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8
9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF LOS ANGELES—CENTRAL DISTRICT

11 MONICA LUNA, ELOINA CARRILLO,
NOELLE FRANCISCO, ANNE RAINYS,
12 and SANDRA SCOUTEN, individually and
on behalf of all similarly situated current and
former employees,

13
14 Plaintiffs,

15 v.

16 ALBERTSONS COMPANIES, INC.; NEW
ALBERTSON'S INC.; THE VONS
17 COMPANIES, INC., and DOES 1 through
20, inclusive,

18 Defendants.
19

Case No. BC605621

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT; AND CLASS ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE KENNETH R. FREEMAN

Complaint Filed: December 31, 2015
Trial Date: None Set

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1 Subject to its terms and conditions and the approval of the Court, this Joint Stipulation
2 of Class Action Settlement and Class Action Settlement Agreement and Release (the "Settlement" or
3 "Agreement") is made and entered into by and between Plaintiffs MONICA LUNA, ELOINA
4 CARRILLO, NOELLE FRANCISCO, ANNE RAINYS, and SANDRA SCOUTEN, individually and
5 on behalf of the putative class ("Plaintiffs"), and Defendants ALBERTSONS COMPANIES, INC.;
6 NEW ALBERTSON'S INC.; THE VONS COMPANIES, INC. ("Defendants"). Plaintiffs and
7 Defendants are collectively referred to in this Settlement as the "Parties."

8 **I. DEFINITIONS**

9 1. In addition to terms defined elsewhere in the Settlement, as used in this
10 Settlement the following terms have the meanings indicated below:

11 a. "Action" means the class and representative action initiated on
12 December 31, 2015 in Los Angeles Superior Court styled as *Monica Luna, et al. v. Albertsons*
13 *Companies, Inc., et al.*, Case No. BC605621 (the "Action").

14 b. "Claims Administrator" means Simpluris Class Action Administration,
15 or an administrator mutually agreed to by the Parties that will perform the customary duties of a claims
16 administrator including but not limited to, the duties enumerated in this Agreement.

17 c. "Class" shall include all current and former hourly non-exempt
18 employees of Defendants Albertsons Companies, Inc., New Albertson's, Inc., and The Vons
19 Companies, Inc., who had been employed by Haggen, Inc., who were hired by Defendants into a
20 Southern California retail store between January 1, 2015 until January 11, 2018, and who received
21 payment of some or all of their minimum wages after the pay period associated with those wages
22 between January 1, 2015 until January 11, 2018 (the "Covered Period"), except for any employees
23 covered by the settlement in *Zeitz v. Safeway, Inc. and The Vons Companies*, Case No. 15CV03175,
24 Superior Court of the State of California, Santa Barbara County (the "Zeitz Settlement"). Because the
25 complaint in the Action was filed within one year of the start of the Covered Period, the composition
26 of the Class is congruent with the composition of the aggrieved employees for purposes of the Private
27 Attorneys General Act ("PAGA").
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1 d. "Class Counsel" shall refer to Joseph L. Paller, Jr. and Joshua F. Young
2 of Gilbert & Sackman, A Law Corporation, and Michael R. Feinberg, Henry M. Willis and Amy
3 Moolin Cu of Schwartz, Steinsapir, Dohrmann & Sommers LLP.

4 e. "Class Member" shall refer to an employee of Defendants who falls
5 within the definition of the Class.

6 f. "Class Notice" means the Notice which the Claims Administrator will
7 mail to each Class Member explaining the terms of the settlement contemplated by this Agreement, in
8 a format that is mutually acceptable to the parties. The form of the Class Notice to be used is attached
9 hereto as **Exhibit A**.

10 g. "Class Representatives" shall refer to Plaintiffs MONICA LUNA,
11 ELOINA CARRILLO, NOELLE FRANCISCO, ANNE RAINYS, and SANDRA SCOUTEN.

12 h. "Class Representative Payments" means the Court-approved service
13 payments to Plaintiffs MONICA LUNA, ELOINA CARRILLO, NOELLE FRANCISCO, ANNE
14 RAINYS, and SANDRA SCOUTEN for their services as Class Representatives and for their execution
15 of a general release of claims known and unknown as described herein.

16 i. "Counsel for Defendants" or "Defense Counsel" means R. Brian Dixon
17 and Laura E. Hayward of Littler Mendelson, A Professional Corporation.

18 j. "Covered Period" shall be from January 1, 2015 until January 11, 2018.

19 k. "Defendants" means Defendants Albertsons Companies, Inc., New
20 Albertson's, Inc. and The Vons Companies, Inc.

21 l. "Final Approval Hearing" means the hearing contemplated by the
22 Parties, at which the Court will approve, in final, the settlement and make such other final rulings as
23 are contemplated by this Settlement Agreement.

24 m. "Final Approval Order and Judgment" means the Court's order granting
25 final approval of the Settlement, which will constitute a "judgment" within the meaning of Code of
26 Civil Procedure section 577. The form of Final Approval Order and Judgment to be submitted is
27 attached hereto as **Exhibit C**.

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1 n. "Final Effective Date" shall be the first date after all of the following
2 events or conditions have been met or have occurred:

- 3 (1) the Court has, by entry of a Preliminary Approval Order:
- 4 (a) Approved the certification of the Class for settlement
5 purposes;
- 6 (b) Preliminarily approved the settlement set forth in this
7 Settlement Agreement, and the method of providing the Court-
8 approved Class Notice to the certified class;
- 9 (2) The Court has entered a Final Approval Order and Judgment;
- 10 (3) No valid rescission of the Settlement Agreement has occurred
11 pursuant to Paragraph 64, below;
- 12 (4) The time to appeal from the Final Approval Order has expired
13 and no notice of appeal has been filed; and
- 14 (5) In the event that an appeal is actually filed, the latest of the
15 following, if applicable, has occurred:
- 16 (a) Any appeal from the Final Approval Order has been
17 finally dismissed;
- 18 (b) The Final Approval Order has been affirmed on appeal
19 in a form substantially identical to the form of the Final
20 Approval Order entered by the Court;
- 21 (c) The time to petition for review with respect to any
22 appellate decision affirming the Final Approval Order has
23 expired; or
- 24 (d) If a petition for review of an appellate decision is filed,
25 the petition has been denied or dismissed, or, if granted, has
26 resulted in affirmance of the Final Approval Order in a form
27 substantially identical to the form of the Final Approval Order
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1 entered by the Court.

2 p. "Gross Individual Settlement Payment" means the gross amount of the
3 Net Settlement Distribution Amount each Class Member will be paid. The sum of these Gross
4 Individual Settlement Payments to individual Class Members shall constitute the "Class Settlement
5 Payment."

