

PAGA SETTLEMENT AGREEMENT

Natalie Martinez v. Dick's Sporting Goods, Inc. et al.

This Private Attorneys General Act Settlement Agreement and Release ("Settlement," "Agreement," or "Settlement Agreement") is made pursuant to the Private Attorneys General Act, Labor Code section 2698 *et seq.* ("PAGA") by and between Plaintiff Natalie Martinez ("Plaintiff") on behalf of herself and as a private attorney general on behalf of the California Labor and Workforce Development Agency ("LWDA") on behalf of all other allegedly aggrieved employees, on the one hand, and Defendant Dick's Sporting Goods, Inc. ("Defendant") on the other hand. Plaintiff and Defendant are collectively referred to herein jointly as "the Parties" or, in the singular, "Party." This Agreement, and the settlement embodied herein, shall be binding on Plaintiff, the PAGA Members (defined below), the LWDA, and Defendant, subject to the approval of the Court.

RECITALS

WHEREAS, on or about December 16, 2021, Plaintiff filed a Class Action Complaint in the Los Angeles County Superior Court, *Natalie Martinez v. Dick's Sporting Goods, Inc. et al.*, Case No. 21STCV45915 on behalf of herself and others similarly situated alleging claims for: (1) overtime; (2) minimum wages; (3) meal periods; (4) rest periods; (5) waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8) expense reimbursement; (9) failure to pay all accrued vacation/PTO; and (10) unfair competition (the "Class Action"). Plaintiff's Class Action claims were compelled to individual arbitration on August 12, 2022. Plaintiff's class action claims are not the subject of this Agreement, and will be dismissed.

WHEREAS, on or about December 21, 2021, Plaintiff served notice to the LWDA and to Defendant of Plaintiff's intent to pursue a representative action pursuant to PAGA, as codified in California Labor Code §§ 2698 *et seq.*, on behalf of herself and the State of California, as well as on behalf of a group of PAGA Members for alleged Labor Code violations.

WHEREAS, on or around May 25, 2022, Plaintiff filed a Complaint in the Los Angeles County Superior Court, *Natalie Martinez v. Dick's Sporting Goods, Inc. et al.*, Case No. 22STCV17283 on behalf of herself and the State of California, as well as on behalf of a group of PAGA Members seeking civil penalties under PAGA for alleged Labor Code violations based on: (1) overtime; (2) minimum wages; (3) meal periods; (4) rest periods; (5) recordkeeping violations; (6) waiting time penalties; (7) wage theft prevention act; (8) expense reimbursement; (9) paid sick leave violations; (10) failure to pay all accrued vacation/PTO; (11) untimely payment of wages during employment; (12) preventing disclosure of wages; (13) preventing disclosure of violations of state/federal law; and (14) preventing employees from engaging in lawful conduct (the "PAGA Action" or "Action").

WHEREAS, the Parties agreed to mediation with Mark Rudy, which took place on June 26, 2023.

WHEREAS, for the purposes of mediation the Parties exchanged informal discovery, including Defendant's employment policies and employee handbook, a 10% sampling time and payroll

data for the estimated 10,500 PAGA Members, data points during the PAGA Period including the number of Pay Periods and the number of former PAGA Members, and Plaintiff's personnel file.

WHEREAS, Defendant denies and continues to deny any liability or wrongdoing of any kind associated with the claims alleged by Plaintiff, and contends that it has complied at all times with the California Labor Code, IWC Wage Orders, and all applicable California and federal laws.

WHEREAS, the Parties believe and agree that this Settlement provides for a fair, adequate, and reasonable resolution of Plaintiff's and the PAGA Members' claims, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

WHEREAS, based on their own independent investigations and evaluations, Plaintiff and PAGA Counsel (as defined below) have conducted significant investigation of the law and facts relating to the claims asserted in the Action, and have concluded that that the Settlement set forth herein is fair, reasonable, adequate, and in the best interests of PAGA Members, and to the extent permitted by law, the State of California, taking into account the sharply contested issues involved, the expense and time necessary to litigate the Action through trial and any appeals, the risks and costs of further litigation, the risk of an adverse outcome, the uncertainties of complex litigation, the information learned through informal discovery regarding Plaintiff's allegations, and the substantial benefits to be received by PAGA Members.

WHEREAS, on October 9, 2023, Plaintiff filed an amended LWDA letter with the LWDA to include the facts and theories advanced in this litigation and/or at mediation, including without limitation any and all PAGA claims related to seating whether arising under Sections 14(A) or 14(B) of the IWC Wage Orders (the "Amended LWDA Letter").

