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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

HECTOR J. MEJIA on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

WALMART INC., a Delaware corporation;
and DOES 1 through 10, inclusive,

Defendant.

Case No.: CIVSB2207614

[Assigned for all purposes to the Hon. David E.
Driscoll, Dept. S22]

**DECLARATION OF LARRY W. LEE IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: December 19, 2023
Time: 8:30 a.m.
Dept.: S22

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1. I am an attorney at law, duly licensed to practice before all Courts in the State of
 nia, and am with the law firm Diversity Law Group, one of the attorneys of record for
 ffs Dearl Powell, Christina Gast, and Elijha Gonzalez (“Plaintiffs”) in the above-entitled
 I have personal knowledge of the matters set forth herein, and if called upon as a witness
 ŷy thereto, I could and would competently do so.

2. On September 29, 2020, Plaintiffs filed a Class Action Complaint against Defendants Walmart Inc., Wal-Mart Associates, Inc., and Wal-Mart Stores, Inc. (“Defendants” or “Walmart”) in San Diego County Superior Court, Case No. 37-2020-00035007-CU-OE-CTL (the “*Powell* Action”), which alleges a single cause of action on behalf of former non-exempt employees for unpaid wages and penalties pursuant to California Labor Code §§ 201-203 for Defendant’s alleged failure to pay sick pay at the correct “regular rate” of pay. The *Powell* Action seeks a class period start date of April 6, 2017, pursuant to Emergency rule 9 tolling during the

3. In December 2020, Defendants removed the *Powell* Action to the United States District Court for the Southern District of California, District Court Case No. 3:20-cv-2412-L. After removing the *Powell* Action, Defendants filed a motion to dismiss the Complaint, arguing that Plaintiffs failed to allege sufficient facts to show that Defendants had failed to pay wages due, and moved to strike a portion of the caption of Plaintiffs' Complaint that erroneously referenced a Labor Code section not alleged in the Complaint.

4. Plaintiffs also filed a motion for remand. On February 2, 2021, the District Court denied the Plaintiffs' motion for remand, which argued that Defendants failed to produce sufficient evidence showing the amount in controversy had been met to establish the District Court's subject matter jurisdiction under the Class Action Fairness Act. The February 2, 2021 order also denied Defendants' motion to dismiss the complaint and granted Defendants' motion to strike.

5. Thereafter, the Parties engaged in significant written discovery and document

1 productions. Plaintiffs' counsel deposed Defendants' Persons Most Knowledgeable as well as
2 the economist/data analyst relied on by Defendants to compute the amount in controversy for
3 removal purposes.

4 6. In January 2022, the Parties agreed to attend private mediation in connection with
5 the *Powell* Action. After inquiring with multiple agreed-upon mediators, the earliest mutually
6 agreeable mediation date was reserved with mediator Louis Marlin, Esq. for June 14, 2022.

7 7. On April 7, 2022, Defendants filed their Motion for Judgment on the Pleadings,
8 which was initially set for hearing on May 19, 2022.

9 8. On April 15, 2022, Plaintiffs filed their Motion for Class Certification, with a
10 hearing date of June 23, 2022.

11 9. Upon stipulation of the Parties, hearings for both Defendants' Motion for
12 Judgment on the Pleadings and Plaintiffs' Motion for Class Certification were continued to
13 October 13, 2022, pending the Parties' settlement efforts.

14 10. In or around early June 2022, Walmart's counsel informed Plaintiffs' counsel in
15 the *Powell* Action that Walmart had recently been served with the *Mejia* Action. Because the
16 putative class in the *Mejia* Action alleged claims that largely overlap with the putative class at
17 issue in the *Powell* Action, counsel for the plaintiff in the *Mejia* Action was invited to attend the
18 June 14, 2023 mediation, in an effort to resolve both the *Powell* and *Mejia* actions.

19 11. On June 14, 2022, the Parties engaged in mediation with Louis Marlin, an
20 experienced wage and hour class action mediator. The settlement discussions were conducted at
21 arm's-length. However, the Parties did not reach a settlement notwithstanding a full day of
22 mediation.

23 12. Following the provision of additional class data by Walmart and extended
24 negotiations, the Parties reached the present class and PAGA settlement, in principle, on October
25 4, 2022. Attached hereto as **Exhibit 1** is a true and correct copy of the Joint Stipulation of Class
26 and Representative Action Settlement ("Settlement Agreement"), which detail the terms of the
27 class and PAGA settlement reached between the Parties. The Notice of Proposed Class and
28 Representative Action Settlement ("Notice Packet") is attached to the Settlement Agreement as

Exhibit 2.

13. Each side has apprised the other of their respective factual contentions, legal theories and defenses, resulting in negotiations taking place between the Parties. Based on their own independent investigation and evaluation, the Parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in the Settlement Agreement are fair, reasonable, and adequate and the settlement is in the best interests of the Class and Defendant in light of all known circumstances and the expenses and risks inherent in litigation.

14. The Settlement Agreement provides for a Maximum Settlement Amount of Twelve Million Dollars (\$12,000,000.00) to be paid by Defendants.

15. The Net Settlement Amount, calculated after deduction of attorneys' fees (up to 35%, or \$4,200,000.00), costs (up to \$100,000.00), Class Representative Service Awards (up to \$10,000.00 for each Plaintiff for a total of \$40,000.00), payment to the LWDA (\$300,000.00), and Settlement Administration Costs (currently estimated at \$431,950.00), is estimated to be approximately \$6,928,050.00.

16. In connection with mediation and settlement negotiations, Plaintiffs' counsel conducted an exposure analysis based on the discovery and class data produced by Defendants. In this regard, Defendants identified approximately 109,222 putative class members. Based on this number, Plaintiffs estimated that the realistic exposure Defendants would face was approximately \$200,000.00 for the unpaid sick wages, and potentially \$100 million in derivative waiting time penalties.¹

17. Defendants also raised several defenses that presented risk for proving liability in this case. For example, Defendants argued that their formula for calculating sick pay was lawful. If so, then the value of Plaintiffs' claims would be \$0. Additionally, Defendants argued there is no private right of action for sick pay under the Healthy Workplace Healthy Family Act or the

¹ The main claim and/or damages to be recovered in an underpaid/unpaid sick pay wages claim are typically waiting time penalties under Labor Code § 203. The amount of actual underpaid/unpaid sick wages is typically minimal.

1 California Labor Code and, thus, Plaintiffs would not recover any unpaid sick pay wages, as a
2 matter of law. Again, if Defendant were to prevail on this argument, then the value of Plaintiffs'
3 claims would be \$0. Finally, even if Plaintiffs prevailed and showed that Defendants underpaid
4 the alleged sick wages, Plaintiffs would have to further prove that such underpayments by
5 Defendants was willful and intentional in order to recover any waiting time penalties. Thus,
6 even if Plaintiffs were able to prevail and recoup the underpaid sick wages, if Plaintiffs were
7 unable to establish the "willfulness/intentional" standard required by Labor Code § 203, the
8 value of Plaintiffs' claims would be significantly less than the current settlement. Indeed, should
9 the Court find against Plaintiffs on willfulness, the total waiting time penalties recoverable by
10 Plaintiffs would be \$0.

11 18. Plaintiffs also took into account the risk to prevailing on class certification on the
12 underpaid sick pay wages claim. In this regard, there is essentially no precedent from California
13 courts granting class certification of a sick pay regular rate claim. Thus, while Plaintiffs believe
14 that a class can be certified, there is a possibility that the Court will not grant class certification
15 on Plaintiffs' sick pay regular rate claim.

16 19. With respect to potential liability of Plaintiffs' PAGA claims, Plaintiffs estimated
17 that Defendants could face civil penalties under the PAGA for the violations described above in
18 excess of \$10 million. However, even assuming Plaintiffs prevailed on their PAGA claims, the
19 Court has discretion to reduce PAGA penalties substantially, based on Labor Code § 2699(e)(2)
20 as well as the Court of Appeal's decision in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504
21 (2018).

22 20. Although Plaintiffs believe in the merits of the alleged claims and maintain that
23 there is no reason for reducing PAGA penalties, Plaintiffs are aware that Defendants may raise
24 defenses to Plaintiffs' claims that could be persuasive to the Court. Thus, even if Plaintiffs were
25 to successfully prove their claims at trial, there is a possibility that the Court may only award a
26 small percentage of PAGA penalties, as the Court has discretion to do so. Taking into account
27 the risks and discretion of the Court to reduce PAGA penalties, a reasonable expectation of
28 PAGA penalties if this case were taken to trial is approximately \$2.5 million.

1 21. Although Plaintiffs believe that a class can be certified, Plaintiffs also believe in
2 the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiffs
3 involved in not prevailing on one or more of the causes of action or theories alleged in the
4 Complaints, the possibility of non-certification, and the potential for appeals.

5 22. The Maximum Settlement Amount was premised with these risks above in mind
6 associated with the possibility of the Court denying class certification, refusing to award waiting
7 time penalties, and significantly reducing Plaintiffs' PAGA penalties, along with other attendant
8 risks.

9 23. The total realistic exposure for Plaintiffs' class and PAGA claims amount to
10 approximately \$102.7 million.

11 24. The Maximum Settlement Amount is fair and reasonable as it is approximately
12 12% of the potential recovery of Plaintiffs' class and PAGA claims if Plaintiffs were to fully
13 succeed at trial.

14 25. From the inception of the case, Plaintiffs' counsel have zealously represented the
15 interests of the class. The settlement was obtained for the benefit of the class, as opposed to the
16 individual Plaintiffs.

17 26. I am one of the primary attorneys on this matter. My qualifications are as
18 follows: I received my J.D. from Arizona State University College of Law in 2003. During law
19 school, I was a summer associate at the law firm of Brobeck, Phleger & Harrison. I graduated
20 cum laude from Arizona State University College of Law in the top 10% of my class. While I
21 was in law school, I was the Associate Managing Editor of the Arizona State University College
22 of Law, Law Journal. Upon graduation, I practiced law as an associate at the Los Angeles
23 County offices of Ogletree Deakins Nash Smoak & Stewart, P.C., a national employment
24 defense law firm that represents a significant number of Fortune 500 companies.

25 27. My primary practice is employment law. I have handled a number of wage and
26 hour matters including class actions and individual actions, on both plaintiff and defense sides. I
27 have a practice that encompasses cases throughout the State of California, including but not
28 limited to the Los Angeles Superior Courts, the Orange County Superior Courts, the San

1 Francisco County Superior Courts, the San Diego County Superior Courts, and the United States
2 District Courts for the Central, Eastern, Northern, and Southern Districts of California.

3 28. I have been named as Class Counsel in a number of class actions that have been
4 granted final approval by the Superior Courts of Los Angeles County, Orange County, San
5 Francisco County, Alameda County, Contra Costa County, Monterey County, San Bernardino
6 County, Santa Clara County, Sonoma County, and the United States District Court for the
7 Central, Eastern, and Northern Districts of California, including but not limited to the following
8 class actions: *Chan Lanier v. Citigroup, Inc. et al.*, San Francisco Superior Court Case No. CGC-
9 05-445143; *Naqvi v. Acoustic Home Loans et al.*, Orange County Superior Court Case No.
10 05CC00263; *Ortega v. AIG*, Central District of California Case No. CV 06-0196-RSWL (PJWx);
11 *Universal Protection Overtime Cases*, Orange County Superior Court, Judicial Council
12 Coordination Proceeding No. 4480; *Tse v. Best Buy*, Los Angeles Superior Court Case No.
13 BC392717; *Hernandez v. CVS Corp. et al.*, Judicial Council Coordination Proceeding No. 4539;
14 *Padilla v. Safeway*, San Benito County Superior Court Case No. CU-16-00182; *Valles v.*
15 *Community Hospital of the Monterey Peninsula*, Monterey County Superior Court Case No.
16 17CV003452; *DirecTv Wage and Hour Cases*, Santa Clara Superior Court Judicial Council
17 Coordination Proceeding No. 4850; *Perez v. Standard Drywall, Inc.*, Alameda County Superior
18 Court Case No. RG15761142; and *Davis v. Nugget Market, Inc.*, Yolo County Superior Court
19 Case No. CV-18-558.