6 q. "Maximum Gross Settlement Amount" shall mean the maximum
7 amount that Defendants shall cause to be paid pursuant to this Settlement, which is Six Hundred
8 Ninety-Nine Thousand Dollars and No Cents (\$699,000.00). That sum is and shall be inclusive of the
9 following: (a) the Class Representative Payments to Plaintiffs MONICA LUNA, ELOINA
10 CARRILLO, NOELLE FRANCISCO, ANNE RAINYS, and SANDRA SCOUTEN in the amount of
11 up to Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) each for a total of Twelve
12 Thousand Five Hundred Dollars and Zero Cents (\$12,500.00); (b) Class Counsel's attorneys' fees in
13 an amount up to Two Hundred Thirty Two Thousand Nine Hundred and Seventy Six Dollars and
14 Seventy Cents (\$232,976.70), incurred or to be incurred in this Action, including any appeals; (c) costs
15 and expenses associated with the Action in an amount of up to Fifteen Thousand Dollars and Zero
16 Cents (\$15,000.00), incurred or to be incurred in this Action, including any appeals; (d) the fees and
17 expenses of the Claims Administrator estimated at Twenty Five Thousand Dollars and Zero Cents
18 (\$25,000.00) and subject to reduction or increase to correspond with the actual fees and expenses
19 incurred, as further described in Paragraph 27 below; (e) Fifteen Thousand Dollars (\$15,000.00) to
20 the State of California in recognition of the release of claims pursuant to the Private Attorney Generals
21 Act and (f) the remainder of approximately Three Hundred Ninety Eight Thousand Five Hundred
22 Twenty Three Dollars and Thirty Cents (\$398,523.30) which is the estimated Net Settlement
23 Distribution Amount to all Class Members.

24 r. "PAGA Payment" means the amount of Fifteen Thousand Dollars and
25 No Cents (\$15,000.00), 75% or \$11,250.00 of which shall be remitted to the California Labor and
26 Workforce Development Agency ("LWDA") for the resolution of all Class Members' claims under
27 the PAGA, California Labor Code Section 2698, *et. seq.* and 25% or \$3,750.00 of which will be
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distributed to Class Members in addition to the Net Settlement Distribution Amount.

s. "Participating Class Members" means those members of the Class who have not requested to be excluded from the class or opted out of the class.

t. "Preliminary Approval Order" means the order of the Court granting preliminary approval of this Settlement Agreement on the terms provided herein or as the same may be modified by subsequent mutual agreement of the Parties with, as appropriate, approval of the Court. The form of Preliminary Approval Order to be submitted is attached hereto as **Exhibit B**.

u. "Qualifying Late Payment" means an occasion on which a Class Member received some or all of his or her minimum wages after the pay period associated with those wages for work performed for Defendants during the Covered Period.

II. BACKGROUND AND REASONS FOR SETTLEMENT

2. On December 31, 2015, Plaintiffs MONICA LUNA, GLORIA CANTOR, ELOINA CARRILLO, SHYLA FERNANDES, NOELLE FRANCISCO, ANNE RAINYS, and SANDRA SCOUTEN filed a Complaint in the Superior Court of the State of California, County of Los Angeles, entitled *Monica Luna, et al. v. Albertsons Companies, Inc.*, Case No. BC605621, on behalf of themselves and other current and former hourly non-exempt employees who worked for Defendants in California who did not receive regular paychecks in the four years prior to the filing of the Complaint until the date of judgment. The Complaint alleged the following causes of action:

- Failure to Pay Earned Wages under Labor Code §§ 204, 206, 218.5, and 218.6;
- Failure to Pay Minimum Wage under Labor Code §§ 204, 1194, 1194.2;
- Failure to Pay Overtime Compensation under California Labor Code §§ 510, 1194;
- Failure to Provide Accurate Wage Statements under Labor Code § 226;
- Failure to Pay Wages in a Timely Manner upon Termination Under Labor Code § 203;
- Private Attorneys General Act penalties pursuant to Cal. Lab. Code § 2698 et seq.; and

- 1 • Unfair Business Practices in Violation of Cal. Bus. & Prof. Code §§ 17000, et
2 seq. and §§ 17200, et seq.

3 3. Defendants timely removed the action on February 16, 2016 but the Parties
4 later agreed to remand the case after refining and narrowing the class definition as follows: All
5 current and former hourly non-exempt employees of Defendants Albertsons Companies, Inc., New
6 Albertsons', Inc. and The Vons Companies, Inc. ("Defendants") who had been employed by
7 Haggen, Inc., who were hired by Defendants into a Southern California retail store between January
8 1, 2015 until the resolution of the matter, and who did not receive at least the minimum wage on one
9 or more of their regular paydays after January 1, 2015.

10 4. The case has been stayed since January 19, 2016 while a number of
11 overlapping prior-filed cases proceeded through mediation and settlement. These cases have all
12 been settled. The class definition has been further refined to account for the overlap with one of
13 these cases - *Zietz v. Safeway Inc. and The Vons Companies*, Case No. Case No. 15CV03175,
14 Superior Court of the State of California, Santa Barbara County.

15 5. On August 25, 2020, with the Court's approval, Plaintiffs filed their First
16 Amended Complaint to reflect the refined class definition and to remove the two Plaintiffs (Gloria
17 Cantor and Shyla Fernandes) who are no longer class members from the Action. Defendants have
18 not answered this First Amended Complaint as it was filed for the sole purpose of implementing this
19 Settlement.

20 6. Defendants deny all of the allegations in Plaintiffs' Complaint and First
21 Amended Complaint and maintain that the Court should not certify the class or representative
22 actions proposed by Plaintiffs, other than for the sole purpose of this Settlement.

23 7. This case concerns the alleged failure to timely pay wages to a group of
24 employees stemming from the unintended consequences of a payroll processing upgrade implemented
25 by Vons at the end of October 2015. As a result of the upgrade, a group of employees who had been
26 re-hired from a group of Haggen Stores into Vons Stores had issues with their employee ID numbers,
27 and were unable to clock into Vons' timekeeping system. The software issue caused a delay in their
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1 wage payments. Once it became apparent there were issues with the payroll upgrade, the Employee
2 Service Center (ESC), which is responsible for paying employees, immediately began work on
3 addressing the problem, collecting data regarding any underpayments and manually adding new hires
4 into the timekeeping system. According to Defendants, Employees at the ESC worked extraordinary
5 hours to obtain a solution to the pay processing issue. Many temporary employees were hired by the
6 ESC to assist with manually processing wage payments and in some cases preparing cash payouts to
7 employees who were unable to clock in. In the end, all of the wages earned by affected employees,
8 including overtime compensation, have been paid. As a result, this case is solely about liquidated
9 damages resulting from the late payment of the minimum wage for all hours worked and civil and
10 statutory penalties.

11 8. The parties agreed to attempt to resolve the matters through mediation and
12 agreed to engage in informal discovery leading up to that mediation. To facilitate mediation in this
13 case, Defendants retained an expert, ERS Group ("ERS"), a nationally-recognized consultant
14 providing economic, data and statistical analysis, to analyze the relevant Vons payroll records. ERS
15 completed a multi-month-long audit of the payroll records, ultimately identifying 3,091 instances in
16 which approximately 1605 employees re-hired from a group of Haggen Stores into Vons Stores
17 received some or all of their minimum wages after the pay period associated with those wages.
18 Notably, the data captured all late payments even those unrelated to the payroll system upgrade, which
19 may have been caused by employee error. ERS also calculated the potential liquidated damages for
20 failure to pay minimum wages associated with those late payments.

21 9. In an attempt to resolve the Action, counsel for Defendants and counsel for
22 Plaintiffs met in person for an informal mediation session on January 9, 2019 at Defendants' counsel's
23 Century City offices. While the parties were unable to reach a resolution on that date, the Parties
24 conferred regarding the existing data and Defendants provided further data in anticipation of a further
25 mediation session.

26 10. The parties engaged in mediation under the guidance of an experienced wage
27 and hour neutral Gig Kyriacou of Kyriacou Mediation on August 13, 2019 in Burbank, California (the
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1 "Mediation"). After a full day of mediation, the Parties agreed to and were able to sign a Memorandum
2 of Understanding.