WHEREAS, no less than sixty-five (65) days after Plaintiff files the Amended LWDA Letter, Plaintiff shall file and serve an amended complaint with the Court to include any facts and theories identified in the Amended LWDA Letter.

NOW, THEREFORE, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree to, and seek approval, pursuant to Labor Code § 2699, of the following settlement terms.

DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. "Action" means the action filed in the Superior Court of California, County of Los Angeles *Natalie Martinez v. Dick's Sporting Goods, Inc. et al.*, Superior Court, Case No. 22STCV17283, and any and all subsequent amendments or amended complaints.

2. “Effective Date” means the date of Court approval of the Settlement and entry of judgment.

3. “Final Judgment” shall be after all appeals and/or petitions for writ review of the Court’s approval order and/or judgment have been exhausted, or if no appeal or petition for a writ are filed, Final Judgment shall be sixty-one (61) days after notice of entry of judgment is served and filed.

4. “LWDA Letter” means Plaintiff’s December 16, 2021 letter providing notice to the LWDA and to Defendant of Plaintiff’s intent to pursue a representative action for civil penalties under PAGA pursuant to Labor Code § 2699.3(a), and any and all subsequent amendments or amended letters served thereafter, including the Amended LWDA Letter to be submitted by Plaintiff to the LWDA and Defendant as described below.

5. “Operative Complaint” means the First Amended Complaint to be filed in the Action.

6. “Pay Period” means a pay period that a PAGA Member worked in a non-exempt position during the Settlement Period.

7. “PAGA Counsel” means counsel for Plaintiff, Bibiyan Law Group, P.C.

8. “PAGA Members” shall be defined to include all non-exempt employees of Defendant in California, who worked for Defendant during the Settlement Period.

9. “Released Parties” means Defendant, and its past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related or affiliated companies/corporations and/or partnerships (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with Defendant or any of its parents and/or affiliates), divisions, assigns, predecessors, successors, insurers, consultants, any actual or alleged joint employers, and alter-egos, and all of its and their respective past, present and future employees (including “Larry Marsh”), directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, insurers, and assigns.

10. “Settlement Administrator” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.

11. “Settlement Period” or “PAGA Period” means the time period from March 21, 2021 through December 13, 2023.

SETTLEMENT TERMS

1. **Persons Covered By the Settlement.** This Settlement covers all PAGA Members during the Settlement Period. PAGA Members are not able to opt-out of the Settlement as it is a PAGA settlement and PAGA does not provide for notice or opt out rights.

2. **Duties of the Parties Prior to Approval.**

a. On or before December 15, 2023, and no less than sixty-five (65) days after Plaintiff filed the Amended LWDA Letter, Plaintiff shall file and serve an amended complaint with the Court to include any facts and theories advanced in this litigation and/or at mediation, including without limitation any and all PAGA claims related to seating whether arising under Sections 14(A) or 14(B) of the IWC Wage Orders (the “Amended Complaint”). Plaintiff shall provide Defendant a copy of the proposed Amended Complaint at least five (5) business days prior to filing.

b. Plaintiff shall apply to the Court for the entry of an order approving this Settlement as required by Labor Code section 2699(l) (the “Motion for Approval”) no later than ten (10) days after filing the Amended Complaint. No responsive pleading will be necessary from Defendant. The Motion for Approval will request Court approval of the following: (1) the terms of this Settlement; (2) the amount of PAGA Counsel fees and costs; and (3) entry of an Order and Judgment. In conjunction with the Motion for Approval, Plaintiff shall submit a proposed Order and Judgment requesting an Order and Judgment for the Total Settlement Amount. Plaintiff shall prepare and deliver to counsel for Defendant the draft Motion for Approval and supporting documents, including (i) the draft proposed Order and Judgment; (ii) a signed declaration from the Settlement Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of PAGA Member data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with PAGA Members or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or counsel for Defendant; and (iii) a signed declaration from PAGA Counsel attesting to its timely transmission to the LWDA of the Settlement and any facts relevant to any actual or potential conflict of interest with the PAGA Members and/or the Settlement Administrator.

3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(l)(1), Plaintiff shall submit to the LWDA a copy of this Settlement prior to the date that Plaintiff submits the Settlement to the Court for approval. Plaintiff shall be responsible for complying with all notification requirements.