20 29. Plaintiffs and Plaintiffs' counsel are adequate representatives in that they have no
21 conflicts with the class and will adequately represent the class.

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1 30. On October 16, 2023, our office uploaded the Settlement Agreement, this Motion
2 for Preliminary Approval of Class Action Settlement, and Proposed Order on the LWDA's
3 website.

4 I declare under penalty of perjury and the laws of the State of California that the
5 foregoing is true and correct and that this declaration was executed on October 13, 2023, at Los
6 Angeles, California.

7 

8 _____
9 Larry W. Lee

EXHIBIT 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

HECTOR J. MEJIA on behalf of himself
and all others similarly situated,

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WALMART INC., a Delaware corporation;
and DOES 1 through 10, inclusive,

Defendant.

Case No.: CIVSB-2207614

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

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1 **JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

2 This Joint Stipulation of Class and Representative Action Settlement ("Agreement" or
3 "Settlement Agreement") is made and entered into by and between Plaintiffs Hector J. Mejia,
4 Dearl Powell, Christina Gast, and Elijha Gonzalez ("Plaintiffs"), and Defendants Walmart Inc.,
5 Wal-Mart Associates, Inc., and Wal-Mart Stores, Inc. ("Defendants" or "Walmart"). Plaintiffs
6 and Defendants collectively are referred to in the Agreement as "the Parties."

7 **A. DEFINITIONS**

8 The following definitions are applicable to this Agreement. Definitions contained
9 elsewhere in this Agreement shall also be effective:

10 1. "Action" means this lawsuit entitled *Hector Mejia v. Walmart Inc.*, filed on April
11 12, 2022 in Superior Court of the State of California, San Bernardino County Superior Court
12 Case No. CIV-SB-2207614, as amended in accordance with Section C.1 below to incorporate the
13 allegations and parties in the matter entitled *Dearl Powell et al. v. Walmart Inc., et al.*, Case No.
14 3:20-cv-02412-BEN-LL, currently pending in the Southern District of California.

15 2. "Agreement" or "Settlement Agreement" means this Joint Stipulation of Class
16 and Representative Action Settlement.

17 3. "Aggrieved Employees" means all individuals who are members of the Sick Pay
18 Class and who were employed by Defendants at any time during the PAGA Period (April 12,
19 2021 to December 31, 2022).

20 4. "Class" or "Class Member(s)" means the collective of the following: (a) all of
21 Defendants' California non-exempt Walmart retail store employees whose employment ended,
22 either voluntarily or involuntarily, at any time during the period of time from April 6, 2017,
23 through December 31, 2022, and who during their employment with Walmart at any time
24 between April 6, 2017, through December 31, 2022, received payment of Paid Sick Days in the
25 same quarter in which he/she earned a MyShare incentive (the "Former Employee Sick Pay
26 Class"); and (b) all of Defendants' current and former California non-exempt Walmart retail
27 store employees as of December 31, 2022, who, on at least one occasion between April 12, 2018
28 and December 31, 2022, received a payment of Paid Sick Days in the same quarter in which they

1 earned a MyShare incentive or within 90 days after receipt of any incentive pay (the "Sick Pay
2 Class").

3 5. "Class Counsel" means Marcus Bradley and Kiley Grombacher of Bradley/
4 Grombacher, LLP; Garen Majarian and Sahag Majarian, II of Majarian Law Group APC; Larry
5 W. Lee and Mai Tulyathan of Diversity Law Group, P.C.; Dennis S. Hyun of Hyun Legal, APC;
6 and B. James Fitzpatrick and Laura L. Franklin of Fitzpatrick & Swanston.

7 6. "Class Counsel Award" means such award of fees and costs and expenses as the
8 Court may authorize to be paid to Class Counsel for the services they have rendered and will
9 render to Plaintiff and the Class in the Action. Defendants agree not to oppose Class Counsel
10 Award of up to thirty-five percent of the Maximum Settlement Amount (\$12,000,000.00), *i.e.* the
11 sum of Four Million Two Hundred Thousand Dollars (\$4,200,000.00), and costs in the amount
12 of up to One Hundred Thousand Dollars (\$100,000.00), subject to the Court finally approving
13 this Settlement.

14 7. "Class List and Data" means a true and complete list of all Class Members that
15 Walmart will compile, based on its business records, and provide to the Settlement Administrator
16 within thirty (30) calendar days after the Court grants preliminary approval of the Settlement.
17 The Class List and Data shall be formatted in Microsoft Office Excel and shall include each
18 employee's full name, his or her last known home address, telephone number, social security
19 number, beginning and ending dates of employment, whether the Class Member is a member of
20 the Sick Pay Class and/or Former Employee Sick Pay Class, the number of pay periods in which
21 the Sick Pay Class Member received Paid Sick Days in the same quarter in which they earned a
22 MyShare incentive, and/or received Paid Sick Days within 90 days after receipt of any incentive
23 pay between April 12, 2018 and December 31, 2022, and the number of Former Employee Sick
24 Pay Class Members.

25 8. "Class Representatives" or "Plaintiffs" means Plaintiffs Hector J. Mejia, Dearn
26 Powell, Christina Gast, and Elijha Gonzalez.

27 9. "Complaint" means the First Amended Class Action Complaint contemplated to
28 be filed in this Action pursuant to Paragraph C(1) herein, which will be amended to: (1) add

1 Dearl Powell, Christina Gast, and Elijha Gonzalez as named plaintiffs and class representatives,
2 and (2) add a claim under the Private Attorneys General Act (Cal. Labor Code Section 2698, et
3 seq.), if the Court so authorizes such a filing.

4 10. "Counsel for Defendants" or "Defense Counsel" means Paloma P. Peracchio and
5 Mitchell A. Wrosch of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

6 11. "Court" means the Superior Court for the State of California, County of San
7 Bernardino, or any other court taking jurisdiction of the Action.

8 12. "Defendants" or "Walmart" means Walmart Inc., Wal-Mart Associates, Inc., and
9 Wal-Mart Stores, Inc.

10 13. "Effective Date" shall mean the day after the Court's Final Approval has become
11 final, which shall be the latest of the following dates, as applicable: (i) in the event that no appeal
12 or other judicial review has been taken or sought on the Final Approval Order and Judgment, the
13 date on which the time to appeal or seek permission to appeal, or to seek other judicial review
14 has expired or (ii) in the event an appeal or other judicial review has been taken or sought from
15 the entry of the Final Approval Order and Judgment, the latest of: (a) the date the Final Approval
16 Order and Judgment is finally affirmed by an appellate court with no possibility of subsequent
17 appeal or other judicial review therefrom; (b) the date the appeal(s) or other judicial therefrom
18 are finally dismissed with no possibility of subsequent appeal or other judicial review; or (c) if
19 remanded to this Court or to a lower appellate court following an appeal or other review, the
20 date, after the Final Approval Order and Judgment has been entered by this Court after remand,
21 upon which time to appeal or seek permission to appeal or seek other judicial review of the entry
22 of that Final Approval Order and Judgment has expired with no further appeal or other judicial
23 review having been taken or sought. If further appeal is sought after remand, the time periods in
24 this subsection A.12(ii) shall apply.

25 14. "Enhancement Payment" or "Service Payment" means the amount that the Court
26 authorizes to be paid to Plaintiffs, in addition to their respective Individual Settlement Payments,
27 in recognition of their efforts and risks in assisting with the prosecution of the Action. Subject to
28 the Court granting final approval, the Parties agree that the four Plaintiffs shall each be paid up to

1 Ten Thousand Dollars (\$10,000.00) from the Maximum Settlement Amount in exchange for a
2 general release of all claims by the Plaintiffs.

3 15. "Final Approval" means that the Final Approval Order and Judgment have been
4 entered by the Court.

5 16. "Individual PAGA Payment" means each Aggrieved Employee's pro rata share of
6 the PAGA Payment calculated according to the number of pay periods worked during the PAGA
7 Period.

8 17. "Individual Settlement Payment" means the amount payable from the Net Class
9 Settlement Amount to each Settlement Class Member.

10 18. "Maximum Settlement Amount" means the maximum settlement amount of
11 Twelve Million Dollars (\$12,000,000.00) to be paid by Defendants as a result of this Stipulation.
12 The Maximum Settlement Amount includes all Individual Settlement Payments, the Service
13 Payments to Plaintiffs, Settlement Administration Costs to the Settlement Administrator, the
14 PAGA Payment, and the Class Counsel Award. In addition to and separate from the Maximum
15 Settlement Amount, Defendants shall pay their share of employer-side payroll taxes.

16 19. "Net Class Settlement Amount" means the balance of the Maximum Settlement
17 Amount remaining after deduction of the approved Service Payment to Plaintiffs, Settlement
18 Administration Costs, the PAGA Payment, and the Class Counsel Award. The entire Net Class
19 Settlement Amount is the maximum amount that will be available for distribution to Settlement
20 Class Members. None of the Net Class Settlement Amount shall revert back to Defendants.

21 20. "Net PAGA Settlement Amount" shall mean the 25% of the PAGA Payment
22 which shall be allocated to Aggrieved Employees pursuant to section D(7) below.

23 21. "Notice of Objection" means a Class Member's valid and timely written objection
24 to the Settlement. For the Notice of Objection to be valid, it must include: (a) the objector's full
25 name, signature, address, and telephone number; (b) a written statement of basis for the
26 objection; and (c) any copies of papers, briefs, or documents upon which the objection is based.
27 The Notice of Objection must be returned by mail to the Settlement Administrator at the
28 specified address indicated in the Notice Packet and must be postmarked by the Response

1 Deadline. Any Notice of Objection received shall apply solely to the Released Class Claims.
2 There is no right to opt-out of the Released PAGA Claims.

3 22. "Notice Packet" means the Notice of Proposed Class and Representative Action
4 Settlement, substantially in the form attached as Exhibit B.

5 23. "Paid Sick Days" means either: (1) for the Former Employee Sick Pay Class,
6 payments for Protected Paid Time Off or payments for Paid Time Off for which the requested
7 reason was due to the illness of the associate and/or their family member, and (2) for the Sick
8 Pay Class, payments for Protected Paid Time Off.

9 24. "PAGA Payment" means the portion of the Maximum Settlement Amount that
10 the Parties have agreed will be allocated to resolve all claims, penalties, and remedies under the
11 Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, *et seq.*, "PAGA"). Subject to
12 Court approval pursuant to California Labor Code section 2699(l), the Parties agree that the
13 PAGA Payment shall be Four Thousand Dollars (\$400,000.00). Per Labor Code section 2699(i),
14 75% of such penalties, or \$300,000.00, will be payable to the LWDA for its share of PAGA
15 penalties, and the remaining 25%, or \$100,000.00, will be payable to Aggrieved Employees as
16 the "Net PAGA Settlement Amount." Aggrieved Employees shall receive their pro rata share of
17 the Net PAGA Settlement Amount (Individual PAGA Payment) even if they opt-out of the class
18 settlement. Even if the Court reduces or increases the PAGA Payment, Plaintiffs and Settlement
19 Class Members shall not have the right to revoke this Settlement for that reason, and it will
20 remain binding.

21 25. "PAGA Period" means the period of April 12, 2021 to December 31, 2022.