3 11. Class Counsel represent that they have conducted a thorough investigation into
4 the facts of this case, and have diligently pursued an investigation of the Class Members' claims
5 against Defendant, including (1) interviewing Class Members and analyzing the results of Class
6 Member interviews; (2) reviewing relevant policy documents; (3) researching the applicable law and
7 the potential defenses; and (4) reviewing relevant data including time records and pay data. Based on
8 their own independent investigation and evaluation, Class Counsel are of the opinion that the
9 Settlement is fair, reasonable and adequate and is in the best interest of the Class in light of all known
10 facts and circumstances, including the risk of significant delay, defenses asserted by Defendant, and
11 potential appellate issues. Defendants agree that the Settlement is fair, reasonable and adequate.

12 12. It is the mutual desire of the Parties to fully, finally, and forever settle,
13 compromise, and discharge all disputes and claims raised in or related in any way to the Action. Thus,
14 the entry of the Final Approval Order in this Action shall dismiss with prejudice all class claims which
15 were or which could have been alleged in Plaintiffs' Complaint and/or First Amended Complaint. The
16 Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final
17 approval of this Settlement, to effectuate its terms, and to dismiss these claims with prejudice.

18 **III. NO ADMISSION**

19 13. Nothing contained in this Joint Stipulation and the Settlement contemplated in
20 the Joint Stipulation shall be construed or deemed an admission of liability, culpability, negligence, or
21 wrongdoing on the part of Defendants and Defendants deny liability therefor. While Defendants
22 believe that this Action meets the prerequisites for certification of a settlement class, the fact that
23 Defendants seek approval of this Settlement in the form of a class action shall not be construed as an
24 admission that the underlying action was properly brought as a class action or a representative action
25 under California Business and Professions Code section 17200 or California Labor Code 2699 for
26 purposes other than settlement. Each of the Parties has entered into this Settlement with the intention
27 to avoid further disputes and litigation with the attendant inconvenience and expenses. Settlement of
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1 the Action, the negotiation and execution of this Joint Stipulation, and all acts performed or documents
2 executed pursuant to or in furtherance of this Joint Stipulation or the Settlement: (1) are not, shall not
3 be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on
4 the part of Defendants, and each of them; (2) are not, shall not be deemed to be, and may not be used
5 as, an admission or evidence of any fault or omission on the part of Defendants in any civil, criminal,
6 administrative or arbitral proceeding in any court, administrative agency or other tribunal; and (3) are
7 not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness
8 of these or similar claims for class certification or administration other than for purposes of
9 administering this Joint Stipulation. This Joint Stipulation is a settlement document and shall be
10 inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or
11 enforce the terms of the Joint Stipulation.

12 **IV. CERTIFICATION OF A CODE OF CIVIL PROCEDURE SECTION 382 CLASS**

13 14. For Settlement purposes only, the Parties stipulate to conditional certification
14 of the Settlement Class ("Class"), an opt-out class under California Code of Civil Procedure 382, that
15 is defined as follows:

16 All current and former hourly non-exempt employees of Defendants
17 Albertsons Companies, Inc., New Albertson's, Inc., and The Vons
18 Companies, Inc., who had been employed by Haggen, Inc., who were
19 hired by Defendants into a Southern California retail store between
20 January 1, 2015 until January 11, 2018, and who received payment of
21 some or all of their minimum wages after the pay period associated with
22 those wages between January 1, 2015 until January 11, 2018 (the
23 "Covered Period"), except for any employees covered by the settlement
24 in *Zeitz v. Safeway, Inc. and The Vons Companies*, Case No.
25 15CV03175, Superior Court of the State of California, Santa Barbara
26 County (the "Zeitz Settlement").

22 15. The Parties stipulate that Plaintiffs MONICA LUNA, ELOINA CARRILLO,
23 NOELLE FRANCISCO, ANNE RAINYS, and SANDRA SCOUTEN shall be appointed as the Class
24 Representatives for the Settlement Class.

25 16. The Parties agree that the claims of Plaintiffs GLORIA CANTOR and SHYLA
26 FERNANDES shall be dismissed without prejudice as they are not Class Members.

1 17. The Parties stipulate that Joseph L. Paller, Jr. and Joshua F. Young of Gilbert
2 & Sackman, A Law Corporation, and Michael R. Feinberg, Henry M. Willis, and Amy Moolin Cu of
3 Schwartz, Steinsapir, Dohrmann & Sommers LLP shall be appointed Class Counsel for the Settlement
4 Class.

5 18. The stipulations to certify the Settlement Class are completely contingent upon
6 final approval of this Agreement by the Court and are made for settlement purposes only. If the
7 Settlement is not approved by the Court, is overturned on appeal, or does not become final for any
8 other reason, the Parties agree that the certification of the Settlement Class is void ab initio and that,
9 if necessary, they shall stipulate to decertification of the Settlement Class without prejudice to the
10 propriety of class certification being adjudicated on the merits.

11 **V. TERMS OF THE SETTLEMENT**

12 **A. Maximum Gross Settlement Amount**

13 19. The Maximum Gross Settlement Amount under this Settlement as defined
14 above is Six Hundred Ninety-Nine Thousand Dollars and Zero Cents (\$699,000.00). The Settlement
15 will be non-reversionary and will not require Class Members to submit claim forms. Class members
16 not requesting to be excluded will still be bound by the Settlement.

17 20. This Settlement does not establish a fund for the payment of claims except as
18 expressly provided for herein. The Maximum Gross Settlement Amount shall remain in the
19 possession, custody, and control of Defendants until the settlement amounts are distributed as set forth
20 herein. The Maximum Gross Settlement Amount shall not be segregated but shall remain in
21 Defendants' general funds until distributed or shall be provided to the Claims Administrator for
22 distribution sufficiently in advance for the Claims Administrator to meet its obligations under the
23 Settlement Agreement. In the event that this Settlement Agreement is canceled, rescinded, terminated,
24 voided, or nullified, however that may occur, or the settlement of the Action is barred by operation of
25 law, is invalidated, is not approved or otherwise is ordered not to be carried out by the Court or any
26 court of competent jurisdiction, Defendants will cease to have any obligation to pay or provide any
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1 portion of the Maximum Gross Settlement Amount to anyone under the terms of this Settlement
2 Agreement.

3 **B. Attorneys' Fees and Costs**

4 21. The Action alleges a potential claim for attorneys' fees and costs pursuant to,
5 inter alia, the California Labor Code. The Parties agree that any and all such claims for attorneys' fees
6 and costs have been settled in this Joint Stipulation subject only to approval by the Court.

7 22. Defendants understand that Class Counsel will apply to the Court for an award
8 of attorneys' fees and costs, which will be scheduled for determination at the final fairness and
9 approval hearing described below. Class Counsel will apply for, and Defendants will not oppose, an
10 award of attorneys' fees in an amount up to, but not to exceed, thirty-three and one-third (33.33)
11 percent of the Maximum Gross Settlement Amount (which is equal to Two Hundred Thirty Two
12 Thousand Nine Hundred and Seventy Six Dollars and Seventy Cents (\$232,976.70)), and litigation
13 costs and expenses in the maximum amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00),
14 all of which shall be paid exclusively from the Maximum Gross Settlement Amount, and will
15 compensate Class Counsel for all of the work already performed in the Action and all work remaining
16 to be performed in documenting the Settlement, securing Court approval of the Settlement,
17 administering the Settlement, ensuring that the Settlement is fairly administered and implemented,
18 obtaining dismissal of the Action with prejudice, and defending against any appeals, as well as all
19 associated expenses. The litigation costs and expenses shall be those costs and expenses incurred by
20 Plaintiffs as set forth on Class Counsel's billing statement, including but not limited to mediation fees,
21 expert and consultant fees, filing fees, attorney service charges, online research charges, travel
22 expenses, copying expenses, deposition expenses and delivery charges. Neither the Class
23 Representatives, Class Counsel, nor any other Class Member shall seek payment of attorneys' fees or
24 reimbursement of costs or expenses from Defendants except as expressly set forth in this Joint
25 Stipulation.