4. **Total Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of Two Million Dollars and Zero Cents (\$2,000,000.00), unless increased pursuant to paragraph 9(c) below, (“Total Settlement Amount”) in full settlement of the Action. The Total Settlement Amount is the maximum Defendant can be required to pay under this Settlement, except for an increase pursuant to paragraph 9(c) and employer-side taxes, if any, including all (1) penalty payments to the PAGA Members by virtue of payments through the Settlement Administrator; (2) PAGA Counsel’s fees; (3) PAGA Counsel’s costs; (4) payment of the third-party Settlement Administrator; (5) PAGA penalties paid to the State of California (LWDA); and (6) service payment to Plaintiff. All payments to Plaintiff and PAGA Members shall be made as a 1099 payment and each PAGA Member shall be responsible for paying any taxes due on their settlement payment, if any. Defendant’s corporate payroll tax obligation, if any, shall be paid in addition to the Total Settlement Amount. Subject to approval by the Court, these amounts shall be paid and allocated as set forth below.

a. **Attorneys' Fees and Costs.** Subject to Court approval, a percentage of the Total Settlement Amount shall be paid to PAGA Counsel for payment of attorneys' fees, and PAGA Counsel shall seek reimbursement for out-of-pocket costs, according to proof, incurred on behalf of Plaintiff and the PAGA Members. Defendant shall not oppose PAGA Counsel's request for attorneys' fees up to 35% of the Total Settlement Amount, which unless increased pursuant to paragraph 9(c) below, amounts to Seven Hundred Thousand Dollars and Zero Cents (\$700,000.00). Defendant shall not oppose PAGA Counsel's request for reimbursement of litigation costs up to Thirty-Thousand Dollars and Zero Cents (\$30,000.00). Any fees or costs award approved by the Court shall constitute a full and complete satisfaction of all claims Plaintiff, PAGA Members, and the LWDA may have for costs and attorneys' fees for work performed on claims arising during the Settlement Period, unless, in the event of a material breach of this Agreement by Defendant, Plaintiff's Counsel are required to move the Court for enforcement of this Agreement. PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for attorney's fees and costs incurred in connection with the facts stated in the Action and the LWDA Letter. PAGA Counsel shall submit a declaration to the Court detailing the costs incurred and/or expected to be incurred in the Action. If the Court awards fees or costs of less than the amount requested by PAGA Counsel, the unawarded amounts shall become part of the Net Settlement Amount (defined below). This Settlement is not contingent upon the Court awarding PAGA Counsel any particular amount in attorneys' fees or costs.

b. **Administration Costs.** The Parties will obtain a not-to-exceed quote from a mutually acceptable qualified settlement administrator (the "Settlement Administrator") for claims administration costs. Reasonable settlement administration expenses shall be deducted from the Total Settlement Amount for the payment of the third-party settlement administrator (the "Settlement Administrator Fees"). Any unused portion of the Settlement Administrator Fees shall become part of the Net Settlement Amount.

c. **Named Plaintiff's Service Award:** Defendant agrees not to oppose Plaintiff's request for a service payment of up to Ten Thousand Dollars (\$10,000) to named Plaintiff (the "Service Award"). The Service Award is to compensate Plaintiff for Plaintiff's service as a named PAGA representative, and in consideration of the Service Award, Plaintiff agrees to a full release of all claims as set forth in Paragraph 5(b) below. Any Service Award will be paid out of the Total Settlement Amount. If the Court reduces the amount of Plaintiff's Service Award in the course of the settlement approval process, only the amount approved by the Court will be paid to Plaintiff as a Service Award. Any amount of the Service Award not approved by the Court shall become part of the Net Settlement Amount.

d. **Net Settlement Amount.** The remaining and any unused funds (the Total Settlement Amount less PAGA Counsel's fees and costs, the Settlement Administrator Fees, and Service Award) shall be referred to as the "Net Settlement Amount." The Net Settlement Amount shall be designated as PAGA penalties to be allocated between the LWDA and PAGA Members pursuant to Labor Code section 2699(i) with seventy-five percent (75%) paid to the LWDA, and twenty-five percent (25%) paid to the PAGA Members, including Plaintiff as a PAGA Member.

5. **Releases.**

a. **PAGA Release.** Pursuant to the terms of this Settlement and the subsequent agreements and motions in support thereof, and effective only upon entry of an Order granting approval of this Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Total Settlement Amount, and employer-side taxes, if any, Plaintiff, the LWDA, and the PAGA Members release any and all claims they have arising out of or in connection with any claim, theory, or primary right asserted in the LWDA Letter, the Operative Complaint, and/or which could have been asserted in the LWDA Letter or the Operative Complaint (including the amended complaint to be filed in accordance with this Settlement) based on the facts, claims, theories, or primary rights alleged in the LWDA Letter and/or the Operative Complaint, for civil penalties and all available relief under the California Private Attorneys General Act of 2004 (“PAGA”) (the “Released Claims” as more fully described below) arising during the Settlement Period.