22 26. "Parties" means Plaintiffs, on behalf of themselves and Settlement Class
23 Members, and Defendants collectively.

24 27. "Preliminary Approval" means the Court's order granting preliminary approval of
25 the Settlement.

26 28. "Released Class Claims for Sick Pay Class Members" means all causes of action
27 that were alleged or reasonably could have been alleged against the Released Parties, and that
28 reasonably arise out of the same set of operative facts or are reasonably related to the allegations

1 in the Complaint that Defendants did not properly pay for paid sick days provided for under the
2 Healthy Workplace Healthy Family Act of 2014 (hereinafter "HWHFA") (Labor Code Sections
3 245-249), including, but not limited to, of violations of Cal. Labor Code sections 201-203, 204,
4 210, 226, 226.3, 246, and 1174 and Cal. Bus. & Prof. Code section 17200 set seq. predicated on
5 the alleged failure to properly pay for paid sick days that accrued at any time between April 12,
6 2018 through December 31, 2022.

7 29. "Released Class Claims for Former Employee Sick Pay Class Members" means
8 all causes of action that were alleged or reasonably could have been alleged against the
9 Released Parties, and that reasonably arise out of the same set of operative facts or are
10 reasonably related to the allegations in the Complaint that Defendants did not properly pay for
11 paid sick days provided for under the HWHFA, and that this resulted in a failure to pay all wages
12 owed at the time of separation of employment, including but not limited to violations of Cal.
13 Labor Code sections 201-203 and 246 that accrued at any time between April 6, 2017 through
14 December 31, 2022.

15 30. "Released PAGA Claims" means any and all claims for civil penalties under the
16 California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 *et seq.*,
17 which were alleged or reasonably could have been alleged against the Released Parties, and that
18 reasonably arise out of the same set of operative facts or are reasonably related to the allegations
19 in the Complaint that Defendants did not properly pay for paid sick days provided for under the
20 HWHFA, including but not limited to violations of Labor Code sections 201-203, 204, 210, 226,
21 226.3, 246, and 1174 predicated on the failure to properly pay for paid sick days that accrued at
22 any time between April 12, 2021 through December 31, 2022.

23 31. "Released Parties" means Defendants and all of their past and present parent,
24 subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint
25 venturers and affiliates, and each of their respective current and former directors, officers,
26 managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys,
27 advisors, representatives, general partners, limited partners, joint venturers, and affiliated
28 companies, and each of their respective executors, predecessors, successors, assigns and legal

1 representatives.

2 32. "Request for Exclusion" means a timely letter submitted by a Class Member
3 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (1)
4 clearly state that the Class Member does not wish to be included in the Settlement; (2) set forth
5 the name, address, telephone number, and last four digits of the Social Security Number of the
6 Class Member requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail
7 to the Settlement Administrator at the specified address indicated in the Notice Packet; and (5)
8 be postmarked on or before the Response Deadline. Any Request for Exclusion received shall
9 apply solely to the Released Class Claims for Sick Pay Class Members and Released Class
10 Claims for Former Employee Sick Pay Class Members. There is no right to request exclusion
11 from the Released PAGA Claims.

12 33. "Response Deadline" means forty-five (45) days after the Settlement
13 Administrator initially mails the Notice Packet to Class Members, and the last date on which
14 Class Members may submit Requests for Exclusion or Notices of Objections to the Settlement.

15 34. "Settlement" means the agreement among the Parties to resolve the Action, as set
16 forth in this Stipulation.

17 35. "Settlement Administration Costs" means the fees and expenses reasonably
18 incurred by the Settlement Administrator as a result of the procedures and processes expressly
19 required by this Agreement, which are estimated at Four Hundred Thirty One Thousand Nine
20 Hundred Fifty Dollars (\$431,950.00). Any portion of the Settlement Administration Costs not
21 used or approved by the Court shall be added to the Net Class Settlement Amount.

22 36. "Settlement Administrator" means Phoenix Settlement Administrators.

23 37. "Settlement Class" or "Settlement Class Members" means all Class Members who
24 do not submit valid and timely Requests for Exclusion.

25 38. "Settlement Payment Check" means the payment of the Individual Settlement
26 Payment to Settlement Class Members and Individual PAGA Payment to Class Members.

27 **B. FACTUAL BACKGROUND**

28 1. On September 29, 2020, Plaintiffs Dearl Powell, Christina Gast, and Elijah

1 Gonzalez filed a Class Action Complaint against Defendants in San Diego County Superior
2 Court, Case No. 37-2020-00035007-CU-OE-CTL (the "*Powell* Action"), which alleges a single
3 cause of action on behalf of former non-exempt employees for unpaid wages and penalties
4 pursuant to California Labor Code §§ 201-203 for Walmart's alleged failure to pay sick pay at
5 the correct "regular rate" of pay. The *Powell* Action alleges a class period start date of April 6,
6 2017, pursuant to Emergency rule 9 tolling during the COVID-19 pandemic.

7 2. In December 2020, the *Powell* Action was removed to United States District
8 Court for the Southern District of California, District Court Case No. 3:20-cv-2412-BEN-LL. In
9 January 2022, Walmart and Plaintiffs Dearl Powell, Christina Gast, and Elijha Gonzalez agreed
10 to attend private mediation in connection with the *Powell* Action. After inquiring with multiple
11 agreed-upon mediators, the earliest mutually agreeable mediation date was reserved with Louis
12 Marlin for June 14, 2022.

13 3. On April 12, 2022, Plaintiff Hector J. Mejia initiated this Action in San
14 Bernardino County Superior Court (San Bernardino Sup. Ct. Case No. CIV-SB-2207614), and
15 the Action was thereafter removed to United States District Court for the Central District of
16 California (Central District Case No. 5:22-CV-00970-AB). Similar to the *Powell* Action,
17 Plaintiff Mejia alleges class claims arising out of Defendants' alleged failure to pay sick pay at
18 the "regular rate" of pay. In addition to the unpaid wages and waiting time penalties sought on
19 behalf of former employees in the *Powell* Action, Plaintiff Mejia's class includes current
20 employees, a derivative claim for wage statement violations under Labor Code section 226, and a
21 cause of action under California Business and Professions Code Section 17200 et seq. for unfair
22 business practices relating to sick pay (i.e., violations of Labor Code sections 246, 226, and
23 1174).

24 4. On April 12, 2022, Plaintiff Hector J. Mejia filed a written notice to the California
25 Labor & Workforce Development Agency ("LWDA") alleging that Defendants violated Labor
26 Code section 226(a), pursuant to Labor Code section 2699 ("PAGA Notice").

27 5. In or around early June 2022, Walmart's counsel informed plaintiffs' counsel in
28 the *Powell* Action that Walmart had recently been served with this Action, as commenced by

1 Plaintiff Mejia. Thereafter, Plaintiff Mejia and his counsel were invited to attend the June 14,
2 2022 mediation to explore a potential global settlement with the *Powell* Action.

3 6. On June 14, 2022, the Parties engaged in mediation with Louis Marlin, an
4 experienced wage and hour class action mediator. The settlement discussions were conducted at
5 arm's-length. Following the provision of additional class data by Walmart and extended
6 negotiations, the Parties reached the present class and PAGA settlement, in principle, on October
7 4, 2022. The Parties have agreed to seek approval of the Settlement through this Action, as
8 described herein.

9 7. The Parties recognize the risk, expense, and delay in continuing the Action, and
10 therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties
11 desire to settle, compromise, and discharge all disputes and claims arising from or relating to the
12 Action.

13 **C. FILING OF FIRST AMENDED COMPLAINT**

14 1. Amended Complaint. Prior to the filing of the motion for preliminary approval of
15 the Agreement, the Parties will stipulate to the filing of a first amended complaint to add
16 plaintiffs Dearl Powell, Christina Gast, and Elijha Gonzalez, and to include PAGA claims
17 consistent with the allegations in Plaintiff Hector Mejia's PAGA letter. A true and correct copy
18 of the proposed First Amended Complaint that the parties will stipulate to filing is attached
19 hereto as Exhibit A. The Court's approval of the Parties' stipulation to file the attached amended
20 complaint is a material term of this Settlement Agreement. If, despite the Parties best efforts, the
21 Court does not grant leave to file the amended complaint, then either party may vacate this
22 settlement agreement and the cases return to their status quo.

23 **D. PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

24 1. Settlement Consideration. Defendants shall pay the sum of the Maximum
25 Settlement Amount as specified in this Agreement, which shall be used to pay: (1) Individual
26 Settlement Payments; (2) Class Counsel Award; (3) Enhancement Payment; (4) Settlement
27 Administration Costs; and (5) the PAGA Payment. The Parties agree that this is a non-
28 reversionary Settlement and that no portion of the Maximum Settlement Amount shall revert to

1 Defendants. Defendants also understand and agree that they shall pay their share of employer-
2 side payroll taxes in addition to the Maximum Settlement Amount.

3 2. Funding of the Maximum Settlement Amount. No later than ten (10) calendar
4 days after the Effective Date, Defendants shall make a one-time deposit of the Maximum
5 Settlement Amount, plus employer-side payroll taxes, into a Qualified Settlement Fund to be
6 established by the Settlement Administrator.

7 3. Class Counsel Award. Defendants agree not to oppose or impede any application
8 or motion by Class Counsel for attorneys' fees of up to thirty-five percent (35%) of the
9 Maximum Settlement Amount (\$12,000,000.00), *i.e.* the sum of Four Million Two Hundred
10 Thousand Dollars (\$4,200,000.00), and costs in the amount of up to One Hundred Thousand
11 Dollars (\$100,000.00), which shall be paid from the Maximum Settlement Amount. It is
12 understood by Class Counsel that the Court has final discretion in any fee award. The
13 Settlement Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the
14 awarded attorneys' fees, costs, and expenses. Any portion of the Class Counsel Award not
15 awarded to Class Counsel shall be added to the Net Class Settlement Amount and shall be
16 distributed to Settlement Class Members as provided in this Agreement. Notwithstanding any
17 other provision of this Agreement, if the Court should fail to award attorneys' fees to Class
18 Counsel in the full amount provided for in this Agreement, no order of the Court or modification
19 of any order of the Court concerning the amount of any attorneys' fees to be paid by Defendants
20 to Class Counsel pursuant to this settlement shall constitute grounds for cancellation or
21 termination of the Agreement or grounds for limiting any other provision of the Judgment. It is
22 agreed that no order of the Court, including any order concerning attorneys' fees, may alter or
23 otherwise increase the Maximum Settlement Amount. Released Parties shall have no liability to
24 Class Counsel rising from any claim to any portion of the Class Counsel Award.

25 4. Class Representative Enhancement Payments. Defendants agree not to oppose or
26 impede any application or motion by Plaintiffs for an Enhancement Payment of up to Ten
27 Thousand Dollars (\$10,000.00) to each Plaintiff. The Enhancement Payments shall be paid from
28 the Maximum Settlement Amount and shall be paid in addition to Plaintiffs' Individual

1 Settlement Payment as Settlement Class Members. It is understood by Class Counsel and
2 Plaintiffs that the Court has final discretion in any Enhancement Payment. This Settlement is not
3 contingent on the approval of the Class Representative Enhancement Payment. The Settlement
4 Administrator shall issue an IRS Form 1099 to Plaintiffs reflecting the Enhancement Payment.
5 Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on his
6 Enhancement Payment and shall hold harmless Defendants from any claim or liability for
7 taxes, penalties, or interest arising as a result of the Enhancement Payment. Any portion of the
8 Enhancement Payment not awarded to Plaintiffs shall be added to the Net Class Settlement
9 Amount and shall be distributed to Class Members as provided in this Agreement.