26 23. The substance of Class Counsel's application for attorneys' fees and costs is
27 not a material part of this Joint Stipulation, and is to be considered separately from the consideration
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1 of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action. However,
2 all claims for attorneys' fees and costs or expenses that the Settlement Class may possess against
3 Defendants have been compromised and resolved in this Joint Stipulation. Any proceedings related
4 to Class Counsel's application for attorneys' fees and costs shall not terminate or cancel this Joint
5 Stipulation. If Class Counsel appeals an adverse ruling of the Court regarding its fee and cost
6 application, the ruling of the appellate court (regardless of its substance) shall not constitute a material
7 alteration of a term of this Joint Stipulation. Class Counsel waives and releases any claim for fees and
8 costs in excess of that which are allowed by the Court or on appellate review of the Court's fees and
9 costs decision or otherwise. The amount, if any, by which the finally approved fees and costs are less
10 than the maximum amount which can be sought pursuant to this Agreement shall be a part of the wages
11 and non-wage income provided Class Members in equal proportions.

12 24. No later than fifteen (15) calendar days after the Court's approval of Class
13 Counsel's application for attorneys' fees and costs, Class Counsel shall deliver to the Claims
14 Administrator written instructions that describe the manner and mode of payment of such attorneys'
15 fees and costs (and, in the absence of such instructions, such attorneys' fees and costs shall be sent by
16 U.S. mail as set forth below), and fully-executed Form W-9s with respect to all persons or entities to
17 whom some or all of the attorneys' fees and costs shall be paid.

18 25. No later than fifteen (15) calendar days after the Final Effective Date,
19 Defendants shall mail or wire transfer the Maximum Gross Settlement Amount to the Claims
20 Administrator. Assuming the conditions in Paragraph 24 have been met, no later than seven (7)
21 calendar days after the receipt of the Maximum Gross Settlement Amount from Defendant, the Claims
22 Administrator shall issue a payment to Class Counsel for the amount of attorneys' fees and costs
23 approved by the Court and in accordance with the instructions provided by Class Counsel.

24 26. The Claims Administrator will issue to Class Counsel IRS Form 1099s for the
25 amounts paid for attorneys' fees and costs under this Settlement.
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1 **C. Payment to Claims Administrator**

2 27. The fees and expenses of the Claims Administrator are estimated at Twenty
3 Five Thousand Dollars (\$25,000.00). To the extent that the costs of administration exceed \$25,000.00,
4 the shortfall will be taken from the Net Settlement Distribution Amount and thereby reduce the amount
5 of wages and penalties payable to the Participating Class Members. To the extent the cost of
6 administration is less than \$25,000.00, the excess shall become part of the Net Settlement Distribution
7 Amount and shall increase the amount of wages and penalties payable to the Participating Class
8 Members.

9 28. On or before the date of the Final Approval Hearing, the Claims Administrator
10 shall deliver to counsel for Defendants a fully-executed Form W-9.

11 29. No later than fifteen (15) calendar days after the Final Effective Date,
12 Defendants shall mail or wire transfer the Maximum Gross Settlement Amount to the Claims
13 Administrator. At the time it receives the Maximum Gross Settlement, the Claims Administrator may
14 issue a payment to itself for the amount of fees approved by the Court.

15 30. Defendants will issue to the Claims Administrator an IRS Form 1099 for the
16 sum paid to it under this Settlement.

17 **D. Class Representative Payments to Class Representatives**

18 31. Defendants understand that Plaintiffs and Class Counsel will apply to the Court
19 for Class Representative Payments, which will be scheduled for determination at the final fairness and
20 approval hearing. Plaintiffs and Class Counsel will apply for Class Representative Payments in an
21 amount up to, but not to exceed, Two Thousand Five Hundred Dollars and No Cents (\$2,500.00) to
22 each of the Class Representatives, which shall be paid exclusively from the Maximum Gross
23 Settlement Amount, and will compensate Plaintiffs for their services as the Class Representatives.
24 Defendants will not oppose Plaintiffs' application for the Class Representative Payments up to the
25 stated amount. The amount, if any, by which the Class Representative Payments are less than the
26 maximum amount which can be sought pursuant to this Agreement shall be part of the Net Settlement
27 Distribution Amount.
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1 32. As condition precedent to the payment of the Class Representative Payments,
2 Plaintiffs release any and all claims against Defendants as set forth in the Class Representatives'
3 Release in Paragraph 73.

4 33. Any Class Representative Payment awarded by the Court shall be in addition
5 to the payment, if any, Plaintiffs may otherwise receive as a Participating Class Member and shall not
6 be subject to payroll tax withholding and deductions.

7 34. No later than seven (7) calendar days after the receipt of the Maximum Gross
8 Settlement Amount from Defendant, the Claims Administrator shall issue the Class Representative
9 Payments to Class Counsel on behalf of Plaintiffs in the amount approved by the Court, subject to all
10 authorized and required deductions.

11 35. The Claims Administrator will issue IRS Form 1099-MISC to Plaintiffs for the
12 amount of the Class Representative Payment.

13 **E. Distribution to Participating Class Members**

14 36. The Gross Individual Settlement Payment to Participating Class Members will
15 be calculated and paid as follows: the total Net Settlement Distribution Amount, estimated at Three
16 Hundred Ninety Eight Thousand Five Hundred Twenty Three Dollars and Thirty Cents (\$398,523.30)
17 in addition to the \$3,750.00 of the PAGA Payment, will be distributed based on the number of
18 qualifying late payments made to each Participating Class Member according to the following
19 formula:

20 The Administrator shall calculate the total number of credits for each Participating Class Member
21 during the Class Period as follows:

- 22 • Every Participating Class Member will receive one (1) credit for every late payment
23 received during the period from January 1, 2015 until January 11, 2018, excluding late
24 payments received during the time period from October 1, 2015 until March 31, 2016.
- 25 • Every Participating Class Member will receive two (2) credits for every late payment
26 received during the time period from October 1, 2015 until March 31, 2016.

27 The Administrator will then divide the Net Settlement Fund by the total number of credits worked by
28 Participating Class Members during the Class Period resulting in a value for each credit. The

1 Administrator will then take the credit value and multiply it by the number of credits awarded to each
2 Participating Class Member.

3 37. All Gross Individual Settlement Payments shall be allocated 100% to the
4 payment of non-wage income consisting of interest, penalties, liquidated damages, and related aspects
5 of the settlement. No wages are paid pursuant to this Agreement as all wages have been paid to all
6 Class Members. All applicable deductions or withholding required by law or expressly authorized by
7 the Class Member, including payments of any garnishments and liens will be withheld from the Gross
8 Individual Settlement Payment.

