settlement, or the negotiations leading to this Settlement, to any third
24 party (including but not limited to the media, the legal community, or the public at large), or
25 (b) issue any press releases or initiate any contact with the media regarding the Settlement, or
26 otherwise advertise or publicize the Settlement. Nothing in this Agreement is intended to prevent
27 Plaintiff's Counsel from disclosing or discussing the terms of this Settlement (i) with the Court,
28 the Settlement Administrator, or PAGA Group Members, (ii) in court filings to establish

adequacy of counsel or for purposes of seeking court approval of wage and hour settlements, or (iii) as otherwise required by law.

6.5 **Authorization.** The Parties hereto represent and warrant that each signatory hereto has the full right and authority to enter into this Agreement and bind the Party on whose behalf he or it has executed this Agreement.

6.6 **Agreement Binding on Successors in Interest.** This Agreement shall be binding on and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the Parties.

6.7 **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to accomplish the terms of this Agreement, including but not limited to execution and delivery of any and all additional papers, documents, and other assurances and taking such other action that may be reasonably necessary to implement the terms of this Agreement. The Parties and their counsel shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, to effectuate this Agreement and the terms set forth herein.

6.8 **Entire Agreement.** This Agreement contains the entire agreement between the Parties and constitutes the complete, final, and exclusive embodiment of their agreement with respect to the subject matter hereof. This Agreement is executed without reliance upon any promise, representation, or warranty by either Party or any representative of a Party, other than those expressly set forth herein.

6.9 **Headings.** The various headings used in this Agreement are solely for the convenience of the Parties and shall not be used to interpret this Agreement.

6.10 **No Construction Against Drafter.** This Agreement shall be deemed to have been drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this Agreement.

6.11 **Amendment and Modification.** This Agreement may not be amended, altered, or modified except in writing and signed by the Parties hereto, their successors in interest, or their duly authorized representatives, and approved by the Court.

1 6.12 **Governing Law.** This Agreement is entered into in accordance with the laws of
2 the State of California and shall be governed by and interpreted in accordance with those laws.

3 6.13 **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or
4 otherwise arising out of this Agreement, or relating to the Action or the Released Claims, shall be
5 subject to the exclusive jurisdiction of the Court. The Parties intend this Agreement to be
6 enforceable pursuant to Code of Civil Procedure section 664.6. Following the entry of the
7 Judgment but without affecting the finality thereof, the Court shall retain jurisdiction solely with
8 respect to the interpretation, implementation, and enforcement of the terms of this Agreement and
9 all orders and judgments entered in connection therewith, and the Parties and their counsel shall
10 submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing
11 the Settlement embodied in this Agreement and all orders and judgments entered in connection
12 therewith.

13 6.14 **Agreement Constitutes a Complete Defense.** To the extent permitted by law,
14 this Agreement may be pleaded as a full and complete defense to any action, suit, or other
15 proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this
16 Agreement.

17 6.15 **Signatures.** Any signature made and transmitted by facsimile or electronically
18 (such as DocuSign) or by a Portable Document Format (“PDF”) attachment to an email shall have
19 the same force and effect as original signatures.
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6.16 **Execution Date and Execution in Counterparts.** This Agreement shall be deemed executed upon the last date of signature of all of the undersigned. The Parties may execute this Agreement in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument having the same force and effect as if all Parties had signed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have so agreed.

Dated: July __, 2022

MARK CHEN

On behalf of himself, the State of California,
and all PAGA Group Members

Dated: July __, 2022

WALMART INC.

July 12, 2022 | 10:06 CDT

By: Karen Roberts

APPROVED AS TO FORM:

RIGHETTI GLUGOSKI, P.C.
JONES LAW FIRM, LLC

Dated: July __, 2022

By: Charles A. Jones

Attorneys for Plaintiff
MARK CHEN

APPROVED AS TO FORM:

MORRISON & FOERSTER LLP

Dated: July __, 2022

By: Tritia M. Murata

Attorneys for Defendant
WALMART INC.

6.16 Execution Date and Execution in Counterparts. This Agreement shall be deemed executed upon the last date of signature of all of the undersigned. The Parties may execute this Agreement in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument having the same force and effect as if all Parties had signed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have so agreed.

Dated: July __, 2022

MARK CHEN

On behalf of himself, the State of California,
and all PAGA Group Members

Dated: July __, 2022

WALMART INC.

By: _____

APPROVED AS TO FORM:

RIGHETTI GLUGOSKI, P.C.
JONES LAW FIRM, LLC

Dated: July , 2022

By: _____
Charles A. Jones

Attorneys for Plaintiff
MARK CHEN

APPROVED AS TO FORM:

MORRISON & FOERSTER LLP

Dated: July 14, 2022

By: Tritia M. Murata
Tritia M. Murata

Attorneys for Defendant
WALMART INC.