10 5. Settlement Administration Costs. The Settlement Administrator shall be paid for
11 the reasonable costs of administration of the Settlement from the Maximum Settlement Amount,
12 currently estimated at Four Hundred Thirty One Thousand Nine Hundred Fifty Dollars
13 (\$431,950.00). These costs, which shall be paid from the Maximum Settlement Amount, shall
14 include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing
15 of 1099 IRS Forms, establishing a Qualified Settlement Fund, administering and distributing the
16 Maximum Settlement Amount and Class Counsel Award, and providing necessary reports and
17 declarations. The Parties agree that the actual Settlement Administration Costs shall not exceed
18 that Court-approved figure unless the Court approves a request for additional Settlement
19 Administration Costs. Any portion of the Settlement Administration Costs not allowed shall be
20 added to the Net Class Settlement Amount and shall be distributed to Class Members as provided
21 in this Agreement.

22 6. PAGA Payment. Subject to Court approval, the Parties agree that Four Hundred
23 Thousand Dollars (\$400,000.00) of the Maximum Settlement Amount shall be designated for
24 satisfaction of claims for civil penalties under the PAGA. The Settlement Administration shall
25 pay seventy-five percent (75%) of the PAGA Payment, *i.e.* the sum of Three Hundred Thousand
26 Dollars (\$300,000.00), to the LWDA. The remaining twenty-five percent (25%), *i.e.* the sum of
27 One Hundred Thousand Dollars (\$100,000.00), shall be distributed to Aggrieved Employees (the
28 "Net PAGA Settlement Amount").

1 7. Individual PAGA Payment Calculation. The Administrator shall allocate the Net
2 PAGA Settlement Amount proportionally to Aggrieved Employees on a pro rata basis according
3 to the number of pay periods worked during the PAGA Period. Aggrieved Employees are
4 entitled to 100% of the Net PAGA Settlement Amount. Defendants maintain no reversionary
5 right to any portion of the Net PAGA Settlement Amount.

6 8. Net Class Settlement Amount. The Net Class Settlement Amount shall be used to
7 satisfy Individual Settlement Payments to Settlement Class Members in accordance with the
8 terms of this Agreement. Fifty percent (50%) of the Net Class Settlement Amount shall be
9 allocated to the Sick Pay Class Members and shall be distributed to the Sick Pay Class Members
10 by dividing said amount by the total number of pay periods in which all Sick Pay Class Members
11 were paid sick pay wages in the same time period that they earned any incentive pay between
12 April 12, 2018 and December 31, 2022, and multiplying said value by the number of pay periods
13 each Sick Pay Class Member was paid sick pay wages in the same time period that they earned
14 any incentive pay between April 12, 2018 and December 31, 2022. The other fifty percent
15 (50%) of the Net Class Settlement Amount shall be allocated to the Former Employee Sick Pay
16 Class Members on a pro rata basis based on the number of Former Employee Sick Pay Class
17 Members. Settlement Class Members are entitled to 100% of the Net Class Settlement Amount.
18 Defendants maintain no reversionary right to any portion of the Net Class Settlement Amount.
19 If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall
20 proportionately increase the Individual Settlement Payments for each Settlement Class
21 Member so that the amount actually distributed to Settlement Class Members equals 100% of
22 the Net Class Settlement Amount.

23 9. Calculation of Maximum Settlement Amount. The Maximum Settlement Amount
24 was calculated with, and is premised on, Defendants' representation that there are approximately
25 109,222 Settlement Class Members.

26 10. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
27 Settlement Class Members, the Individual PAGA Payments made to Class Members, the
28 Enhancement Payment made to Plaintiffs, as well as any other payments made pursuant to this

1 Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to
2 which any Class Members may be eligible, including, but not limited to: profit-sharing plans,
3 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and
4 any other benefit plans. Rather, it is the Parties' intention that this Settlement will not affect any
5 rights, contributions, or amounts to which any Class Members may be entitled under any benefit
6 plans.

7 11. Settlement Administration Process. The Parties agree to cooperate in the
8 administration of the Settlement and to make all reasonable efforts to control and minimize the
9 costs and expenses incurred in the administration of the Settlement. The Settlement
10 Administrator shall provide the following services:

- 11 a. Establish and maintain a Qualified Settlement Fund account;
- 12 b. Calculate the amount of the Settlement each Class Member is eligible to
13 receive;
- 14 c. Verify the last known address for each Class Member through a generally
15 utilized, national address update database prior to mailing the Notice Packet;
- 16 d. Print and mail the Notice Packet;
- 17 e. Establish and maintain a toll-free informational telephone support line to
18 assist Class Members who have questions regarding the Notice Packet;
- 19 f. Conduct additional address searches for mailed Notice Packets that are
20 returned as undeliverable and, to the extent new and more current addresses are found, also
21 reprint and re-mail Notice Packets accordingly;
- 22 g. Calculate Settlement Class Members' settlement share, field inquiries
23 from Class Members, and administer any Requests for Exclusion. This service will include
24 settlement proceed calculations, printing and issuance of checks, and preparation of appropriate
25 tax forms; and
- 26 h. Provide declarations and/or other information to the Court as requested.

27 12. Delivery of the Class List and Data. Within thirty (30) business days of
28 Preliminary Approval, Defendants shall provide the Class List and Data to the Settlement

1 Administrator.

2 13. Notice by First-Class U.S. Mail. Within five (5) business days after receiving the
3 Class List and Data from Defendants, the Settlement Administrator shall mail a Notice Packet to
4 all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
5 addresses identified in the Class List.

6 14. Confirmation of Contact Information in the Class List. Prior to mailing, the
7 Settlement Administrator shall perform a search based on the National Change of Address
8 Database for information to update and correct for any known or identifiable address changes.

9 15. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice
10 Packet will provide: (1) information regarding the nature of the Action; (2) a summary of the
11 Settlement's principal terms; (3) the Class definitions and which class(es) each person belongs
12 to; (4) each Settlement Class Member's estimated Individual Settlement Payment and the
13 formula for calculating Individual Settlement Payments, if they do not request to be excluded;
14 (5) each Settlement Class Member's estimated Individual PAGA Payment and the formula for
15 calculating Individual PAGA Payments; (6) instructions on how to submit valid Requests for
16 Exclusion, or objections; (7) the deadlines by which the Class Member must submit a Request
17 for Exclusion or Notice of Objection to the Settlement; (8) the date for the final approval
18 hearing; and (9) the claims to be released. The Notice Packet will also inform Class Members
19 that, in order to receive the Individual Settlement Payment and Individual PAGA Payment, they
20 do not need to do anything except keep the Settlement Administrator apprised of their current
21 mailing addresses.

22 16. Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement
23 Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly
24 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
25 Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding
26 address is provided, the Settlement Administrator shall promptly attempt to determine the correct
27 address using a skip-trace, or other search using the name, address and/or Social Security
28 Number of the Class Member involved and shall then perform a re-mailing. Those Class

1 Members who receive a re-mailed Notice Packet shall have their Response Deadline extended
2 fifteen (15) days from the original Response Deadline.

3 17. Request for Exclusion Procedures. Any Class Member may opt-out from the
4 Settlement by submitting a written Request for Exclusion to the Settlement Administrator
5 postmarked by the Response Deadline. A Request for Exclusion must: (1) clearly state that the
6 Class Member does not wish to be included in the Settlement; (2) set forth the name, address,
7 telephone number, and last four digits of the Social Security Number of the Class Member
8 requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail to the
9 Settlement Administrator at the specified address indicated in the Notice Packet; and (5) be
10 postmarked on or before the Response Deadline. The date of the postmark shall be the exclusive
11 means to determine whether a Request for Exclusion is timely. By submitting such a Request for
12 Exclusion, a Class Member shall be deemed to have exercised his or her option to opt out of the
13 Settlement and not be bound by this Agreement. Provided, however, that no Class Member may
14 opt out of or be excluded from participating in the settlement of the Released PAGA Claims. At
15 no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class
16 Members to submit a Request for Exclusion. Class Counsel shall not represent any Class
17 Members with respect to any such request.

18 18. No PAGA Opt-Out. No Class Member may opt out of or be excluded from
19 participating in the settlement of the Released PAGA Claims. All Class Members shall be bound
20 by the judgment entered herein and will have released the Released PAGA Claims upon the final
21 approval of this Settlement and the payment of the Maximum Settlement Amount.

22 19. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
23 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
24 Request for Exclusion shall be bound by all terms of the Settlement to the fullest possible extent,
25 including those pertaining to the Released Class Claims and Released PAGA Claims, as well as
26 any Judgment that may be entered by the Court.

27 20. Objection Procedures. Any Class Member who does not opt-out of this Settlement
28 shall be entitled to object to the Settlement. To object to the Settlement, a Class Member must

1 return by mail a written statement of objection to the Settlement Administrator at the specified
2 address by the Response Deadline. The Notice of Objection must include: (1) the objector's full
3 name, signature, address, and telephone number; (2) a written statement of the basis for the
4 objection; and (3) any copies of papers, briefs, or documents upon which the objection is based.
5 At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class
6 Members to submit written objections to the Settlement or appeal from the Order and Judgment.
7 Class Counsel shall not represent any Class Members with respect to any such objections to this
8 Settlement. Any Class Member who submits a valid Request for Exclusion shall not be allowed
9 to object to this Settlement. No later than five (5) days after the Response Deadline, the
10 Settlement Administrator shall provide Defense Counsel with a complete list of all Class
11 Members who have timely and properly requested exclusion from the Class.

12 21. Settlement Administrator's Reports of Information. The Settlement Administrator
13 shall provide Defense Counsel and Class Counsel a weekly report which certifies the number of
14 Class Members who have submitted valid Requests for Exclusion. Additionally, the Settlement
15 Administrator will provide to counsel for both Parties any updated reports regarding the
16 administration of the Settlement as needed or requested. The Settlement Administrator shall also
17 forward to Parties' counsel any Notices of Objection received immediately upon receipt. Further,
18 the Settlement Administrator shall immediately forward any Request for Exclusion to the
19 Parties' counsel so that they can determine whether the Request for Exclusion is valid and
20 timely.

21 22. Distribution of Payments. Within fifteen (15) calendar days of Defendants
22 funding the Maximum Settlement Amount, the Settlement Administrator shall pay: (1) the
23 Individual Settlement Payments to Settlement Class Members; (2) the Individual PAGA
24 Payments to Class Members; (3) the Labor and Workforce Development Agency seventy-five
25 percent (75%) of the PAGA Payment; (4) the Enhancement Payment to Plaintiffs; and (5) Class
26 Counsel Award to Class Counsel. The Settlement Administrator shall also issue a payment to
27 itself for services performed in connection with the Settlement.

28 23. Non-Negotiated Settlement Checks. Any checks issued by the Settlement

1 Administrator to Settlement Class Members and Class Members shall be negotiable for one
2 hundred and eighty (180) calendar days. Those funds represented by settlement checks returned
3 as undeliverable and the funds which correspond with the settlement checks that are not
4 negotiated within one hundred and eighty (180) calendar days after issuance shall be transmitted
5 by the Administrator to the California Controller's Unclaimed Property Fund in the name of the
6 Class Member thereby leaving no "unpaid residue" subject to the requirements of California
7 Code of Civil Procedure Section 384, subd. (b).

8 24. Certification of Completion. Upon completion of administration of the
9 Settlement, the Settlement Administrator shall provide a written declaration under oath to certify
10 such completion to the Court and counsel for all Parties.

11 25. Administration Costs if Settlement Fails or is Delayed. If an objection to the
12 Settlement is filed with the Court, regardless of the ultimate outcome of any appeals taken, or if
13 the Settlement is voided or rescinded, any costs incurred by the Settlement Administrator shall
14 be borne equally by Defendants and Plaintiffs, unless otherwise specified in this Agreement.