9 38. Class Members may dispute the number of qualifying late payments identified
10 in the Class Notice by way of proof that the Class Member received more qualifying late payments
11 during the Covered Period. Any dispute must be in writing and received by the Claims Administrator
12 no later than sixty (60) days after the initial mailing of the Class Notice. If there is a dispute related to
13 the number of qualifying late payments, the Claims Administrator will consult with Class Counsel and
14 Defendants' Counsel to determine whether an adjustment is warranted. Upon a dispute being made,
15 Defendants shall provide the Claims Administrator within seven (7) days the records that Defendants
16 used to compute the number of eligible qualifying late payments for the disputing Class Member, and
17 any other available evidence reasonably necessary to evaluate the dispute. The Claims Administrator
18 will make the final and binding decision as to the number of eligible qualifying late payments, which
19 shall not be appealable.

20 39. The Participating Class Members shall be paid their respective Gross Individual
21 Settlement Payments as provided in this Agreement pursuant to section IX below.

22 **F. PAGA Payment**

23 40. The Parties have agreed to allocate Fifteen Thousand Dollars and Zero Cents
24 (\$15,000.00) for the resolution of all Class Members' claims under the California Private Attorney
25 General Act, California Labor Code Section 2698, et. seq. 75% of the PAGA Payment will be remitted
26 to the California Labor and Workforce Development Agency, 25% of the PAGA Payment will be
27 added to the Net Settlement Distribution Amount.

1 41. This amount is subject to review and approval by the Court as part of the
2 settlement process pursuant to Labor Code section 2699(1)(2). This Settlement is contingent on the
3 Court approving the PAGA release and payment. Plaintiffs' counsel will submit a copy of the
4 Settlement to the LWDA at the same time the Settlement is submitted to the Court in accordance with
5 Labor Code section 2699 (1)(2).

6 42. Within ten (10) calendar days after the receipt of the Maximum Gross
7 Settlement Amount from Defendant, the Claims Administrator will remit the LWDA's share (75%) of
8 the PAGA Payment to the California Labor and Workforce Development Agency.

9 **VI. APPOINTMENT AND DUTIES OF CLAIMS ADMINISTRATOR**

10 43. The Claims Administrator shall perform the following duties in connection with
11 administration of the Settlement: (1) using the data provided by Defendants to prepare the Class Notice
12 for each Class Member, as described in section VII.A of this Settlement; (2) mailing the Class Notice
13 to Class Members; (3) tracking non-delivered Class Notices and taking reasonable steps to re-send
14 them to Class Members' current addresses; (4) sending out reminder postcards to Class Members; (5)
15 setting up a settlement website which contains copies of all papers and orders filed in connection with
16 preliminary and final approval, including the final Settlement Agreement, First Amended Complaint,
17 and Final Judgment; (6) tracking and timely reporting to Class Counsel and Counsel for Defendants
18 about the received requests for exclusion; (7) calculating and paying the amounts due to each
19 Participating Class Member pursuant to the Settlement; (8) resolving disputes (if any) by Class
20 Members regarding the number of qualifying late payments received or other matters, after timely
21 notice to and consultation with Class Counsel and counsel for Defendant; (9) transmitting funds as
22 required by applicable garnishments and liens; (10) contacting all Participating Class Members who
23 have not cashed their Settlement Checks to remind them to do so before the six-month deadline for
24 doing so expires; (11) transmitting funds to resolve the PAGA claim to the State of California as
25 designated; (12) issuing payments to Class Counsel and Class Representatives and associated tax
26 forms; and (13) escheating the proceeds of any uncashed checks to the California Controller's
27 Unclaimed Property Fund.

1 44. All disputes relating to the Claims Administrator's performance of its duties
2 will be referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement
3 until all payments and obligations contemplated by this Settlement have been fully carried out.

4 **VII. NOTICE TO THE CLASS OF THE SETTLEMENT**

5 **A. Mailing the Notice Packets to the Class Members**

6 45. Within fifteen (15) calendar days after the Court enters its Preliminary Approval
7 Order, Defendants will provide to the Claims Administrator a database that lists, for each Class
8 Member, the individual's name, Social Security Number, last known address and telephone number;
9 and number of qualifying late payments associated with each individual during the Covered Period.
10 This database will be drawn from Defendants' payroll and other business records and will be in a
11 format acceptable to the Claims Administrator and Defendants. Defendants will consult with the
12 Claims Administrator prior to the date for providing this information to ensure that the format will be
13 acceptable to the Claims Administrator. The data provided to the Claims Administrator and Class
14 Counsel will remain confidential and will not be disclosed to anyone, except as required to applicable
15 tax authorities, pursuant to Defendants' express written consent, or by order of the Court.

16 46. Within fifteen (15) calendar days after Defendants provide the Claims
17 Administrator the information stated pursuant to Paragraph 45, above, the Claims Administrator will
18 mail, by first-class mail, the Class Notice to all Class Members at their last known address, unless
19 modified by any updated address information that the Claims Administrator obtains in the course of
20 administration of the Settlement.

21 47. The Claims Administrator will use standard devices, including the National
22 Change of Address database or equivalent, to obtain forwarding addresses prior to mailing and will
23 use appropriate skip tracing to take appropriate steps to maximize the probability that the Notice
24 Materials will be received by all Class Members. Class Members to whom the Class Notice is resent
25 after having been returned undeliverable to the Claims Administrator shall have ten (10) calendar days
26 in addition to the sixty (60) calendar days after the date on which the Claims Administrator mails the
27 Class Notice to mail, fax or email to the Claims Administrator a challenge to the information pre-
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1 printed on their individualized Class Notice, a request for exclusion, or an objection. Class Notices
2 that are resent shall inform the recipient of this adjusted deadline. If a Class Member's Class Notice
3 is returned to the Claims Administrator more than once as non-deliverable, no additional Class Notice
4 shall be sent.

5 48. Within thirty (30) calendar days after the Claims Administrator mails out the
6 Class Notice, the Claim Administrator will mail out mutually acceptable reminder postcards to Class
7 Members reminding them of their right to exclude themselves from the settlement, object to the
8 settlement, or dispute the Defendants' employment records used to determine the Class Members'
9 Gross Individual Settlement Payment.

10 49. The Claims Administrator shall provide regular reports to Class Counsel and
11 Defendants' counsel as to the mailings of Class Notice, and the receipt of requests for exclusion and
12 objections prior to the close of the period in which claims can be made.

13 **B. Settlement Website**

14 50. The Claims Administrator will create a settlement website which contains
15 copies of all papers and orders filed in connection with preliminary and final approval, including the
16 final Settlement Agreement and First Amended Complaint. These documents will be posted not later
17 than the mailing of the Class Notice and will remain posted until the date of final approval. The Claim
18 Administrator will also post on its website Notice of Final Judgment.

19 **C. Challenges to Data Contained In Class Notice**

20 51. The Class Notice mailed to the Class Members will include the Class Member's
21 estimated Gross Individual Settlement Payment and the number of qualifying late payments during
22 the Covered Period.

23 52. Class Members will have the opportunity to challenge the information pre-
24 printed on their individualized Class Notice, including the dates of employment during the Covered
25 Period, by submitting a written challenge in connection with the Class Notice within the time period
26 provided. All challenges must be received no later than sixty (60) calendar days after the initial date
27 of mailing of the Class Notice.