As of the date of the Funding of the Settlement, Plaintiff, the PAGA Members, and the LWDA fully and finally release the Released Parties from all “Released Claims.”

The Released Claims includes any and all claims alleged in the LWDA Letter, the Action, and all claims arising out of or in connection with the facts, theories, primary rights, or claims alleged in the LWDA Letter and/or the Operative Complaint, and includes all claims under PAGA associated with or arising in connection with: (a) unpaid wages and/or interest, including failure to pay minimum wages, failure to pay straight time compensation, overtime compensation, double-time compensation, failure to include all nondiscretionary remuneration in the regular rate of pay, failure to pay for off-the-clock work, including time spent donning and doffing work uniforms, maintaining uniforms, opening and closing stores, driving to and attending company meetings, answering phone calls, and/or undergoing store security/bag checks; (b) missed, late, short, or interrupted meal and/or rest periods, on-call or on-duty meal and/or rest periods including any claims that Defendant required employees to remain on the premises and/or required employees keep walkie talkies/cell phones during meal and/or rest periods, any claims that Defendant required employees to combine rest periods with meal periods, and any claims for any alleged failure to pay premiums for missed, late, short or interrupted meal and/or rest periods, or to pay such premiums at the regular rate of compensation; (c) failure to pay or provide paid sick leave, including any claim for alleged failure to pay paid sick leave at the regular rate of pay; (d) failure to pay reporting time compensation and/or split shift premiums; (e) failure to reimburse for business expenses or any other claim that Defendant allowed or required employees to bear any of the costs associated with the operation of Defendant’s business, including the use of personal cell phones, the cost of maintaining uniforms, the cost of purchasing uniforms, personal vehicle use (mileage and gas), tools and safety equipment (including work boots for working with oil); (f) failure to pay unused accrued vacation or paid time off; (g) failure to timely pay wages and/or interest for temporary employees under Labor Code section 201.3; (h) penalties arising out of or related to any or all of the aforementioned claims, including, but not limited to, recordkeeping, wage statement, minimum wage, and waiting time penalties; (i) inaccurate or otherwise improper or missing wage statements and/or failure to keep or maintain accurate records; (j) failure to provide information at the time of hire under the Wage Theft Prevention Act; (k) failure to provide suitable seating, including without limitation under sections 14(A) and 14(B) of the applicable Wage Orders; (l) unlawful and unfair business practices including preventing disclosure of

wages, preventing disclosure of violations of state and federal law, preventing engaging in lawful conduct, or unlawful waiver of right to pursue claims for discrimination and/or wage and hour violations; (m) unsafe place of employment, failure to provide COVID exposure notice, or failure to provide accessible sanitation facilities; and (n) attorneys' fees and costs associated with any of the aforementioned claims. For purposes of clarification, the claims released by the PAGA Members and the LWDA include any and all claims under PAGA that arise out of or in connection with the claims, facts, theories or primary rights alleged in the LWDA Letter and/or the Operative Complaint, and any claims which could have been asserted in the LWDA Letter and/or Operative Complaint arising from the alleged facts, claims, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted by law. Without limitation by any other language in this Agreement, the Released Claims includes claims under PAGA alleging violation of the Wage Orders of the California Industrial Welfare Commission, including but not limited to Wage Orders 4-2001, 7-2001, and Sections 4, 5, 14A, and 14B; and/or alleging violation of California Labor Code §§ 96, 98.6, 201-203, 201.3, 204, 205.5, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 232, 232.5, 245, 246, 248, 248.1, 432, 432.5, 432.6, 450, 510, 511, 512, 516, 558, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1198.5, 1199, 1527, 2698 *et seq.*, 2699 *et seq.*, 2800, 2802, 2810.5, 3366, 3457, 8397.4, 6401, 6402, 6403, and 6409.6 *et seq.* This release does not release any individual's non-PAGA claims.