15 26. Tax Allocation of Individual Settlement Shares and Individual PAGA Payments.
16 All Individual Settlement Payments to Former Employee Sick Pay Class Members and
17 Individual PAGA Payments shall be allocated as 100% as penalties. All Individual Settlement
18 Payments to Sick Pay Class Members shall be allocated as 20% as wages and 80% as penalties.
19 The amount of payments shall be reported on the appropriate tax forms by the Settlement
20 Administrator.

21 27. Administration of Taxes by the Settlement Administrator. The Settlement
22 Administrator shall be responsible for issuing to Plaintiffs, Settlement Class Members, Class
23 Members and Class Counsel, 1099 forms or other tax forms as may be required by law for all
24 amounts paid pursuant to this Agreement.

25 28. Tax Liability. Defendants, Defense Counsel, the Settlement Administrator, and
26 Plaintiffs' counsel make no representation as to the tax treatment or legal effect of the payments
27 called for hereunder, and Plaintiffs, Settlement Class Members and Class Members are not
28 relying on any statement, representation, or calculation by Defendants, Defense Counsel,

1 Plaintiffs' counsel, or by the Settlement Administrator in this regard. Plaintiffs, Settlement Class
2 Members and Class Members understand and agree that they will be solely responsible for the
3 payment of any and all taxes and penalties assessed on their respective payments described
4 herein and will defend, indemnify, and hold Defendants, Defense Counsel, Plaintiffs' counsel
5 and the Settlement Administrator free and harmless from and against any claims resulting from
6 treatment of such payments as non-taxable penalties/damages.

7 29. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
8 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
9 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AND "OTHER
10 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
11 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
12 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
13 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
14 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
15 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
16 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
17 RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX
18 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
19 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
20 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
21 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
22 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
23 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
24 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
25 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
26 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
27 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
28 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY

1 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
2 AGREEMENT.

3 30. No Prior Assignments. The Parties and their counsel represent, covenant, and
4 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
5 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
6 demand, action, cause of action or right herein released and discharged.

7 31. General Release of Claims by Plaintiffs. Plaintiffs and their respective former and
8 present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns
9 generally, release and discharge Released Parties, in addition to the release given as Class
10 Members and Aggrieved Employees, from all claims, demands, actions, causes of action, suits,
11 damages, penalties, losses, and expenses, of any and every nature whatsoever, known or
12 unknown, as a result of actions or omissions by Released Parties, including, without limitation
13 claims for unpaid wages, unlawful discrimination, harassment, or failure to accommodate and
14 any other claims related to the terms and conditions of employment including without limitation
15 under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Fair
16 Labor Standards Act, the National Labor Relations Act, the California Fair Employment and
17 Housing Act, the California Labor Code, the California Wage and Hour Laws and the California
18 Private Attorneys' General Act and any amendments to the foregoing, or any other federal, state
19 or local statute, rule, ordinance, or regulation, as well as any claims in equity or under common
20 law for tort, contract or wrongful discharge. Plaintiffs may hereafter discover claims or facts in
21 addition to, or different from, those which they now know or believe to exist, but Plaintiffs
22 expressly agree to fully, finally and forever settle and release any and all claims against the
23 Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on
24 behalf of or against the other at the time of execution of this Agreement, including, but not
25 limited to, any and all claims relating to or arising from Plaintiffs' employment with Defendants
26 provided, however, that nothing in this Release is intended to be a waiver by Plaintiffs of claims
27 Plaintiffs may have against the Released Parties (a) for unemployment or workers' compensation
28 benefits, (b) for vested rights under ERISA-covered employee benefit plans as applicable on the

1 date Plaintiffs sign this Agreement, or (c) claims that cannot be released by private agreement.

2 Plaintiffs further expressly waive and relinquish, to the fullest extent permitted by law,
3 the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides:
4 "A general release does not extend to claims that the creditor or releasing party does not
5 know or suspect to exist in his or her favor at the time of executing the release and that, if
6 known by him or her, would have materially affected his or her settlement with the debtor
7 or released party."

8 32. Release of Claims by Settlement Class Members. Upon the payment of the
9 Maximum Settlement Amount, all Sick Pay Class Members shall be deemed to have fully,
10 finally and forever released, settled, compromised, relinquished and discharged, to the fullest
11 extent possible, any and all of the Released Parties of and from any and all Released Class
12 Claims for Sick Pay Class Members, and all Former Employee Sick Pay Class Members shall
13 be deemed to have fully, finally and forever released, settled, compromised, relinquished and
14 discharged, to the fullest extent possible, any and all of the Released Parties of and from any and
15 all Released Class Claims for Former Employee Sick Pay Class Members.

16 33. Release of PAGA Claims by Class Members. Upon the payment of the Maximum
17 Settlement Amount, Plaintiffs and all Aggrieved Employees, as well as their spouses, heirs,
18 executors, administrators, trustees, and/or permitted assigns, as well as the LWDA, hereby do or
19 shall be deemed to have fully, finally and forever released, settled, compromised, relinquished
20 and discharged, to the fullest extent possible, any and all of the Released Parties of and from any
21 and all Released PAGA Claims.

22 34. Nullification of Settlement. In the event that the Settlement does not become final
23 for any reason, then this Agreement, and any documents generated to bring it into effect, shall be
24 null and void. Any order or judgment entered by the Court in furtherance of this Agreement shall
25 likewise be treated as void from the beginning.

26 35. Disputes Regarding Individual Settlement Payments. In the event that Class
27 Members have a dispute as to the data provided by the Defendants, Class Members will have the
28 opportunity to provide documentation and/or an explanation. Absent evidence rebutting

Defendants' records, Defendants' records will be presumed determinative. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments or Individual PAGA Payments under the terms of this Agreement, and that determination shall be binding.

36. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

37. Preliminary Approval Hearing. Plaintiffs shall obtain a hearing before the Court to request the Preliminary Approval of the Settlement, conditional certification of the Class, and the entry of a Preliminary Approval Order: (i) approving of the proposed Settlement, and (ii) setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiffs shall submit this Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice Packet, attached to this Agreement as Exhibit B.

38. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the Final Approval of the Settlement along with the amounts properly payable for (i) Individual Settlement Payments; (ii) the PAGA Payment; (ii) the Class Counsel Award; (iii) the Enhancement Payment; and (iv) Settlement Administration Costs. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the Final Approval Hearing.

39. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the

1 Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent
2 with the terms of this Agreement. After entry of the Judgment, the Court shall have continuing
3 jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms
4 of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as
5 may be appropriate under court rules or as set forth in this Agreement.

6 40. Exhibits Incorporated by Reference. The terms of this Agreement include the
7 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully
8 set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

9 41. Entire Agreement. This Agreement and any attached Exhibits constitute the
10 entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral
11 negotiations or agreements may be deemed binding on the Parties.

12 42. Disputes Regarding Language of Final Settlement Agreement. If the Parties have
13 a dispute with regard to the language of the Agreement, the Parties agree to attempt to informally
14 resolve the dispute by engaging Louis Marlin or other similarly experienced mediator to mediate
15 such dispute.

16 43. Amendment or Modification. This Agreement may be amended or modified only
17 by a written instrument signed by the Parties' counsel or their successors-in-interest.

18 44. Authorization to Enter into Agreement. Counsel for all Parties warrant and
19 represent they are expressly authorized by the Parties whom they represent to negotiate this
20 Agreement and to take all appropriate actions required or permitted to be taken by the Parties
21 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
22 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
23 other and use their best and good-faith efforts to effect the implementation of the Settlement. If
24 the Parties are unable to reach agreement on the form or content of any document needed to
25 implement the Settlement, or on any supplemental provisions that may become necessary to
26 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
27 such disagreement.

28 45. Binding on Successors and Assigns. This Agreement shall be binding upon, and

1 inure to the benefit of, the successors, heirs, or assigns of the Parties hereto, as previously
2 defined.

3 46. California Law Governs. All terms of this Agreement and Exhibits hereto shall be
4 governed by and interpreted according to the laws of the State of California.

5 47. Execution and Counterparts. This Agreement is subject only to the execution of
6 all Parties. However, the Agreement may be executed in one or more counterparts. All executed
7 counterparts and each of them, including, DocuSign, facsimile and scanned copies of the
8 signature page, shall be deemed to be one and the same instrument provided that counsel for the
9 Parties shall exchange among themselves original signed counterparts.

10 48. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
11 this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at
12 this Settlement after arm's-length negotiations, mediation, and in the context of adversarial
13 litigation, taking into account all relevant factors, present and potential. The Parties further
14 acknowledge that they are each represented by competent counsel and that they have had an
15 opportunity to consult with their counsel regarding the fairness and reasonableness of this
16 Agreement.

17 49. Invalidity of Any Provision. Before declaring any provision of this Agreement
18 invalid, the Court shall first attempt to construe the provision as valid to the fullest extent
19 possible consistent with applicable precedents so as to define all provisions of this Agreement
20 valid and enforceable. Any invalid, illegal, or unenforceable provision determined by the Court
21 shall in no way affect any other provision if Defendants and Class Counsel, on behalf of the
22 Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal,
23 or unenforceable provision had never been included in this Agreement.

24 50. Waiver of Certain Appeals. Provided the Judgment is consistent with the terms
25 and conditions of this Agreement, the Parties, their respective counsel, and all Class Members
26 who did not object to the Settlement as provided in this Agreement, waive all rights to appeal
27 from the Judgment, including all rights to post-judgment and appellate proceedings, the right to
28 file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The

1 waiver of appeal does not include any waiver of the right to oppose such motions, writs or
2 appeals, nor does it include Plaintiffs or Class Counsel's right to appeal any reduction in the
3 Class Counsel Award below the amount Class Counsel requests. If an objector appeals the
4 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such
5 time as the appeal is finally resolved and the Judgment becomes final, except as to matters that
6 do not affect the amount of the Net Settlement Amount.

7 51. Class Action Certification. The Parties are agreeing to class certification for
8 settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an
9 admission of any kind by Defendants, including without limitation, that certification of a class
10 for trial or any other purpose is appropriate or proper or that Plaintiffs or any Class Member can
11 establish any of the requisite elements for class treatment of any of the claims in this Action. If,
12 for any reason, the Settlement is not finally approved, this Agreement will be void and the
13 Parties will be restored to their respective positions in the lawsuit as if they had not entered into
14 this Agreement. The Parties further agree that this Agreement or any documents or orders issued
15 related to this Settlement will not be admissible, other than according to the Settlement's terms,
16 in this or any other proceeding as evidence that either: (i) a class action should be certified, or (ii)
17 Defendants are liable to Plaintiffs or any Class Member.

18 52. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
19 dispute that has arisen between them and to avoid the burden, expense and risk of continued
20 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that
21 they have violated any state, or local law; violated any regulations or guidelines promulgated
22 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
23 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
24 engaged in any other unlawful conduct with respect to its employees. Neither this Agreement,
25 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
26 construed as an admission or concession by Defendants of any such violations or failures to
27 comply with any applicable law, regulation, or legal requirement. Except as necessary in a
28 proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions

1 shall not be offered or received as evidence in any action or proceeding to establish any liability
2 or admission of any nature on the part of Defendants, or to establish the existence of any
3 condition constituting a violation of, or a non-compliance with, federal, state, local or other
4 applicable law.

5 53. Captions. The captions and section numbers in this Agreement are inserted for the
6 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
7 provisions of this Agreement.

8 54. Waiver. No waiver of any condition or covenant contained in this Agreement or
9 failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or
10 constitute a further waiver by such party of the same or any other condition, covenant, right or
11 remedy.