1 53. Timely challenges will be resolved without hearing by the Claims
2 Administrator after consultation with Class Counsel and Counsel for Defendants. Defendants' records
3 will be presumed correct, but the Claims Administrator will evaluate the evidence submitted by the
4 Class Member and will make a final determination based on its evaluation of all the evidence
5 presented. All determinations will be made no later than fifteen (15) calendar days within receipt of
6 the challenge.

7 **E. Objections to Settlement**

8 54. The Class Members will have sixty (60) calendar days after the date on which
9 the Claims Administrator mails the Class Notice to object to the Settlement by serving on the Claims
10 Administrator, by the sixty (60)-day deadline, a written objection to the Settlement. Only Participating
11 Class Members may object to the Settlement.

12 55. Any Class Member who has elected not to participate in the Settlement
13 (pursuant to the procedure set forth in Paragraph 58, below) may not submit an objection to the
14 Settlement.

15 56. A Class Member who does not serve a written objection in the manner and by
16 the deadline specified may still appear and orally object at the Final Approval Hearing.

17 57. The Claims Administrator shall provide the Parties a copy of any objections
18 received within one (1) day of receipt. Counsel for the Parties shall file any objections and any
19 response thereto at least seven (7) calendar days before the Final Approval Hearing.

20 **F. Election Not to Participate in the Class Settlement**

21 58. In order for a Class Member to validly and effectively request exclusion from,
22 and opt out of, this Settlement, the Class Member must submit to the Claims Administrator a request
23 for exclusion from the Settlement according to the procedures set forth in the Class Notice. Substantial
24 compliance with the requirements set forth in the Class Notice will in most cases be sufficient. To the
25 extent additional information is required the Claims Administrator will communicate with the Class
26 Member. In order to be valid, the request for exclusion must be postmarked for delivery to the Claims
27 Administrator no later than sixty (60) calendar days after the date of mailing of the Class Notice. No
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1 request for exclusion will be accepted if postmarked for delivery to the Claims Administrator after the
2 deadline indicated.

3 59. Any Class Member who does not properly and timely submit a request for
4 exclusion will automatically be bound by all terms and conditions of the Settlement, including its
5 release of claims, if the Settlement is approved by the Court, and be bound by the Final Approval
6 Order, regardless of whether he or she has objected to the Settlement.

7 60. A Class Member who properly and timely submits a request for exclusion will
8 not be bound by the Settlement, and will remain free to contest any claim brought by Plaintiffs that
9 would have been barred by the Settlement, and nothing in this Settlement will constitute or be
10 construed as a waiver of any defense Defendants have or could assert against such a claim.

11 61. Plaintiffs may not opt-out of the Settlement Class.

12 **G. Reports and Declaration by Claims Administrator**

13 62. By not later than twenty five (25) calendar days after expiration of the 60-day
14 deadline for submission of written requests not to participate in the Class Settlement, the Claims
15 Administrator will submit to Class Counsel and Counsel for Defendants a report setting forth the
16 people (identified by name and the last four digits of their Social Security Number) who as of that date
17 have submitted (a) valid requests for exclusion, and (b) invalid requests to be excluded from the
18 Settlement (the "Opt-Out Report"). In the event that the Claims Administrator subsequently receives
19 a request not to participate in the Settlement, it will promptly distribute an updated Opt-Out Report.

20 63. By not later than the date when Plaintiffs file their motion for final approval of
21 the Settlement, the Claims Administrator will prepare and submit for filing in support of the motion a
22 declaration attesting to its mailing of the Class Notice, its receipt of requests for exclusion and
23 objections, and its inability to deliver the Class Notice to potential Class Members due to invalid
24 addresses. As applicable, the Claims Administrator will prepare and submit for filing in support of
25 the motion for final approval, any supplemental declaration.

26 **VIII. RIGHT TO RESCIND**

27 64. In the event that five percent (5%) or more of the Class Members submit valid
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1 requests not to participate in the Settlement, Defendants will have the exclusive right in its sole
2 discretion to rescind the Settlement, and all actions taken in its furtherance will be null and void.
3 Defendants must exercise this right within fifteen (15) days after the date on which the Claims
4 Administrator first informs Defendants that at least five percent (5%) of the potential Class Members
5 have made valid requests to be excluded from the Settlement.

6 **IX. DISTRIBUTION OF THE SETTLEMENT PAYMENTS**

7 65. Defendants or Class Counsel shall serve the Claims Administrator with notice
8 of the Final Effective Date as soon as possible. No later than fifteen (15) calendar days after the Final
9 Effective Date, the Claims Administrator will provide counsel for Defendants and Class Counsel with
10 a list of those members of the Class who did not submit timely requests for exclusion and the Gross
11 Individual Settlement Payment for each Participating Class Member on that list. The sum of the Gross
12 Individual Settlement Payments due to the individuals on that list shall constitute the "Class Settlement
13 Payment."

14 66. Defendants will cause the Maximum Gross Settlement Amount to be wired to
15 the Claims Administrator no later than fifteen (15) calendar days after the Final Effective Date. Within
16 the same fifteen (15) calendar days, Defendants also will provide the Claims Administrator a list
17 identifying all Participating Class Members who have garnishments and liens, the amounts of each
18 individual's garnishments and liens, and the name and address of the person or entity that is entitled
19 to receive payment of such garnishments and liens.

20 67. Within fifteen (15) calendar days after the receipt of the Maximum Gross
21 Settlement Amount from Defendant, the Claims Administrator will distribute to every Participating
22 Class Member his or her Gross Individual Settlement Payment. The Claims Administrator shall make
23 appropriate tax reporting and withholdings in accordance with this Agreement and applicable law and
24 regulations.

25 68. The Claims Administrator will timely remit the employer's and employee's
26 portion of the payroll and other taxes associated with the settlement payments to the proper authorities,
27 as required by law. In addition, the Claims Administrator will timely issue IRS Form 1099-MISC to
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1 each Participating Class Member that reflects the settlement payment to the extent required by law.

2 69. By not later than ninety (90) days after the checks are mailed to the Participating
3 Class Member the Claims Administrator will contact each Participating Class Member who has not
4 cashed his or her settlement check and remind him or her to do so before the six-month deadline. The
5 Claims Administrator will inform those individuals that if they fail to cash their settlement checks by
6 the six-month deadline, the check will be sent to the California Controller's Unclaimed Property Fund.

7 70. If any Participating Class Member does not cash his or her settlement check(s)
8 within six (6) months after issuance, fifteen (15) calendar days after the check-cashing deadline the
9 Claims Administrator shall escheat the funds to the California Controller's Unclaimed Property Fund.
10 The Parties agree that this obligation shall satisfy and fully discharge Defendants' obligations under
11 California Code of Civil Procedure Section 384 and the doctrines of *Cy Pres* and *escheat*.

