

BIBIYAN LAW GROUP, P.C.
David D. Bibiyan (SBN 287811)
david@tomorrowlaw.com
Vedang J. Patel (SBN 328647)
vedang@tomorrowlaw.com
Brandon M. Chang (SBN 316197)
brandon@tomorrowlaw.com
8484 Wilshire Boulevard, Suite 500
Beverly Hills, California 90211
Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, NATALIE MARTINEZ,
as an aggrieved employee, and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

NATALIE MARTINEZ, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiff,

v.

DICK'S SPORTING GOODS, INC., a
Delaware corporation; LARRY MARSH, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 22STCV17283

[Assigned to the Hon. Armen Tamzarian, in
Dept. 52]

PAGA REPRESENTATIVE ACTION

**[PROPOSED] ORDER APPROVING
REPRESENTATIVE ACTION
SETTLEMENT**

1 This Court, having considered the Motion of plaintiff Natalie Martinez (“Plaintiff”) for
2 Approval of Representative Action Settlement (“Motion”), the Declarations of David D. Bibiyan,
3 Vedang J. Patel, Jodey Lawrence, Plaintiff Natalie Martinez, the PAGA Settlement Agreement
4 (“Settlement” or “Settlement Agreement” or “Agreement”), the PAGA Payment Letter and good
5 cause appearing therefore, the Court hereby **ORDERS, ADJUDGES AND DECREES THAT:**

6 1. The definitions set out in the Settlement Agreement are incorporated by reference
7 into this Order; all terms defined therein shall have the same meaning in this Order.

8 2. The Motion concerns Plaintiff’s action under the Private Attorneys General Act of
9 2004 (“PAGA”) against defendant Dick’s Sporting Goods, Inc. (“Defendant”) entitled *Natalie*
10 *Martinez v. Dick’s Sporting Goods, Inc. et al.*, Los Angeles County Superior Court Case No.
11 2STCV17283. Hereinafter, Plaintiff and Defendant will be collectively referred to as “the Parties.”

12 3. The Settlement resolves the PAGA Action brought on behalf of PAGA Members
13 defined as follows: all non-exempt employees of Defendant in California, who worked for
14 Defendant during the period between March 21, 2021 through December 13, 2023 (“PAGA Period”
15 or “Settlement Period”).

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

18 5. The Settlement is based on Defendant’s representation that PAGA Members worked
19 approximately 221,635 Pay Periods from March 21, 2021 to September 14, 2023. Within five (5)
20 days of receipt of the PAGA Member list, or soon thereafter as practicable, the Settlement
21 Administrator shall provide to all Parties the exact number of Pay Periods worked by the PAGA
22 Members during the Settlement Period. If the number of Pay Periods during the PAGA Period
23 increases beyond 221,635 Pay Periods by more than 10% (i.e., an additional 22,164 Pay Periods),
24 then the Total Settlement Amount shall increase by the percentage increase above 10%. For
25 example, if the number of Pay Periods during the PAGA Period increases by 11%, (i.e., to 243,799
26 total Pay Periods), the Total Settlement Amount shall increase by 1% to \$2,020,000.00
27 (\$2,000,000.00 + \$20,000.00).

1 6. The Court appoints David D. Bibiyan of Bibiyan Law Group, P.C., as Plaintiff's
2 Counsel for the PAGA Members for settlement purposes only.

3 7. Plaintiff's Counsel investigated the claims alleged, performed legal research, and
4 conducted expert analysis of the time and payroll data. They also attended mediation, which after
5 further negotiations, resulted in the fully executed Settlement Agreement.

6 8. Pursuant to Labor Code § 2698, *et seq.*, the Court finds that the Settlement of the
7 Action is fair, adequate, and reasonable and that it furthers PAGA's objectives.

8 9. The Court appoints plaintiff Natalie Martinez ("Plaintiff") as the PAGA
9 Representative for Settlement purposes only.

10 10. The Court appoints Phoenix Class Action Administration Solutions ("Phoenix"). as
11 the "Settlement Administrator" or "Administrator".

12 11. The Court approves, as to form and content, the PAGA Payment Letter attached as
13 Exhibit 2 to the Declaration of Brandon M. Chang.

14 12. The Court approves the Gross Settlement Amount of \$2,000,000.00, as the same may
15 be escalated pursuant to the Settlement Agreement, and orders it to be distributed as follows:

- 16 a. Thirty-five percent (35%) of the Gross Settlement Amount shall be allocated
17 as reasonable attorneys' fees for Plaintiff's Counsel which, unless escalated
18 pursuant to the Settlement Agreement, shall amount to \$700,000.00;
- 19 b. The sum of \$19,552.53. shall be allocated as reasonable litigation costs and
20 paid to Plaintiff's Counsel.
- 21 c. The sum of \$10,000.00 shall be paid to Plaintiff as an Enhancement Award
22 Payment for serving as PAGA Representative in the Action and providing a
23 broader release to Defendants.
- 24 d. The sum of \$25,950 shall be paid to the Settlement Administrator, Phoenix,
25 for its services in administering the Settlement.
- 26 e. After deducting the above amounts, the Court approves the remaining Net
27 Settlement Amount for PAGA penalties and orders 75% of that sum to be
28

1 paid to the California Labor and Workforce Development Agency and 25%
2 to be paid to the PAGA Members pursuant to Labor Code § 2699(i).