12 55. Enforcement Actions. In the event that one or more of the Parties institutes any
13 legal action or other proceeding against any other Party or Parties to enforce the provisions of
14 this Settlement, or to declare rights and/or obligations under this Settlement, the prevailing Party
15 or Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable
16 attorneys' fees and costs, including expert witness fees incurred in connection with any
17 enforcement actions.

18 56. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
19 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more
20 strictly against one Party than another merely by virtue of the fact that it may have been prepared
21 by counsel for one of the Parties, it being recognized that, because of the arm's-length
22 negotiations between the Parties, all Parties have contributed to the preparation of this
23 Agreement.

24 57. Representation by Counsel. The Parties acknowledge that they have been
25 represented by counsel throughout all negotiations that preceded the execution of this
26 Agreement, and that this Agreement has been executed with the consent and advice of counsel.

27 58. Cooperation and Execution of Necessary Documents. All Parties shall cooperate
28 in good faith and execute all documents to the extent reasonably necessary to effectuate the

terms of this Agreement.

59. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement shall be fully enforceable and binding on all Parties, and agree that it shall be admissible and subject to disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class and Representative Action Settlement Between Plaintiffs and Defendants as of the date(s) set forth below:

SIGNATURES

READ CAREFULLY BEFORE SIGNING

DATED: June 13, 2023 | 22:38 CDT

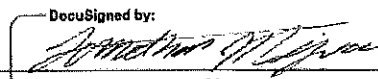
DEFENDANTS WALMART INC., WALMART ASSOCIATES, INC.



[NAME] Rachel Brand
[TITLE] Executive Vice President of Global Governance,
Chief Legal Officer, and Corporate Secretary

DATED: 6/8/2023

PLAINTIFF HECTOR J. MEJIA

DocuSigned by:


Plaintiff Hector J. Mejia

DATED: 6/2/2023

PLAINTIFF DEARL POWELL

DocuSigned by:


Plaintiff Dearl Powell

DATED: 6/2/2023

PLAINTIFF CHRISTINA GAST

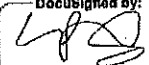
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Plaintiff Christina Gast

DATED: 6/3/2023

PLAINTIFF ELIJHA GONZALEZ

DocuSigned by:

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Plaintiff Elijha Gonzalez

APPROVED AS TO FORM

DATED: June 5, 2023

DIVERSITY LAW GROUP, P.C.

By: 
Larry W. Lee, Esq.
Mai Tulyathan, Esq.

Attorneys for Plaintiffs
DEARL POWELL; CHRISTINA GAST and
ELIJHA GONZALEZ

DATED: 6/8, 2023

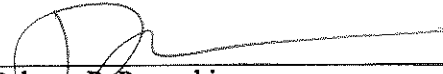
BRADLEY/GROMBACHER, LLP

By: 
Marcus J. Bradley, Esq.

Attorneys for Plaintiff
HECTOR MEJIA

1 DATED: June 15, 2023
2
3

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

4
5 By: 

Paloma P. Peracchio
Mitchell A. Wrosch

6
7 Attorneys for Defendants
WALMART INC.; WAL-MART ASSOCIATES,
8 INC. and WAL-MART STORES, INC.
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EXHIBIT A

BRADLEY/GROMBACHER, LLP

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Attorneys for Plaintiff HECTOR J. MEJIA on behalf
of himself and others similarly situated
(Additional Counsel on Next Page)

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

HECTOR J. MEJIA, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

WALMART INC., a Delaware corporation;
and DOES 1 to 10, inclusive,

Defendant.

CASE NO. CIV-SB-2207614

[Assigned for all purposes to the Hon. David S.
Cohn, Dept. S26]

**FIRST AMENDED CLASS ACTION
COMPLAINT:**

1. Failure to Provide Sick Pay in Violation of Cal. Labor Code section 246;
2. Violation of Labor Code §§ 201-203;
3. Failure to Provide Compliant Wage Statement and Maintain Accurate Records in Violation of Cal. Labor Code sections 226(a) and 1174;
4. Violations of Business & Professions Code section 17200 et seq.; and
5. Violation of Cal. Labor Code § 2698 et seq.

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DEMAND FOR JURY TRIAL

Larry W. Lee (State Bar No. 228175)
Mai Tulyathan (State Bar No. 316704)

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(213) 488-6554 facsimile

Attorneys for Plaintiffs DEARL POWELL, CHRISTINA GAST,
ELIJHA GONZALEZ and the Class

1 Plaintiffs, HECTOR J. MEJIA (“Mejia”), DEARL POWELL (“Powell”), CHRISTINA
2 GAST (“Gast”) and ELIJHA GONZALEZ (“Gonzalez”) (hereinafter collectively, “Plaintiffs”)
3 hereby submit this First Amended Class Action Complaint (“Complaint”) against Defendant
4 WALMART INC., a Delaware corporation; and DOES 1 to 10 (hereinafter referred to as
5 “Defendant”) on behalf of themselves and the class of all other similarly situated current and former
6 employees of Defendant as follows:

7 **NATURE OF THE CASE**

8 1. This is a class action arising out of Defendant’s failure to provide their non-exempt
9 employees with sick pay at the regular rate of pay.

10 2. Walmart Inc. is an American multinational retail corporation that operates a chain of
11 supercenters. Walmart operates 10,593 stores in 24 countries. Walmart is headquartered in
12 Bentonville, Arkansas.

13 3. At all relevant times, Defendant issued and maintained uniform, standardized
14 scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in
15 California, including Plaintiff and others similarly situated, regardless of their location or position.

16 4. Defendant has maintained practices across its locations which have failed and
17 continue to fail to pay Plaintiff and other non-exempt employees sick pay wages at the regular rate
18 of pay. Rather Defendant paid sick pay wages at the base rate of pay.

19 5. In light of the foregoing, Defendant has failed to provide Plaintiff and other non-
20 exempt employees with compliant wage statements and failed to maintain accurate records.

21 6. Plaintiffs bring Causes of Action One through Three (the “class claims”) as a class
22 action on behalf of themselves and other similarly situated individuals who have worked for
23 Defendant in California, at any time from April 6, 2017, through December 31, 2022. Plaintiffs, on
24 their own behalf and on behalf of all Class Members, brings the class claims pursuant to Labor
25 Code sections 201-203, 226, 246, 1174, the applicable wage order and under Business &
26 Professions Code sections 17200-17208, for unfair competition due to Defendant’s unlawful, unfair
27 and fraudulent business acts and practices. The Fifth Cause of Action (the “representative claim”)
28 is brought by Plaintiffs as proxies for the State of California on behalf of all similarly aggrieved

employees pursuant to the Private Attorneys General Act (the “PAGA”), Labor Code § 2698 et seq.

7. Plaintiffs are informed and believe, and based thereon allege, that Defendant has engaged in, among other things a system of willful violations of the Labor Code and the applicable IWC wage orders by creating and maintaining policies, practices and customs that knowingly deny employees the above stated rights and benefits.

PARTIES

8. Mejia is an individual over the age of eighteen (18) and is now, and/or at all relevant times mentioned in this Complaint was, a resident and domiciliary of the State of California. During the relevant time period, Mejia has worked for Defendant in Barstow, California from approximately 2020 through the present. Mejia works at Walmart store number 1879. Mejia works as a team associate. Plaintiff earns approximately \$19.50 per hour. Gast was employed by Walmart as an hourly, non-exempt employee in Los Angeles, California, from on or about June 23, 1998, to on or about January 2, 2020. Powell was employed by Walmart as an hourly, non-exempt employee in San Diego, California from on or about September 12, 2018, to on or about January 15, 2020. Gonzalez was employed by Walmart as an hourly, non-exempt employee in Fresno, California from on or about March 4, 2017, to on or about February 17, 2020.

9. Plaintiffs are informed and believe, and based thereon allege, s that Walmart Inc., is a Delaware corporation. Plaintiffs are further informed and believe that at all times relevant hereto, Defendant has transacted, and continues to transact, business throughout the State of California.

10. Plaintiffs are informed and believe, and based upon such information and belief allege, that Defendant is, now and/or at all times mentioned in this Complaint was in some manner legally responsible for the events, happenings and circumstances alleged in this Complaint.

11. Plaintiffs are further informed and believe, and based upon such information and belief allege, that at all times herein mentioned, Defendant proximately caused Plaintiff, all others similarly situated, and the general public to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

12. Plaintiffs are informed and believe, and based thereon allege, that at all times herein mentioned Defendants and DOES 1 through 10, are and were corporations, business entities,

1 individuals, and partnerships, licensed to do business and actually doing business in the State of
2 California.

3 13. Plaintiffs do not know the true names or capacities, whether individual, partner or
4 corporate, of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, said
5 Defendants are sued under such fictitious names, and Plaintiffs pray for leave to amend this
6 complaint when the true names and capacities are known. Plaintiffs are informed and believe, and
7 based thereon allege, that each of said fictitious Defendants were responsible in some way for the
8 matters alleged herein and proximately caused Plaintiffs and members of the general public and
9 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

10 14. At all times herein mentioned, each of said Defendants participated in the doing of
11 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
12 Defendants, and each of them, were the agents, servants and employees of each of the other
13 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
14 within the course and scope of said agency and employment.

15 15. Plaintiffs are informed and believe, and based thereon allege, that at all times
16 material hereto, each of the Defendants named herein were the agent, employee, alter ego and/or
17 joint venturer of, or working in concert with each of the other co-Defendants and were acting
18 within the course and scope of such agency, employment, joint venture, or concerted activity. To
19 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
20 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
21 Defendants.

22 16. At all times herein mentioned, Defendants, and each of them, were members of, and
23 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
24 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

25 17. At all times herein mentioned, the acts and omissions of various Defendants, and
26 each of them, concurred and contributed to the various acts and omissions of each and all of the
27 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
28 herein mentioned, Defendants, and each of them, ratified each and every act or omission

1 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and
2 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
3 damages as herein alleged.

4 18. The members of the Class (as defined below), including the representative Plaintiffs
5 named herein, have been employed during the Class Period in California. The practices and
6 policies which are complained of by way of this Complaint are enforced throughout the State of
7 California.

8 **JURISDICTION AND VENUE**

9 19. The Court has jurisdiction over this class action pursuant to article 6, section 10 of
10 the California Constitution and Code of Civil Procedure section 410.10.

11 20. Additionally, this Court has jurisdiction over Plaintiffs' and the Class's claims for
12 injunctive relief, including restitution of earned wages, arising from Defendant's unfair
13 competition under Business & Professions Code section 17203 and 17204. The Court also has
14 jurisdiction over Plaintiffs' and the Class's claims pursuant to the applicable provisions.

15 21. The Court has jurisdiction over Defendant because it is authorized to do business in
16 the State of California and is registered with the California Secretary of State. Defendant does
17 sufficient business with sufficient minimum contacts in California, and/or otherwise intentionally
18 avails itself of the California market through the advertising, marketing and sale of goods and
19 services, to render the exercise of jurisdiction over Defendant by the California court consistent
20 with traditional notions of fair play and substantial justice.

21 22. Venue is proper in San Bernardino County because the acts which give rise to this
22 litigation occurred in this county and because Defendant has employed class members in this
23 county and transacts business in this county.

24 **FACTUAL ALLEGATIONS**

25 23. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

26 24. Defendant has engaged in, and continues to engage in, unfair business practices in
27 California by practicing, employing and utilizing the employment practices and policies outlined
28 above.

1 25. As a direct result of the wage and hour violations herein alleged, Plaintiffs and
2 members of the Class have suffered, and continue to suffer substantial losses related to the use and
3 enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in seeking to
4 compel Defendant to fully perform its obligations under state law, all to Plaintiffs' respective
5 damage in amounts according to proof at the time of trial.