12 **X. RELEASE OF CLAIMS**

13 **A. Released Claims by Class Members Who Do Not Opt Out**

14 71. As of the date the settlement is funded as provided in Paragraphs 24 and 66 and
15 except as to such rights or claims as may be created by this Settlement, to the maximum extent allowed
16 by law, each Class Member who has not timely and effectively opted out will be deemed to have
17 released claims as both a matter of contract and judicial procedure as follows, which release shall be
18 incorporated into the Class Notice:

19 The settlement shall resolve and the class shall release all claims during the Covered
20 Period for wages, statutory and civil penalties, damages and liquidated damages,
21 interest, fees and costs, action or causes of action and all other forms of legal or
22 equitable relief based on federal, state or local law, that are now recognized by law or
23 that may be created or recognized in the future by statute, regulation, judicial decision,
24 or in any other manner, that were alleged or could have been alleged, whether such
25 claims or forms of relief are known or unknown, based upon the factual allegations in
26 the Action, including but not limited to all claims asserted in the First Amended
27 Complaint, which are: (1) failure to timely pay all earned wages and compensation in
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1 violation of Labor Code sections 204, 206, 218.5 and 218.6; (2) failure to pay minimum
2 wage; (3) failure to pay all earned overtime wages; (4) failure to provide lawful wage
3 statements in violation of Labor Code section 226; (5) failure to pay all earned wages
4 and compensation upon termination in violation of Labor Code sections 201, 202 and
5 203; (6) unfair business practices in violation of California Business and Professions
6 Code section 17200 and (7) any source of obligation for the applicable statutory
7 penalties and the applicable civil penalties recoverable under PAGA, pursuant to Labor
8 Code sections 2699(a) and 2699(f), for violation of Labor Code sections 201, 202, 203,
9 204, 206, 218.5, 218.6, 226, 510, 1194 and 1194.2 ("Released Claims") against
10 Albertsons Companies, Inc., New Albertsons Inc., The Vons Companies, et al.,
11 ("Defendants") and each and all of its past and present parent, subsidiary, and affiliated
12 corporations, entities, divisions, general and limited partners, joint venturers and
13 affiliates, and each of their respective current and former directors, officers, managers,
14 employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys,
15 advisors, representatives, general partners, limited partners, joint venturers, and
16 affiliated companies, and each of their respective executors, predecessors, successors,
17 assigns and legal representatives (collectively, "Released Parties"). Class Members
18 who timely and effectively exclude themselves from the Class Settlement shall
19 nevertheless be bound by the release of PAGA claims and shall receive a pro rata
20 portion of 25% of the PAGA Payment.

21 72. The Gross Individual Settlement Payment to Participating Class Members will
22 not result in any additional benefit payments beyond those provided by this Agreement to Plaintiffs
23 and Participating Class Members. Participating Class Members will be deemed to have waived all
24 such claims for benefits premised upon the Gross Individual Settlement Payments to them, whether
25 known or unknown by them, as part of their Released Claims under this Agreement.

1 **B. Released Claims by the Class Representatives**

2 73. As of the date the Final Approval Order is entered by the Court and except as
3 to such rights or claims as may be created by this Settlement, to the maximum extent allowed by law,
4 the Class Representatives will be deemed to have released claims as follows:

5 The Class Representatives hereby fully and finally release and discharge the Released Parties (defined
6 in Paragraph 71, above) from any and all of the Released Claims (defined in Paragraph 71, above) and
7 from any and all claims, charges, complaints, liens, demands, causes of action, obligations, damages
8 and liabilities, known or unknown, suspected or unsuspected, that the Class Representatives had, now
9 has, or may hereafter claim to have against the Released Parties arising out of, or relating in any way
10 to, the Class Representatives' hiring by, employment with, separation of employment with, or
11 otherwise relating to the Released Parties ("Class Representatives' Released Claims"), arising or
12 accruing from the beginning of time up through the date of their respective executions of this
13 Stipulation. The Class Representatives' Released Claims include, but are not limited to, claims arising
14 from or dependent on the California Labor Code, the Wage Orders of the California Industrial Welfare
15 Commission, California Business and Professions Code Section 17200, *et seq.*, California Labor Code
16 Private Attorneys General Act of 2004, Labor Code § 2699, *et seq.*, the California Fair Employment
17 and Housing Act, Cal. Gov't Code Section 12900 *et seq.*, the California common law of contract and
18 tort, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, 42 U.S.C. Section
19 12101 *et seq.*, the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001 *et seq.*,
20 the Fair Labor Standards Act, 29 U.S.C. Section 201 *et seq.* and the Portal to Portal Act, 29 U.S.C.
21 Section 251, *et seq.* except for such claims that cannot be released by law; provided, however, that the
22 foregoing releases do not extend to any claims or grievances by Class Representatives currently
23 employed by Defendants solely on behalf of themselves arising out of the terms of the Collective
24 Bargaining Agreement between Defendants and the Southern California United Food and Commercial
25 Workers Local Unions governing the Class Representatives' employment by Defendants for the period
26 May 30, 2019 through the date of such Class Representatives' respective executions of this Stipulation
27 (the "Preserved Claims or Grievances") and provided further that such Preserved Claims or Grievances
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1 do not include the claims set forth in the operative Complaint in this matter and that the currently
2 employed Class Representatives acknowledge that, as of the date of their respective executions of this
3 Stipulation, they have no knowledge of any violation or breach of the referenced Collective Bargaining
4 Agreement with respect to themselves or any other individual.

5 Unknown Claims includes any claims about which the Class Representatives are aware
6 of and which, if they later learn of, they will not be able to obtain any remedy. In this regard, the Class
7 Representatives waive California Civil Code Section 1542, which provides:

8 A general release does not extend to claims that the creditor or
9 releasing party does not know or suspect to exist in his or her favor at
10 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.

11 **XI. DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

12 74. The Parties shall submit this Joint Stipulation to the Court in support of
13 Plaintiffs' Motion for Preliminary Approval and determination by the Court as to its fairness,
14 adequacy, and reasonableness. As soon as reasonably possible upon execution of this Joint
15 Stipulation, the Parties shall apply to the Court for the entry of an Order Granting Preliminary
16 Approval of the Settlement and Notice which shall provide for, among other things, the following:

17 a. Scheduling a final fairness and approval hearing on the question of
18 whether the proposed Settlement should be finally approved as fair, reasonable and adequate as to the
19 Settlement Class.

20 b. Approving as to form and content the proposed Class Notice described
21 herein;

22 c. Directing the mailing of the Class Notice by first class mail to the Class
23 Members;

24 d. Preliminarily approving the Settlement;

25 e. Preliminary certifying the Class for settlement purposes only; and

26 f. Approving Joseph L. Paller, Jr. and Joshua F. Young of Gilbert &
27 Sackman, A Law Corporation, and Michael R. Feinberg, Henry M. Willis and Amy Moolin Cu of
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1 Schwartz, Steinsapir, Dohrmann & Sommers LLP as Class Counsel, Plaintiffs Monica Luna, Eloina
2 Carrillo, Noelle Francisco, Anne Rainys, and Sandra Scouten as Class Representatives, and Simpluris,
3 or an administrator mutually agreed to by the Parties, as Claims Administrator.

4 75. After the Preliminary Approval Order is entered by the Court, and prior to the
5 deadline for objections, Plaintiffs shall file the motion for an award of attorneys' fees and costs to be
6 heard on the same hearing date as set by the Court for the final fairness and approval hearing.

7 **XII. DUTIES OF THE PARTIES REGARDING FINAL COURT APPROVAL**

8 76. In connection with the final approval by the Court of the Settlement, the Parties
9 will submit a proposed Order Granting Final Approval of the Class Action Settlement and Final
10 Judgment in the form attached as **Exhibit C**, respectively, which shall provide, among other things,
11 as follows:

- 12 a. Approving the Settlement, adjudging the terms thereof to be fair,
13 reasonable and adequate, and directing consummation of its terms and provisions;
- 14 b. Approving Class Counsel's application for an award of attorneys' fees
15 and reimbursement of costs;
- 16 c. Approving the Class Representatives' service payments;
- 17 d. Certifying the Settlement Class for purposes of this Settlement only; and
- 18 e. Entering Judgment pursuant to California Rules of Court, rule 3.769(h)
19 which retains jurisdiction and permanently bars the Class Members who do not timely and validly
20 exclude themselves from the Settlement from prosecuting any and all Released Claims against the
21 Released Parties, and permanently bars the Class Representatives from prosecuting any and all Class
22 Representatives' Released Claims against the Released Parties. Notice of the Final Judgment shall be
23 given by Plaintiffs to Defendants as set forth in the Class Notice, which notice shall satisfy the
24 requirements of California Rules of Court, rule 3.771.