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

7 14. Within seven (7) calendar days after Final Judgment, Defendant shall provide to the
8 Settlement Administrator a list of the PAGA Members that identifies for each PAGA Member their
9 full name, social security number, last known address, last known telephone number(s) (the “List of
10 PAGA Members”).

11 15. Because Social Security Numbers are included in the List of PAGA Members, the
12 Settlement Administrator shall maintain the List of PAGA Members in confidence and shall only
13 access and use the data to administer the settlement in conformity with the Court’s orders.

14 16. Within fifteen (15) days after receipt of the List of PAGA Members, the Settlement
15 Administrator shall run all the addresses of PAGA Members through the United States Postal
16 Service NCOA database to obtain current address information.

17 17. Within seven (7) calendar days after Final Judgment, Defendant shall deposit with
18 the Settlement Administrator the Total Settlement Amount (the “Funding”).

19 18. Within fifteen (15) days after Funding, the Settlement Administrator shall remit: (1)
20 Settlement Administrator Fees to itself; (2) PAGA Counsel’s fees and costs to PAGA Counsel; (3)
21 any Service Award to Plaintiff; and (4) the remaining Net Settlement Amount, as awarded by the
22 Court, in the amount of 25% of the Net Settlement Amount to the PAGA Members and 75% of the
23 Net Settlement Amount to the LWDA.

24 19. Because this is a PAGA action, based on the Parties’ understanding of the PAGA
25 statutory scheme, the Parties agree that no Aggrieved Employee can exclude himself or herself from
26 the Settlement or object to the terms of the Settlement Agreement. All PAGA Members will be
27 bound by the Settlement Agreement, upon its approval by the Court, regardless of whether he or she
28 negotiates his or her settlement check.

1 20. The Settlement Administrator shall send Individual Settlement Payments to each
2 PAGA Member by U.S. First Class mail to the PAGA Member's address with directions to the
3 Postmaster to forward the payment checks and return all undeliverable payment checks to the
4 Settlement Administrator.

5 21. Funds represented by settlement checks returned as undeliverable and those
6 settlement checks remaining un-cashed for more than 180 days will be tendered by the Settlement
7 Administrator to the State Controller's Office, Unclaimed Property Division in the name of each
8 PAGA Member.

9 22. The Court finds the Gross Settlement Amount, the Net Settlement Amount and the
10 methodology used to calculate and pay the PAGA Members' Individual PAGA Payments are fair
11 and reasonable and authorizes the Settlement Administrator to pay the Individual Settlement
12 Payments to the PAGA Members in accordance with the terms of the Settlement Agreement. The
13 Court also authorizes the Settlement Administrator to make the payment to the LWDA.

14 23. The Court finds that Plaintiff's Counsel's request for attorneys' fees in the amount
15 of 35% of the Gross Settlement Amount, which, unless increased pursuant to the Settlement
16 Agreement, amounts to \$700,000.00, is reasonable. The Court awards Plaintiff's Counsel fees in the
17 amount of 35% of the Gross Settlement Amount to be paid from the Gross Settlement Amount.

18 24. The Court finds that Plaintiff's Counsel has incurred a total of \$19,552.53 in
19 litigation costs and expenses. Such costs and expenses were reasonably incurred in prosecuting this
20 Actions. The Court awards \$19,552.53 from the Gross Settlement Amount to be paid to Plaintiff's
21 Counsel in litigation costs and expenses.

22 25. Effective only upon entry of an Order granting approval of the Settlement, entry of
23 Judgment, and payment by Defendant to the Settlement Administrator of the full Total Settlement
24 Amount, and employer-side taxes, if any, Plaintiff, the LWDA, and the PAGA Members release any
25 and all claims they have arising out of or in connection with any claim, theory, or primary right
26 asserted in the LWDA Letter, the Operative Complaint, and/or which could have been asserted in
27 the LWDA Letter or the Operative Complaint (including the amended complaint to be filed in
28 accordance with this Settlement) based on the facts, claims, theories, or primary rights alleged in

1 the LWDA Letter and/or the Operative Complaint, for civil penalties and all available relief under
2 the California Private Attorneys General Act of 2004.