6 26. Defendant failed to pay Plaintiffs and members of the Class sick pay at the correct
7 rate. Plaintiffs received compensation in addition to hourly wages, but those additional amounts
8 were not included when calculating sick pay wages. For example, on 3/17/22 Mejia earned
9 "INCTV FAC HRLY" pay of \$580.73 which was not factored into his sick pay wages. On 3/3/22
10 Mejia also earned "COVID-19 PAY" for \$476.28 and \$156.00 paid on 2/17/22, neither of which
11 were factored into his sick pay wages. Further, on 8/20/20 and 6/25/20 Mejia earned "COVID-LS"
12 pay which also was not used to calculate his sick pay wages. Moreover, on 2/17/22 Mejia was paid
13 "REFERRAL" pay of \$292.50 which was also not factored into to his sick pay wages. Further, in
14 2020, Walmart provided cash bonuses to all hourly associates, which was not used in calculating
15 sick pay wages.¹

16 27. Because Defendant failed to pay all earned wages to Plaintiffs and members of the
17 Class, Defendant failed to provide compliant wage statements.

18 28. Defendant has further engaged in, and continue to engage in, unfair business
19 practices in California by practicing, employing and utilizing the unlawful employment practices
20 and policies outlined above.

21 29. As a direct result of the wage and hour violations herein alleged, Plaintiffs and
22 members of the Class have suffered, and continue to suffer substantial losses related to the use and
23 enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in seeking to
24 compel Defendant to perform their obligations under state law, all to Plaintiff's and members of the
25 Class's respective damage in amounts according to proof at the time of trial.

26 ***Facts Regarding Willfulness***

27
28 ¹ <https://corporate.walmart.com/newsroom/2020/03/19/walmart-announces-special-cash-bonus-and-early-payment-of-q1-bonuses-totaling-nearly-550-million-for-hourly-associates>

30. Plaintiffs are informed and believe, and based thereon allege, that Defendant is and was advised by skilled lawyers, other professionals, employees with human resources background and advisors with knowledge of the requirements of California wage and hour laws and that at all relevant times, Defendant knew or should have known, that the members of the Classes, including Plaintiffs, were entitled to sick pay wages at the regular rate of pay.

Plaintiffs' Exhaustion of Administrative Remedies

31. Plaintiffs have exhausted their administrative remedies to proceed under the PAGA.

32. By letter dated April 12, 2022, Mejia provided the required notice to the Labor and Workforce Development Agency ("LWDA") and Defendant, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

33. As more than sixty-five (65) days have passed since the date the notice was mailed to Defendant and the LWDA, and the LWDA chose not to investigate the allegations herein, Plaintiffs may amend to add the Fifth Cause of Action for Violation of Labor Code § 2698 et seq.

CLASS ACTION ALLEGATIONS

34. Plaintiffs incorporate all preceding paragraphs as though fully set forth herein.

35. Pursuant to Code of Civil Procedure section 382, this action is brought and may be properly maintained as a class action. This action satisfies the ascertainability, numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions.

36. Plaintiffs bring this suit as a class action on behalf of individuals defined as follows:

(a) all of Defendants' California non-exempt employees whose employment ended, either voluntarily or involuntarily, at any time during the period of time from April 6, 2017, through December 31, 2022, and who during their employment with Walmart at any time between April 6, 2017, through December 31, 2022, received payment of Paid Sick Days in the same quarter in which he/she earned a MyShare incentive (the "Former Employee Sick Pay Class"); and

(b) all of Defendants' current and former California non-exempt employees as of December

1 31, 2022, who, on at least one occasion between April 12, 2018 and December 31, 2022,
2 received a payment of Paid Sick Days in the same quarter in which they earned a MyShare
3 incentive or within 90 days after receipt of any incentive pay (the “Sick Pay Class”).
4

5 37. Numerosity: Plaintiffs are informed and believe, and based thereon allege, that
6 during the class period hundreds of class members have been employed by Defendant as non-
7 exempt employees in the State of California. Because so many persons have been employed by
8 Defendant in this capacity, the members of the Plaintiff Class are so numerous that joinder of all
9 members is impossible and/or impracticable.

10 38. Common Questions of Law and/or Fact: Common questions of law and fact exist as
11 to all members of the Plaintiff Class and predominate over any questions affecting solely individual
12 members of the Plaintiff Class. Among the questions of law and fact, that are relevant to the
13 adjudication of Class Members’ claims are as follows:

- 14 a. Whether Plaintiffs and Class Members are subject to and entitled to the benefits of
15 California wage and hour statutes;
- 16 b. Whether Defendant has a policy or practice of failing to pay sick pay at the correct
17 rate;
- 18 c. Whether Defendant unlawfully and/or willfully failed to provide Plaintiff and
19 members of the Classes with true and proper wage statements upon payment of
20 wages, in violation of Labor Code section 226;
- 21 d. Whether Plaintiffs and members of the Plaintiff Class sustained damages, and if so,
22 the proper measure of such damages, as well as interest, penalties, costs, attorneys’
23 fees, and equitable relief; and
- 24 e. Whether Defendant’s conduct as alleged herein violates the Unfair Business
25 Practices Act of California (Bus. & Prof. Code, § 17200 et seq.).

26 39. Typicality: The claims of the named Plaintiffs are typical of the claims of the
27 members of the Plaintiff Class. Defendant’s common course of conduct in failing to provide their
28 non-exempt employees with sick pay at the regular rate in compliance with the California Labor

Code, and failing to provide them with compliant wage statements has caused Plaintiffs and the proposed Class to sustain the same or similar injuries and damages. Plaintiffs' claims are thereby representative of and co-extensive with the claims of the proposed Class. Plaintiffs and the proposed Class sustained the same or similar injuries and damages arising from Defendant's common policies, practices, procedures, protocols, routines, and rules which were applied to other Class Members as well as Plaintiffs. Plaintiffs seek recovery for the same type of losses, injuries, and damages as were suffered by other members of the proposed class.

40. Adequacy of Representation: Plaintiffs are adequate representatives of the proposed classes because they are members of the class, and their interests do not conflict with the interests of the members they seek to represent. Plaintiffs have retained competent counsel, experienced in the prosecution of complex class actions, and together Plaintiffs and their counsel intend to prosecute this action vigorously for the benefit of the classes. The interests of the Class Members will fairly and adequately be protected by Plaintiffs and their attorneys.

41. Superiority of Class Action: A class action is superior to other available methods for the fair and efficient adjudication of this litigation since individual litigation of the claims of all Class Members is impracticable. It would be unduly burdensome to the courts if these matters were to proceed on an individual basis, because this would potentially result in hundreds of individuals, repetitive lawsuits. Further, individual litigation presents the potential for inconsistent or contradictory judgments, and the prospect of a "race to the courthouse," and an inequitable allocation of recovery among those with equally meritorious claims. By contrast, the class action device presents far fewer management difficulties, and provides the benefit of a single adjudication, economics of scale, and comprehensive supervision by a single court.

42. The various claims asserted in this action are additionally or alternatively certifiable under the provisions of the Code of Civil Procedure section 382 because:

a. The prosecution of separate actions by hundreds of individual class members would create a risk of varying adjudications with respect to individual class members, thus establishing incompatible standards of conduct for Defendant, and

b. The prosecution of separate actions by individual class members would also create

1 the risk of adjudications with respect to them that, as a practical matter, would be dispositive of the
2 interest of the other class members who are not a party to such adjudications and would
3 substantially impair or impede the ability of such non-party class members to protect their interests.

4 **FIRST CAUSE OF ACTION**

5 **Failure to Provide Sick Pay**

6 **(By Plaintiffs and Members of the Sick Pay Class Against Defendant)**

7 43. Plaintiffs re-allege and incorporate all preceding paragraphs as though fully set forth
8 herein.

9 44. Sick pay must be compensated at the employee's regular rate of pay, for the
10 workweek in which the paid leave was taken, or at a rate determined by averaging over 90-days.
11 Labor Code § 246(1).

12 45. Defendant failed to pay Plaintiffs and members of the Class sick pay at the correct
13 rate. Plaintiffs received compensation in addition to hourly wages, but those additional amounts
14 were not included when calculating sick pay wages. For example, on 3/17/22 Mejia earned
15 "INCTV FAC HRLY" pay of \$580.73 which was not factored into his sick pay wages. On 3/3/22
16 Plaintiff also earned "COVID-19 PAY" for \$476.28 and \$156.00 paid on 2/17/22, neither of which
17 were factored into his sick pay wages. Further, on 8/20/20 and 6/25/20 Mejia earned "COVID-LS"
18 pay which also was not used to calculate his sick pay wages. Moreover, on 2/17/22 Mejia was paid
19 "REFERRAL" pay of \$292.50 which was also not factored into to his sick pay wages. Further, in
20 2020, Walmart provided cash bonuses to all hourly associates, which was not used in calculating
21 sick pay wages.²

22 46. By failing to pay Plaintiffs and Class Members for sick pay at the correct rate,
23 Defendants willfully violated Labor Code section 246.

24 47. Defendant's unlawful acts deprived Plaintiffs and the Class of all wages. Plaintiff
25 seeks to represent of sick pay in amounts to be determined at trial, and they are entitled to recover
26 these amounts with interest, attorneys' fees, and costs.

27
28 ² <https://corporate.walmart.com/newsroom/2020/03/19/walmart-announces-special-cash-bonus-and-early-payment-of-q1-bonuses-totaling-nearly-550-million-for-hourly-associates>

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1 employers to furnish each employee with a statement itemizing, among other things, the total hours
2 worked by the employee, on a semi-monthly basis or at the time of each payment of wages.

3 55. Labor Code section 226(e) provides that if an employer fails to comply with
4 providing an employee with properly itemized wage statements as set forth in section 226(a), then
5 the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period
6 in which a violation occurs and \$100 per employee for each violation in a subsequent pay period,
7 not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates
8 section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation
9 in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which
10 the employer fails to provide the employee a wage statement or fails to keep the required records
11 pursuant to section 226(a).

12 56. Defendant knowingly and intentionally failed to furnish Plaintiffs and the members
13 of the Class with timely, itemized statements in compliance with Labor Code section 226(a) and
14 the applicable IWC Wage order section 6(B).

15 57. Plaintiffs are informed and believe, and based thereon allege, that Defendant
16 knowingly and intentionally failed to furnish Plaintiff and members of the Classes with timely,
17 itemized statements showing (a) total hours, (b) gross wages earned, (c) all deductions, and/or (d)
18 all applicable hourly rates in effect during each respective pay period. This is a result of failing to
19 accurately calculate Plaintiffs and Class Members' sick pay wages.

20 58. Plaintiffs are informed and believe, and based thereon allege, that Defendant did not
21 maintain accurate business records. This is a result of failing to calculate sick pay wages at the
22 regular rate of pay.

23 59. As a result of not having kept accurate records, Plaintiffs and the Class Members
24 suffered injuries in the form of confusion over whether they received all wages owed to them, and
25 difficulty and expense in reconstructing pay records in addition to other injuries which may come
26 to light during the discovery process.

27 60. Plaintiffs and the members of the Classes herein seek damages and penalties
28 pursuant to Labor Code section 226(e) for Defendant's violations of Labor Code section 226(a).

61. Plaintiffs and Class Members also seek preliminary and permanent injunctive relief and an award of reasonable attorneys' fees and costs pursuant to Labor Code section 226(h).

FOURTH CAUSE OF ACTION

Violation of California

Business and Professions Code Section 17200 et seq.