25 **XIII. EFFECT OF NON-APPROVAL**

26 77. If this Agreement is not preliminarily or finally approved by the Court and/or if
27 a Final Approval Order is not entered or if Defendants exercise the option to rescind pursuant to
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Paragraph 64, above (*e.g.*, because the Court does not approve the settlement, or the opt-outs from the Class exceed five percent (5%) and Defendants revoke the Agreement), this Agreement shall be null and void. In such event, (1) nothing in this Agreement shall be construed as a determination, admission, or concession of any issue in the Action, and nothing in this Joint Stipulation may be offered into evidence in any trial on the merits of the claims asserted in the Complaint and/or First Amended Complaint filed in the Action or in any subsequent pleading; (2) the Parties expressly reserve their rights with respect to the prosecution and defense of the Action as if this Agreement never existed; and (3) Defendants shall be responsible for any costs for Notice or claims administration incurred by the Claims Administrator through that date. If there is any reduction in the attorneys' fees or costs awards or the Class Representative Payments, such reduction may be appealed but is not a basis for rendering this Agreement void, voidable and/or unenforceable.

XIV. CONFIDENTIALITY PRECEDING MOTION FOR PRELIMINARY APPROVAL

78. Except for disclosures authorized by Defendants or necessary to prepare the motion for preliminary approval, the terms of this Settlement shall remain confidential until they are presented to the superior court in connection with the motion for preliminary approval.

XV. MUTUAL FULL COOPERATION

79. The Parties will fully cooperate with each other and use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary or ordered by the Court, or otherwise, to accomplish the terms of this Settlement in accordance with the terms of the parties' memorandum of understanding, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to obtain preliminary and final approval of this Settlement and to implement its terms.

XVI. NO PRIOR ASSIGNMENTS

80. The Parties 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 claims, causes of action, demands, rights and liabilities of every nature and description released under this Settlement.

1 **XVII. NOTICES**

2 81. Unless otherwise specifically provided by this Settlement, all notices, demands
3 or other communications given under this Settlement will be in writing and be deemed to have been
4 duly given as of the third business day after mailing by United States registered or certified mail,
5 return-receipt requested, addressed as follows:

6 **To Plaintiffs and the Settlement Class:**

7 JOSEPH L. PALLER JR.
8 JOSHUA F. YOUNG
9 GILBERT & SACKMAN
10 A LAW CORPORATION
3699 Wilshire Boulevard, Suite 1200
Los Angeles, CA 90010-2732
Telephone: 323.938.3000

11 MICHAEL R. FEINBERG
12 HENRY M. WILLIS
13 AMY MOOLIN CU
14 SCHWARTZ, STEINSAPIR, DOHRMANN & SOMMERS LLP
6300 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90048-5268
15 Telephone: 323-655-4700

16 **To Defendants:**

17 R. BRIAN DIXON
18 LAURA E. HAYWARD
19 LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104
Telephone: (415) 433-1940

20 **XVIII. CONSTRUCTION**

21 82. This Settlement is the result of lengthy, arms-length negotiations between the
22 Parties. This Settlement will not be construed in favor of or against any Party by reason of the extent
23 to which any Party or his or its counsel participated in the drafting of this Settlement.

24 **XIX. CAPTIONS AND INTERPRETATIONS**

25 83. Paragraph and section titles, headings, or captions contained in this Settlement
26 are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
27 describe the scope of this Settlement or any of its provisions. Each term of this Settlement is
28 contractual and not merely a recital, except for those set forth in Section I, above.

1 **XX. MODIFICATION**

2 84. This Settlement may not be changed, altered, or modified, except in writing and
3 signed by the Parties and approved by the Court. This Settlement may not be discharged except by
4 performance in accordance with its terms or by a writing signed by the Parties.

5 **XXI. APPLICABLE LAW**

6 85. All terms and conditions of this Agreement will be governed by and interpreted
7 according to the laws of the State of California, without giving effect to any conflict of law or choice
8 of law principles.

9 **XXII. INTEGRATION CLAUSE**

10 86. This Settlement and all the attached Exhibits which by this reference are
11 incorporated into this Settlement constitutes the entire agreement between the Parties relating to the
12 Settlement and transactions contemplated by the Settlement. All prior or contemporaneous
13 agreements, understandings, representations, and statements, whether oral or written and whether by
14 a Party or a Party's counsel, are merged into this Settlement. No rights under this Settlement may be
15 waived except in writing.

16 **XXIII. BINDING ON ASSIGNS**

17 87. This Settlement will be binding upon and will inure to the benefit of the Parties
18 and their respective heirs, trustees, executors, administrators, successors and assigns.

19 **XXIV. CLASS MEMBER SIGNATORIES**

20 88. It is agreed that because the members of the Class are so numerous, it is
21 impossible or impractical to have each Class Member who does not timely and validly opt-out execute
22 this Settlement. The Class Notice will inform all Class Members of the binding nature of the release
23 contained herein will have the same force and effect as if this Settlement were executed by each Class
24 Member who does not timely and validly opt-out.

25 **XXV. COUNTERPARTS**

26 89. This Settlement may be executed in counterparts, and when each Party has
27 signed and delivered at least one such counterpart, each counterpart will be deemed an original, and,
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1 when taken together with other signed counterparts, will constitute one Settlement, which will be
2 binding upon and effective as to all Parties.

3 90. This Settlement may be signed by facsimile signature or digital signature, each
4 of which will have the same force and effect as an original signature.

5 **XXVI. PARTIES' AUTHORITY TO SIGN**

6 91. The signatories to this Settlement hereby represent that they are fully authorized
7 to enter into this Settlement on behalf of themselves or their respective principals.

8 **EXECUTION BY PARTIES AND COUNSEL**

9 The Parties and their counsel hereby execute this document to evidence their
10 acceptance of and agreement to the Settlement.

11 Dated: _____, 2021
12

13 _____
14 MONICA LUNA
15 Plaintiff

16 Dated: _____, 2021
17

18 _____
19 ELOINA CARRILLO
20 Plaintiff

21 Dated: _____, 2021
22

23 _____
24 NOELLE FRANCISCO
25 Plaintiff

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Dated: _____, 2021

ANNE RAINYS
Plaintiff

Dated: _____, 2021

SANDRA SCOUTEN
Plaintiff

Dated: _____, 2021

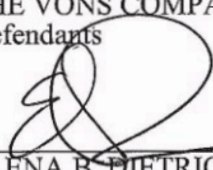
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Dated: Dec. 21, 2021, 2021

ALBERTSONS COMPANIES, INC.,
NEW ALBERTSONS LP, successor to
NEW ALBERTSONS INC. and
THE VONS COMPANIES, INC.,
Defendants


ELENA B. DIETRICH
S.V.P and Chief Counsel
Field Operations and Employment,
Albertsons Companies, Inc.

Dated: December 21, 2021


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