b. General Release by Named Plaintiff. In consideration of the Service Award, Plaintiff's release of claims includes all claims, whether known or unknown, under federal, state, and/or local law, including, but not limited to claims arising from or related to Plaintiff's application for, employment with, or termination of employment from Released Parties ("Plaintiff's Released Claims"). Plaintiff's Released Claims include, but are not limited to, any claims, causes of action, rights, actions, suits, charges, or disputes that have been or could be asserted against any of the Released Parties arising out of, in connection with, or in any way related to (i) any and all claims alleged in the Action or the LWDA Letter, and any and all claims arising from or related to the facts, theories, primary rights, or claims alleged in the Action, and any claims which could have been asserted in the Action arising from the alleged facts, claims, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted by law; (ii) Plaintiff's application for employment with Defendant, employment with Defendant and/or the termination of Plaintiff's employment with Defendant; (iii) any term or condition of Plaintiff's employment with Defendant, including but not limited to any and all wages, compensation, salaries, minimum wage, overtime, holiday pay, bonuses, commissions, pay, allowances, monies, meal and rest period violations or premiums, off the clock work, expenses/reimbursements, wage statements, employee benefits, sick/vacation pay, sick leave, severance pay, retention pay, paid leave benefits, notification rights, any other wage and hour related claims, and any other benefits, penalties, interest, damages, and promises related to the same; and (iv) any claims to any equity interest in Defendant, including without limitation stock options, shadow stock, restricted stock, membership units, distribution rights, partnership, stock, and all other forms of equity. Without limiting the foregoing, and by way of examples only, the Plaintiff's Released Claims also extend to any and all claims for alleged (a) violation of the National Labor Relations Act (NLRA) (to the extent permitted by law), Title VII of the Civil Rights Act (Title VII), the Americans With Disabilities Act of 1990 (ADA), the Age Discrimination in Employment Act (ADEA), the Older Worker Benefit Protection Act

(OWBPA), the Employee Retirement Income Security Act (ERISA) (excluding vested benefits); the Rehabilitation Act, the Occupational Safety and Health Act (OSHA) (federal and California), the American Rescue Plan Act (ARPA), the Families First Coronavirus Response Act (FFCRA), the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), the Worker Adjustment and Retraining Notification Act (federal and California), the California Fair Employment and Housing Act (FEHA), the Unfair Business Practices Act/Unfair Competition Law (UCL); the California Labor Code, the California Government Code, the California Civil Code, the applicable California Wage Order(s), and the California Private Attorneys General Act (to the extent permitted by law) (all as amended); (b) discrimination or harassment on the basis of any protected status, such as race, color, ancestry, national origin (including language use restrictions), citizenship, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), marital status, domestic partnership status, sexual orientation, gender, gender identity or gender expression, veteran status, military status, political affiliation, family care or medical leave status or the denial of family and medical care leave, age, physical or mental disability (including HIV and AIDS), medical condition (including cancer and genetic characteristics), genetic information, or any other basis protected by applicable federal, state or local law, rule, ordinance or regulation; (c) any whistleblower or retaliation claims on the basis of any protected activity or other protected basis; (d) breach of any express or implied promise, contract or agreement (express or implied), or breach of the implied covenant of good faith and fair dealing; (e) any tort or common law claims, including wrongful discharge, intentional or negligent infliction of emotional distress, negligence, fraud, misrepresentation, defamation, interference with prospective economic advantage, or other tort or common law actions; (f) claims for misclassification, wage and hour, or other claims related to hours, conditions, or compensation related to work; and (g) any other violation of local, state, or federal law, constitution, statute, regulation, ordinance, order, guidance, resolution, public policy, contract, or tort or common law claim, whether for legal or equitable relief, having any bearing whatsoever on the terms and conditions of employment, or association or working relationship, with any of the Released Parties, including but not limited to any allegations for penalties, interest, costs and fees, including attorneys' fees, incurred in any of these matters, which Plaintiff ever had, now has, or may have as of the date of this release. All such claims, liabilities or causes of action (including, without limitation, claims for related attorneys' fees and costs) are forever barred by this Agreement regardless of the forum in which they may be brought. The Parties intend for this release to be as broad as possible. Even if Plaintiff discovers facts in addition to or different from those that Plaintiff now knows or believes to be true with respect to the subject matter of Plaintiff's claims, those claims will remain released and forever barred.

c. It is a condition of this Agreement, and it is the Parties' intention by executing this Agreement, that the Plaintiff's Released Claims contained in this Agreement shall be effective as a bar to each and every claim by Plaintiff, whether now known or unknown. As such, Plaintiff expressly, knowingly and voluntarily waives any and all rights and benefits conferred by section 1542 of the California Civil Code and does so understanding and acknowledging the significance and consequence of such specific waiver of section 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Notwithstanding the foregoing, Plaintiff does not waive or release any claim which cannot be waived or released by private agreement. Further, nothing in this Settlement shall prevent Plaintiff from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, CRD (formerly DFEH), NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Plaintiff, however, understands that by signing this Settlement, Plaintiff waives the right to recover any damages or to receive other relief in any claim or suit brought by or through the EEOC, the CRD (formerly DFEH) or any other state or local deferral agency on Plaintiff's behalf to the fullest extent permitted by law, but expressly excluding any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