3 26. The Released Claims includes any and all claims alleged in the LWDA Letter, the
4 Action, and all claims arising out of or in connection with the facts, theories, primary rights, or
5 claims alleged in the LWDA Letter and/or the Operative Complaint, and includes all claims under
6 PAGA associated with or arising in connection with: (a) unpaid wages and/or interest, including
7 failure to pay minimum wages, failure to pay straight time compensation, overtime compensation,
8 double-time compensation, failure to include all nondiscretionary remuneration in the regular rate
9 of pay, failure to pay for off-the-clock work, including time spent donning and doffing work
10 uniforms, maintaining uniforms, opening and closing stores, driving to and attending company
11 meetings, answering phone calls, and/or undergoing store security/bag checks; (b) missed, late,
12 short, or interrupted meal and/or rest periods, on-call or on-duty meal and/or rest periods including
13 any claims that Defendant required employees to remain on the premises and/or required employees
14 keep walkie talkies/cell phones during meal and/or rest periods, any claims that Defendant required
15 employees to combine rest periods with meal periods, and any claims for any alleged failure to pay
16 premiums for missed, late, short or interrupted meal and/or rest periods, or to pay such premiums at
17 the regular rate of compensation; (c) failure to pay or provide paid sick leave, including any claim
18 for alleged failure to pay paid sick leave at the regular rate of pay; (d) failure to pay reporting time
19 compensation and/or split shift premiums; (e) failure to reimburse for business expenses or any other
20 claim that Defendant allowed or required employees to bear any of the costs associated with the
21 operation of Defendant's business, including the use of personal cell phones, the cost of maintaining
22 uniforms, the cost of purchasing uniforms, personal vehicle use (mileage and gas), tools and safety
23 equipment (including work boots for working with oil); (f) failure to pay unused accrued vacation
24 or paid time off; (g) failure to timely pay wages and/or interest for temporary employees under
25 Labor Code section 201.3; (h) penalties arising out of or related to any or all of the aforementioned
26 claims, including, but not limited to, recordkeeping, wage statement, minimum wage, and waiting
27 time penalties; (i) inaccurate or otherwise improper or missing wage statements and/or failure to
28 keep or maintain accurate records; (j) failure to provide information at the time of hire under the

1 Wage Theft Prevention Act; (k) failure to provide suitable seating, including without limitation
2 under sections 14(A) and 14(B) of the applicable Wage Orders; (l) unlawful and unfair business
3 practices including preventing disclosure of wages, preventing disclosure of violations of state and
4 federal law, preventing engaging in lawful conduct, or unlawful waiver of right to pursue claims for
5 discrimination and/or wage and hour violations; (m) unsafe place of employment, failure to provide
6 COVID exposure notice, or failure to provide accessible sanitation facilities; and (n) attorneys' fees
7 and costs associated with any of the aforementioned claims. For purposes of clarification, the claims
8 released by the PAGA Members and the LWDA include any and all claims under PAGA that arise
9 out of or in connection with the claims, facts, theories or primary rights alleged in the LWDA Letter
10 and/or the Operative Complaint, and any claims which could have been asserted in the LWDA Letter
11 and/or Operative Complaint arising from the alleged facts, claims, theories, and/or primary rights
12 alleged to have been invaded to the fullest extent permitted by law. Without limitation by any other
13 language in this Agreement, the Released Claims includes claims under PAGA alleging violation
14 of the Wage Orders of the California Industrial Welfare Commission, including but not limited to
15 Wage Orders 4-2001, 7-2001, and Sections 4, 5, 14A, and 14B; and/or alleging violation of
16 California Labor Code §§ 96, 98.6, 201-203, 201.3, 204, 205.5, 210, 212, 216, 218, 218.5, 218.6,
17 221, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 232, 232.5, 245, 246, 248, 248.1,
18 432, 432.5, 432.6, 450, 510, 511, 512, 516, 558, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,
19 1197.1, 1197.2, 1197.5, 1198, 1198.5, 1199, 1527, 2698 et seq., 2699 et seq., 2800, 2802, 2810.5,
20 3366, 3457, 8397.4, 6401, 6402, 6403, and 6409.6 et seq. This release does not release any
21 individual's non-PAGA claims.

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

1 (including “Larry Marsh”), directors, officers, agents, attorneys, stockholders, fiduciaries, parents,
2 subsidiaries, insurers, and assigns.

3 28. The Parties are ordered to carry out the Settlement according to the terms of the
4 Settlement Agreement.

5 29. The Court shall retain continuing jurisdiction over the Action pursuant to Code of
6 Civil Procedure section 664.6, the Parties and PAGA Members, to the fullest extent to enforce and
7 effectuate the terms and intent of the Settlement Agreement. The Court shall also retain jurisdiction
8 to enforce the Settlement Agreement.

9 ///

10 ///

11 **IT IS SO ORDERED.**

12

13 Dated: March 5, 2024

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



Armen Tamzarian

Armen Tamzarian / Judge

Judge of the Superior Court