1 6.16 **Execution Date and Execution in Counterparts.** This Agreement shall be
2 deemed executed upon the last date of signature of all of the undersigned. The Parties may
3 execute this Agreement in counterparts, each of which shall constitute an original, but all of
4 which together shall constitute one and the same instrument having the same force and effect as if
5 all Parties had signed the same instrument.

6 IN WITNESS WHEREOF, the Parties hereto have so agreed.

7 Dated: July 11, 2022



On behalf of himself, the State of California,
and all PAGA Group Members

11 Dated: July __, 2022

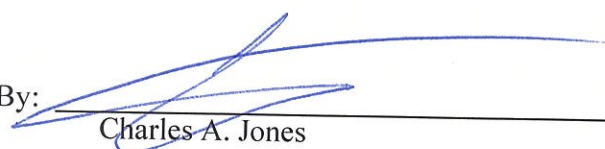
WALMART INC.

By: _____

15 APPROVED AS TO FORM:

RIGHETTI GLUGOSKI, P.C.
JONES LAW FIRM, LLC

16 Dated: July 13, 2022

By: 
Charles A. Jones

Attorneys for Plaintiff
MARK CHEN

21 APPROVED AS TO FORM:

MORRISON & FOERSTER LLP

22 Dated: July __, 2022

By: _____
Tritia M. Murata

Attorneys for Defendant
WALMART INC.

EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARK CHEN, on behalf of himself, the
STATE of CALIFORNIA, and all other
aggrieved employees, as defined herein,

Plaintiff,

v.

WALMART, INC.,

Defendant.

Case No. 20STCV43043

(Assigned for All Purposes to the
Honorable Timothy P. Dillon, Dept. 73)

**ORDER APPROVING SETTLEMENT
AND JUDGMENT THEREON**

Date Action Filed: November 10, 2020
Trial Date: September 12, 2022

The motion of plaintiff Mark Chen for an order approving the settlement of the above-captioned action and entering judgment thereon (“Motion”) having come before the Court, and the Court being duly apprised of the premises, good cause appearing,

IT IS HEREBY ORDERED that the Motion shall be and is granted and the settlement of this action is hereby approved, and

IT IS FURTHER ORDERED as follows:

1. Capitalized terms in this Approval Order shall have the same meaning they are given in the Settlement Agreement attached as Exhibit 1 to the Declaration of Charles A. Jones filed in support of the Motion;

EXHIBIT A

1 2. Phoenix Settlement Administrators is approved to serve as the Settlement
2 Administrator and is hereby authorized to perform all of the duties assigned to it in the Settlement
3 Agreement and to disburse the following from the Settlement Fund Amount in accordance with
4 the terms of the Settlement Agreement:

- 5 a. The LWDA Payment in the amount of \$_____;
- 6 b. The Settlement Payments to PAGA Group Members in the
7 aggregate amount of \$_____;
- 8 c. The Fee and Expense Award in the amount of \$_____;
- 9 d. The General Release Payment in the amount of \$_____;
- 10 and
- 11 e. The Settlement Administration Costs in the amount of
12 \$_____.

13 3. The State of California and all PAGA Group Members (including Plaintiff) are
14 hereby deemed to have, and by operation of this Approval Order and Judgment shall have,
15 expressly released, waived, and discharged the Released Parties from the Released Claims, and
16 they shall be bound by this Approval Order and Judgment and be forever barred from suing the
17 Released Parties on any of the Released Claims.

18 4. Judgment shall be entered forthwith in accordance with the foregoing, with each
19 side to pay his or its own attorneys' fees and costs except as expressly set forth in the Settlement
20 Agreement.

21 IT IS SO ORDERED, ADJUDGED AND DECREED.

22 Dated: _____, 2022

23 _____
24 Honorable Timothy P. Dillon
25 Judge of the Superior Court
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27
28

EXHIBIT A

EXHIBIT B

NOTICE OF SETTLEMENT

Enclosed is a check representing your share of the proceeds of the settlement of a lawsuit brought against Walmart Inc. by an associate, entitled *Mark Chen v. Walmart, Inc.*, Los Angeles County Superior Court Case No. 20STCV43043 (the “Action”). The Action alleged a claim under California’s Private Attorneys General Act, Cal. Lab. Code, § 2698, et seq., for alleged violations of California Labor Code section 1198 and Industrial Welfare Commission Wage Order 7-2001, section 14(A).

The action is now settled. Your payment was calculated based on the total number of pay periods you worked in a covered position during the period from August 26, 2019 to July 27, 2022 multiplied by the per pay period value derived from the settlement. The settlement has been approved by the Court and no further action is required on your part. You should cash or negotiate your check by [**180 DAYS AFTER ISSUANCE**], after which the check will be void and you will no longer be able to share in the settlement. You will be bound by the settlement regardless of whether you cash your check. If you have questions about the settlement, you may call the settlement administrator, Phoenix Class Action Administration Solutions at 800-523-5773.

Please do not contact the Court regarding this notice.