ADMINISTRATION OF SETTLEMENT

6. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions as Settlement Administrator. The Settlement Administrator shall be responsible for sending the explanatory letters to the PAGA Members, for calculating Individual Settlement Payments (defined below), setting up a Qualified Settlement Fund that meets the requirements under U.S. Treasury Regulation section 468B-1, and preparing all checks and mailings in compliance with all requirements set forth in Paragraph 9. The Settlement Administrator Fees (including settlement administration costs) shall be paid out of the Total Settlement Amount. Defendant is not responsible or liable for any errors in the calculation of Pay Periods or settlement amount to be awarded to each PAGA Member. Defendant is also not liable or responsible for any errors made by the Settlement Administrator in the administration of the settlement. The Parties and their counsel represent that they have no interest or relationship, financial or otherwise, with the Settlement Administrator other than a professional relationship arising out of prior experiences administering settlements.

7. **Distribution of the Net Settlement Amount.** The Net Settlement Amount shall be allocated between the LWDA and PAGA Members pursuant to Labor Code section 2699(i) with seventy-five percent (75%) paid to the LWDA, and twenty-five percent (25%) paid to the PAGA Members. The twenty-five percent (25%) of the Net Settlement Amount paid to the PAGA Members shall be referred to as "PAGA Member Payment." The PAGA Member Payment shall be divided among the PAGA Members based on the number of total Pay Periods in the Settlement Period to establish the amount of the settlement allocation for each PAGA Pay Period ("Pay Period Amount").

8. **Individual Settlement Payment Calculation.** The PAGA Members shall receive a pro rata value equal to the number of PAGA Pay Periods each of the PAGA Members worked during the Settlement Period, as provided by Defendant to the Settlement Administrator, multiplied by the Pay Period Amount (the "Individual Settlement Payments"). Each PAGA Member's number of Pay Periods will be derived from the payroll records kept by Defendant in

the ordinary course of business during the Settlement Period. All Individual Settlement Payments made to PAGA Members will be reported on an IRS Form 1099, if such reporting is required. The Individual Settlement Payments shall be allocated 100% as penalties.

9. **PAGA Settlement Payment Procedures.**

a. **Timing of Funding and PAGA Member list to Settlement**

Administrator. Within seven (7) calendar days of Final Judgment, Defendant shall: (1) deposit with the Settlement Administrator the Total Settlement Amount (the “Funding”); and (2) within seven (7) days after Final Judgment, Defendant shall provide to the Settlement Administrator a list of the PAGA Members that identifies for each PAGA Member their full name, social security number, last known address, last known telephone number(s). However, no funds will be distributed to anyone until Final Judgment, or if an appeal is filed, after all appeals have been resolved without impacting the effectiveness of this Settlement, whichever is later.

b. Defendant agrees to consult with the Settlement Administrator as required to provide the list of PAGA Members in a format reasonably acceptable for the performance of the duties of the Settlement Administrator. The Settlement Administrator will keep the list confidential, use it only for the purposes described herein, take adequate safeguards to protect confidential or private information and return or certify the destruction of the information upon completion of the settlement administration process. The list of PAGA Members shall not be shared with Plaintiff or Plaintiff’s counsel, including PAGA Counsel.

c. Defendant has estimated that the PAGA Members worked approximately 221,635 Pay Periods from March 21, 2021 to September 14, 2023. Within five (5) days of receipt of the PAGA Member list, or soon thereafter as practicable, the Settlement Administrator shall provide to all Parties the exact number of Pay Periods worked by the PAGA Members during the Settlement Period. If the number of Pay Periods during the PAGA Period increases beyond 221,635 Pay Period by more than 10% (i.e., an additional 22,164 Pay Periods), then the Total Settlement Amount shall increase by the percentage increase above 10%. For example, if the number of Pay Periods during the PAGA Period increases by 11%, (i.e., to 243,799 total Pay Periods), the Total Settlement Amount shall increase by 1% to \$2,020,000.00 (\$2,000,000.00 + \$20,000.00).

