

1 **SEYFARTH SHAW LLP**
Jon D. Meer (SBN 144389)
2 jmeer@seyfarth.com
Caitlyn M. Crisp (SBN 294136)
3 ccrisp@seyfarth.com
Justin J. Jackson (SBN 333687)
4 jujackson@seyfarth.com
2029 Century Park East, Suite 3500
5 Los Angeles, California 90067-3021
Telephone: (310) 277-7200
6 Facsimile: (310) 201-5219

7 Attorneys for Defendant RALEY'S

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF NEVADA
11

12 DONALD E. DELAHUNT, on behalf of himself
13 and others similarly situated, and the general public,

14 Plaintiff,

15 v.

16 RALEY'S, a California corporation; and DOES 1-
50, inclusive,

17 Defendants.
18
19

CLASS ACTION

Case No. CU21-085853

Hon. Thomas M. Anderson, Dept. 6

**DECLARATION OF KELLY JOHNSON
ON BEHALF OF RALEY'S IN SUPPORT
OF JOINT MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT**

20 I, Kelly Johnson, declare and state as follows:

21 1. I am the Manager of Payroll for Defendant Raley's ("Defendant"). I am over 18 years of
22 age and authorized to make this declaration on behalf of Defendant and myself, and make this
23 declaration based upon my own personal knowledge.

24 2. Defendant previously calculated vacation pay based on the negotiated terms of various
25 collective bargaining agreements that covered the several groups of hourly employees.

26 3. Under the union contracts, vacation wages were calculated based on a formula tied to a
27 percentage of an employee's prior year's earnings.
28

1 4. Under this formula, the vast majority of employees were overpaid vacation wages, as
2 compared to other methods for vacation pay.

3 5. Defendant used its formula for both union and non-union employees, in order to avoid a
4 perception that the non-union employees were not treated as well as the union employees.

5 6. During the class period, there were 6,752 employees in California who were subject to
6 the vacation formula.

7 7. Of these 6,752 employees, 4,819 employees were overpaid vacation wages, 69
8 employees were paid the correct amount, 1,864 employees were underpaid.

9 8. For the employees who were underpaid (those employees who make up the Class
10 Members and Aggrieved Employees), 1,303 employees (~70%) were underpaid by less than \$100 and
11 492 employees (26%) were underpaid by less than a dollar.

12 9. While the union formula for calculation of vacation pay was in use, Defendant's payroll
13 department did not receive any complaints or grievances about underpayment of vacation wages.

14 10. However, through its own internal auditing procedures, Defendant discovered that its
15 vacation wage payment formula resulted in an underpayment for a minority of employees.

16 11. As a result, Defendant stopped using the union formula for non-union employees as of
17 June 30, 2021 and replaced it with a policy to pay out vacation wages at the employee's current rate of
18 pay at the time vacation days are taken or when the employee's employment is terminated.

19 12. At this time, Defendant began the process of recalculating any underpaid vacation wages
20 owed to employees.

21 13. On July 23, 2021, Defendant issued a check to Plaintiff to account for the underpayment
22 of vacation wages in the amount of in the amount of \$29.52. A copy of this check is attached hereto as
23 **Exhibit 1.**

24 14. On July 26, 2021, Defendant issued a check to Plaintiff to account for waiting time
25 penalties in the amount of \$4,002.52. A copy of this check is attached hereto as **Exhibit 2.**

26 15. In addition, Defendant began a process of identifying the remainder of the minority of
27 employees who were underpaid vacation wages and the amount of wages owed to them with the intent
28 of providing the remaining employees with a check for the underpayment.

1 16. Raley's provided data from its payroll records to its Counsel regarding vacation wage
2 payments made to its non-union team members. With this data, Counsel for Raley's made the following
3 calculations:

4 **The Number Of Employees Subject To The Class Action Complaint (Information**
5 **From September 29, 2017 Through June 30, 2021)**

- 6 (i) Total Non-Union Team Members ("TMs"): 6,752
7 (ii) Total Non-Union TMs Who Are Not Owed Monies: 69
8 (iii) Total Non-Union TMs Who Were Overpaid: 4,819
9 a. Total Overpayment To Non-Union TMs: \$887,595.02
10 (iv) Total Non-Union TMs Who Were Underpaid: 1,864
11 a. Total Underpayment to Non-Union TMs: \$241,280.96
12 b. Total Non-Union TMs Owed Less Than \$1: 492 of 1,864
13 c. Total Non-Union TMs Owed \$1 To \$4.99: 139 of 1,864
14 d. Total Non-Union TMs Owed \$5 To \$9.99: 120 of 1,864
15 e. Total Non-Union TMs Owed \$10 To \$99: 552 of 1,864

16 **The Number Of Employees Subject To The PAGA Complaint (Information From One**
17 **Year Prior To The Filing Of Administrative Notice of PAGA Claims On August 4, 2021**
18 **Through The Present)**

- 19 (i) Total Non-Union TMs: 3,523
20 (ii) Total Non-Union TMs Who Are Not Owed Monies: 73
21 (iii) Total Non-Union TMs Who Were Overpaid: 2,249
22 a. Total Overpayment To Non-Union TMs: \$183,890.17
23 (iv) Total Non-Union TMs Who Were Underpaid: 1,201
24 a. Total Underpayment To Non-Union TMs: \$106,445.42
25 b. Total Non-Union TMs Owed Less Than \$1: 321 of 1,201
26 c. Total Non-Union TMs Owed \$1 To \$4.99: 51 of 1,201
27 d. Total Non-Union TMs Owed \$5 To \$9.99: 57 of 1,201
28 e. Total Non-Union TMs Owed \$10 To \$99: 463 of 1,201

19 I declare under penalty of perjury under the laws of the State of California that the above is true
20 and correct and that this Declaration was executed this 3 day of May, 2022, in
21 Sacramento, California.

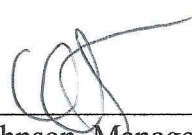
22
23
24 
25 Kelly Johnson, Manager of Payroll for Raley's
26
27
28

EXHIBIT 1

REMOVE DOCUMENT ALONG THIS PERFORATION

Raley's

THIS DOCUMENT IS PRINTED IN TWO COLORS. DO NOT ACCEPT UNLESS BLUE AND GREEN ARE PRESENT

Void After 180 Days

11-0024/1210 WELLS FARGO BANK N.A.
400 Capitol mall
Sacramento CA 95814

Check No.
8312692

P.O. Box 15618 , 500 W Capitol Avenue
West Sacramento CA 95605

Date: 07/23/2021

Pay Amount: \$29.52 *****

Pay
To The
Order Of

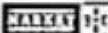
****TWENTY-NINE AND 52/100 DOLLARS****

DONALD E DELAHUNT



EXHIBIT 2

THE BACK OF THIS CHECK CONTAINS A SECURITY MARK • DO NOT ACCEPT WITHOUT HOLDING AT AN ANGLE TO VERIFY SECURITY MARK

Raley's BEV AIR NOB HILL PROD SOURCE 

WELLS FARGO BANK, N.A.
400 Capital Mall
Sacramento CA 95814

10146432

56-382
415

P.O. BOX 15618
SACRAMENTO, CA 95852

Date 07/26/2021

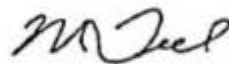
Pay Amount \$4,002.52*

*** FOUR THOUSAND TWO 52/100 DOLLARS ***

PAY TO THE ORDER OF

DONALD DELAHUNT


Void after 180 days



Authorized signature