d. Within fifteen (15) days after receipt of the list of PAGA Members, the Settlement Administrator shall run all the addresses of PAGA Members through the United States Postal Service NCOA database to obtain current address information. Within fifteen (15) days after Funding, the Settlement Administrator shall remit: (1) Settlement Administrator Fees to itself; (2) PAGA Counsel’s fees and costs to PAGA Counsel; (3) any Service Award to Plaintiff; and (4) the remaining Net Settlement Amount, as awarded by the Court, in the amount of 25% of the Net Settlement Amount to the PAGA Members and 75% of the Net Settlement Amount to the LWDA. The Parties are to jointly inform Settlement Administrator of the date which triggers the Settlement Administrator to perform its duties under this paragraph.

e. PAGA Members shall not be required to make claims, but shall be delivered a check for their Individual Settlement Payment. The Settlement Administrator shall send Individual Settlement Payments to each PAGA Member by U.S. First Class mail to the PAGA

Member's address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. The Settlement Administrator shall send the PAGA Members an explanatory letter, which will be mutually approved by the Parties, with the Individual Settlement Payment checks. It will be conclusively presumed that a PAGA Member's Individual Settlement Payment check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check.

f. Individual Settlement Payment checks issued to PAGA Members pursuant to this Settlement will expire one hundred and eighty (180) calendar days from the date of issuance. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days will be tendered by the Settlement Administrator to the State Controller's Office, Unclaimed Property Division in the name of each PAGA Member.

g. Neither Defendant nor Plaintiff shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

10. **Dismissal of the Class Action.** Within fourteen (14) days of execution of this Agreement, Plaintiff shall file a request for dismissal of Plaintiff's class claims without prejudice, pursuant to California Rule of Court 3.770 in the Class Action entitled *Natalie Martinez v. Dick's Sporting Goods, Inc.*, Case No. 21STCV45915. Plaintiff and Defendant shall do all things necessary to expediently have the proceeding dismissed with prejudice as to Plaintiff's individual claims, and dismissed without prejudice as to the class claims.

11. **Tax Treatment of Settlement Amounts.** With regard to the Service Award to Plaintiff and, if applicable, the Individual Settlement Payments to PAGA Members, IRS Form 1099s will be issued. Nothing in this Settlement is intended to constitute legal or tax advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that Plaintiff has obtained no tax advice from Defendant or any of the Released Parties, and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the settlement payments in this Settlement or any payment to be made pursuant to this Settlement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments and shall defend and indemnify the Released Parties with respect to any and all such taxes, penalties, interests and/or costs.

12. **Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS

INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

MISCELLANEOUS

13. **Judgment and Continued Jurisdiction.** After entry of the Order and Judgment, the Court will have continuing jurisdiction for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, including under Code of Civil Procedure section 664.6, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

14. **No Admission of Wrongdoing.** The Parties agree that this Settlement does not constitute an admission by Defendant or any of the Released Parties, of any of the matters alleged in the Action or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Settlement nor anything in this Settlement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant, or the Released Parties. Defendant is entitled to rely on this Settlement to defend itself against any claims resolved by this Agreement.

15. **No Credit Toward Benefit Plans.** Payments to PAGA Members as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any PAGA Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any PAGA Member may be entitled under any benefit plans.

16. **Nullification of PAGA Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein, and despite the Parties best efforts to address the Court's concerns, including any amendments to this Agreement; or (ii) the Settlement does not

become final; then this Settlement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions, after which neither this Settlement nor any of its terms will be usable or admissible for any purpose whatsoever.

17. **No Claim for Distributions or Payments.** No person shall have any claim against Defendant, Defendant's counsel, Plaintiff, PAGA Members, PAGA Counsel or the Settlement Administrator based on distributions and payments made in accordance with this Settlement.

18. **Nondisclosure and Nonpublication.** The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communications with the press about the facts, amount, or terms of the Settlement prior to approval. Plaintiff and PAGA Counsel agree that, prior to final court-approval of the Settlement, they will keep the terms of the Settlement confidential except for purposes of communicating with Plaintiff only or Plaintiff's tax professionals. The terms of this Settlement shall be kept strictly confidential until such time as the Settlement is submitted to the Court and the LWDA. Plaintiff and PAGA Counsel agree not to publicize the Settlement, the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, at any time, directly or indirectly, to any person or entity, beyond filing the Settlement with the Court and submitting a copy to the LWDA. Plaintiff and PAGA Counsel further agree that they shall not discuss or communicate the terms of this Settlement with any current or former employee of Defendant or the Released Parties prior to the Effective Date. However, if in the event PAGA Members independently reach out PAGA Counsel regarding questions about the Settlement, nothing herein shall prohibit PAGA Counsel from abiding by their ethical duties assisting such PAGA Members with respect to this Settlement.

19. **Use and Return of PAGA Member Data.** Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

20. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement will not constitute a waiver of any other provision.

21. **Communications.** All communications to be provided concerning this Settlement shall be in writing by e-mail to the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

To Defendant: Paul Cowie and Amanda Beckwith of Sheppard, Mullin, Richter & Hampton, LLP, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111, pcowie@sheppardmullin.com and abeckwith@sheppardmullin.com.

To Plaintiff: David D. Bibiyan, Vedang J. Patel, and Brandon Chang of Bibiyan Law Group, P.C., 8484 Wilshire Boulevard, Suite 500, Beverly Hills, CA 90211, david@tomorrowlaw.com; vedang@tomorrowlaw.com; brandon@tomorrowlaw.com.

22. **Entire Settlement.** This Settlement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. The Parties are not relying on any representations (or omissions of fact) not expressly stated in this Settlement. Any representation, promise or agreement not specifically included in this Settlement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Settlement unless in writing and signed by the Parties or their successors-in-interest.

23. **Waiver of Certain Appeals/Appellate rights.** The Parties agree to waive appeals; except, however, that either Party may appeal any court order that approves the Settlement but materially alters the Settlement's terms, without prior approval by the Parties (and with the exception of the attorneys' fees and costs award, which may not be appealed), so long as the appealing Party provides written notice to counsel for the other Party of their intent to appeal within ten (10) business days after entry of the judgment.

24. **Invalidity and Severability.** Before declaring any provision of this Settlement invalid, the Court shall first attempt to construe the provisions to be valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement valid and enforceable, including minimally reforming any offending provision to make it valid and enforceable to the extent permitted by law. If any provision of this Settlement or the application thereof is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of the Settlement which can be given effect without the invalid or unenforceable provision(s) or application, and to this end the provisions of this Settlement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Settlement, except upon waiver in writing by Defendant.

25. **Authorization to Enter Into Settlement.** Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement. If the Parties are unable to reach agreement on the form or content of any document to implement the Settlement, or any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may first seek the assistance of a mediator, and in the event that does not resolve the dispute, then the Court to resolve such disagreement.

26. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Settlement. Hence, in any construction to be made of this Settlement, the same shall not be construed against any Party on the basis that the Party was the drafter.

27. **Calendar Days.** Unless otherwise noted, all references to “days” in this agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or court holiday, such date or deadline shall be on the first court day thereafter.

28. **Choice of Law.** This Settlement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

29. **Counterparts.** This Settlement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Photographic, electronic or facsimile copies of any such signed counterparts may be used in lieu of the original for any purpose.

30. **Advice of Counsel:** The Parties to this Agreement are represented by competent counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement agree that it reflects their good faith compromise of the claims raised in the Action, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel

31. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Settlement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Settlement.

32. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement.

IN WITNESS THEREOF, the Parties each acknowledge that they/it have read the foregoing Settlement, accepts and agrees to the provisions contained in this Settlement and hereby executes it voluntarily and with full understanding of its consequences.

PLAINTIFF:

Dated: 12/29/2023

By: 
Natalie Martinez (Dec 29, 2023 14:26 PST)
NATALIE MARTINEZ

**DEFENDANT DICK'S SPORTING
GOODS, INC:**

Dated: _____

By: _____
ELIZABETH BARAN

VICE PRESIDENT, DEPUTY GENERAL COUNSEL

**AGREED AND APPROVED AS TO
FORM:**

Dated: December 29, 2023

By: Vedang J. Patel
DAVID D. BIBIYAN
VEDANG J. PATEL
BRANDON CHANG
BIBIYAN LAW GROUP, PC
Attorneys for Plaintiff Natalie Martinez

Dated: _____

By: _____
PAUL S. COWIE
AMANDA E. BECKWITH
SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
Attorneys for Defendant Dick's Sporting Goods, Inc.

**DEFENDANT DICK'S SPORTING
GOODS, INC:**

Dated: 12/22/2023

DocuSigned by:
By: Elizabeth Baran
DD6A43DC6218429...
ELIZABETH BARAN

VICE PRESIDENT, DEPUTY GENERAL COUNSEL

**AGREED AND APPROVED AS TO
FORM:**

Dated: _____

By: _____
DAVID D. BIBIYAN
VEDANG J. PATEL
BRANDON CHANG
BIBIYAN LAW GROUP, PC
Attorneys for Plaintiff Natalie Martinez

Dated: December 22, 2023

By: P. Cowie
PAUL S. COWIE
AMANDA E. BECKWITH
SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
Attorneys for Defendant Dick's Sporting Goods, Inc.