-(By Plaintiffs and the Members of the Sick Pay Class Against Defendant)

62. Plaintiffs re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

63. Business and Professions Code section 17200 defines unfair competition to include, “unlawful, unfair or fraudulent business practices.”

64. Plaintiffs and all proposed Class Members are “persons within the meaning of Business and Professions Code section 17204, who have suffered injury in fact and have lost money or property as a result of Defendant’s unfair competition.

65. Defendant has been committing, and continues to commit, acts of unfair competition by engaging in the unlawful, unfair and fraudulent business practices and acts described in this Complaint, including, but not limited to:

- a) violations of Labor Code section 246; and
- b) violations of Labor Code sections 226, 1174.

66. As a result of its unlawful, unfair, and/or fraudulent business acts and practices, Defendant has reaped and continue to reap unfair benefits and illegal profits at the expense of Plaintiffs and proposed Class Members. Defendant's unlawful, unfair, and/or fraudulent conduct has also enabled Defendant to gain an unfair competitive advantage over law-abiding employers and competitors.

67. Business and Professions Code section 17203 provides that the Court may restore to an aggrieved party any money or property acquired by means of the unlawful, unfair, and/or fraudulent business acts or practices.

68. Plaintiffs seek a court order enjoining Defendant from the unlawful, unfair, and/or fraudulent activity alleged herein.

69. Pursuant to Civil Code section 3287(a), Plaintiffs and other members of the Plaintiff Class are entitled to recover pre-judgment interest on wages earned, but not paid.

70. Plaintiffs further seek an order requiring an audit and accounting of the payroll records to determine the amount of restitution of all unpaid wages owed to Plaintiffs and members of the proposed Plaintiff Class, according to proof, as well as a determination of the amount of funds to be paid to current and former employees that can be identified and located pursuant to a court order and supervision.

71. Plaintiffs seek restitution for himself and all others similarly situated of these amounts, including all earned and unpaid wages and attorneys' fees and costs pursuant to Code of Civil Procedure section 1021.5.

FIFTH CAUSE OF ACTION

Violation of California

Labor Code § 2698 et seq.

.(By Mejia as a Proxy for the State of California Against Defendant)

72. Plaintiffs re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

73. Pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act ("PAGA"), Mejia brings this cause of action as a proxy for the State of California. In this capacity, Mejia seeks penalties on behalf of all Aggrieved Employees from April 12, 2021, through the present for Defendant's policy and practice of (a) failing to provide accurate itemized wage statements and maintain accurate records in violation of Labor Code § 226(a) and 1174; and (b) failing to pay sick pay at the regular rate of pay in violation of Labor Code § 246. As alleged herein, Defendant failed to pay sick pay wages to Mejia and all similarly Aggrieved Employees at the regular rate of pay because Defendant failed to factor in all non-discretionary remuneration into the sick pay rate. Defendant also violated Labor Code § 226(a)(1), (2), (5), and (9) as a result of listing the incorrect sick pay rate, and the incorrect, lower amount of net and gross sick pay wages. Defendant also failed to maintain accurate records of sick pay wages in violation of Labor Code § 1174.

74. On or about April 12, 2022, Mejia sent written notice to the LWDA of Defendants' violations of Labor Code §§ 226 and 246. Mejia also sent written notice to Defendant via certified mail pursuant to Labor Code § 2699.3. To date, the LWDA has not responded to Mejia's written notice.

75. As such, Mejia seeks recovery of any and all applicable civil penalties pursuant to Labor Code sections 226.3 and 2699(a), (f), and (g) for Defendants' violation of Labor Code sections 201, 202, 203, 204, 226, 510, 558, 1194, 1197, and 1197.1 for the time period described above, on behalf of himself and other Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, and the Class Members pray for judgment as follows:

1. For an order certifying the proposed Plaintiff Classes;
2. For an order that counsel for Plaintiffs be appointed class counsel
3. Certification of this class action on behalf of the proposed Plaintiff Classes;
4. Designation of Plaintiffs as the class representative of the Plaintiff Classes;
5. For restitution of all monies due to Plaintiffs and the members of the Plaintiff Classes and disgorgement of all profits from the unlawful business practices of Defendant;
6. For civil penalties, attorneys' fees and costs as set forth in Labor Code §§ 226.3 and 2699;
7. An order appointing Plaintiffs' counsel as class counsel;
8. Prejudgment and post judgment interest on all sums awarded;
9. For compensatory damages;
10. For penalties pursuant to Labor Code sections 226;
11. For interest accrued to date;
12. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226;
13. For reasonable attorneys' fees pursuant to Labor Code section 226 and Code of Civil Procedure section 1021.5, and/or other applicable law; and
14. A declaratory judgment that Defendant has knowingly and intentionally violated the

1 following provisions of law;

- 2 a. Labor Code section 246 for failing to pay sick pay wages at the
3 regular rate;
4 b. Labor Code section 226 for failing to provide compliant wage
5 statements;
6 c. Labor Code section 1174 for failing to maintain accurate records;
7 d. Business & Professions Code sections 17200-08 for violating the
8 provisions set forth herein above.

9 15. For all such other and further relief that the Court may deem just and proper.

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12
13 DATED: June 1, 2023

BRADLEY/GROMBACHER, LLP
MAJARIAN LAW GROUP APC

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16 By: _____

Marcus Bradley, Esq.
Kiley Grombacher, Esq.
Garen Majarian, Esq.
Sahag Majarian, II, Esq.

17
18
19 Attorneys for Plaintiff and others similarly
20 situated

21 DATED: June 1, 2023

DIVERSITY LAW GROUP, P.C.

22 By: _____

23 Larry W. Lee
24 Attorneys for Plaintiffs DEARL POWELL,
25 CHRISTINA GAST, ELIJHA GONZALEZ and
26 the Class

27 **DEMAND FOR JURY TRIAL**

28 Plaintiff hereby demands trial of Plaintiff's and the members of the Classes' claims by jury

1 to the extent authorized by law.

2

3 DATED: June 1, 2023

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By: _____

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Marcus Bradley, Esq.

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Kiley Grombacher, Esq.

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Garen Majarian, Esq.

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Sahag Majarian, II, Esq.

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Attorneys for Plaintiff and other similarly
situated

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EXHIBIT B

**NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND FINAL
HEARING DATE**

*(Mejia, et al. v. Walmart Inc., et al.,
San Bernardino County Superior Court Case No. CIV-SB-2207614)*

**(SI DESEA UNA COPIA DE ESTE AVISO EN ESPAÑOL, PUEDE OBTENERLA EN ESTE
SITIO WEB:*****)**

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

You Can Do Nothing:	If you do nothing and the Court grants final approval of the Settlement, you will become part of the Action and may receive a payment from the Settlement. You will be bound to the release of the Released Claims as defined in the Settlement Agreement and the Judgment. You will also give up your right to pursue the Released Claims as defined below. See Section 3.
You Can Opt Out Of The Settlement:	If you do not want to participate as a Settlement Class Member, you may “opt out,” which will remove you from the Class Settlement, but not the PAGA Settlement. If the Court grants final approval of the Settlement, you will not receive a payment from the Net Settlement Amount, and you will not give up the right to sue Defendants and the Released Parties for the Released Claims as defined below. You will, however, receive the payment to which you are entitled, if any, from the PAGA Amount. See Section 6. The deadline to opt out is [date].
You Can Object To The Settlement:	You may submit a legal objection to the proposed Settlement. If you would like to object, you may not opt out of the Settlement. See Section 6. The deadline to submit written objections is [date].
You Can Participate In The Final Approval Hearing:	The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department S26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415.

(1) Why did I get this notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the San Bernardino County Superior Court (the “Court”) and entitled *Mejia, et al. v. Walmart Inc., et al.*, Case No. CIV-SB-2207614 (the “Action”) has been reached between Plaintiffs Mejia, Dearl Powell (“Powell”), Christina Gast (“Gast”), and Elijha Gonzalez (“Gonzalez”) (collectively, “Plaintiffs”) and Defendants Walmart Inc., Wal-Mart Associates, Inc. and Wal-Mart Stores, Inc. (“Walmart”). The Court has granted preliminary approval of the Settlement.

There are two components to the Settlement: (1) a Class Settlement, which resolves the Released Claims for Former Employee Sick Pay Class, and Released Claims for Sick Pay Class, as set forth in more detail in Section 5 below; and (2) a PAGA Settlement, which is a settlement of claims for civil penalties under the California Private Attorneys General Act (“PAGA”), and which resolves the PAGA Released Claims for Aggrieved Employees, as defined in this Notice.

The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights. You have received this Notice because you have been identified as a “Settlement Class Member,” meaning a member of one or more of the Classes, defined as follows:

“Former Employee Sick Pay Class”: all former non-exempt California employees of Walmart who worked in a Walmart retail store and whose employment ended, either voluntarily or involuntarily, at any time during the period of time from April 6, 2017, through December 31, 2022, and who during their employment with Walmart at any time between April 6, 2017, through December 31, 2022, received payment of paid sick days in the same quarter in which they earned a MyShare incentive;

“Sick Pay Class”: all current and former non-exempt California employees who worked at a Walmart retail store and received a payment of paid sick days in the same quarter in which they earned a MyShare incentive or within 90 days after receipt of any incentive pay during the period of April 12, 2018 through December 31, 2022.

Additionally, you may also be an “Aggrieved Employee” (defined as a member of the Sick Pay Class who was employed at Walmart in California during the PAGA Period [April 12, 2021 to December 31, 2022]), and are entitled to an “Individual PAGA Penalty,” based upon the number of pay periods you were employed at Walmart during the PAGA Period.

(2) What is this case about?

Plaintiffs Mejia, Dearl Powell (“Powell”), Christina Gast (“Gast”), and Elijha Gonzalez (“Gonzalez”) (collectively, “Plaintiffs”) are former Walmart retail store associates. Plaintiffs allege that Walmart Inc., Wal-Mart Associates, Inc. and Wal-Mart Stores, Inc. (collectively, “Walmart”) violated the California Labor Code and the California Business & Professions Code by allegedly not paying sick pay wages at the regular rate of pay by not including all non-discretionary incentive pay into the rate of pay. Plaintiffs also seek waiting-time and wage statements penalties under the Labor Code and civil penalties recoverable under the Private Attorneys General Act (the “PAGA”).

Walmart denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. Walmart denies that it owes Settlement Class Members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Walmart, which expressly deny all liability.

The Court has not made a determination as to whether Plaintiffs or Walmart are correct. However, to avoid additional expense, inconvenience, and interference with Walmart's business operations, the Parties have concluded that it is in their best interests and the interests of Settlement Class Members to settle the Action on the terms summarized in this Notice. After Walmart provided relevant information to each Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

Plaintiffs and their counsel—Bradley/Grombacher, LLP, Majarian Law Group, APC, Diversity Law Group, P.C., Fitzpatrick & Swanston, and Hyun Legal, APC (collectively, "Class Counsel") support the Settlement. While Plaintiffs and Class Counsel believe that the claims alleged in this Action have merit, they also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Plaintiffs and Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Settlement Class Members.

If you are still employed at Walmart, your decision about whether to participate in the Settlement will not affect your employment. California law and Walmart's policies strictly prohibit unlawful retaliation. Walmart will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class Member because of the Settlement Class Member's decision to either participate or not participate in the Settlement.

(3) What are the terms of the Settlement?

On **[INSERT DATE OF PRELIMINARY APPROVAL]**, the Court preliminarily certified the Settlement Class comprised of the Settlement Class Members, for settlement purposes only. The precise definition of the class approved for settlement can be found above and in the Settlement Agreement. Settlement Class Members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Walmart as described below. Settlement Class Members who are also Aggrieved Employees will be bound by the Settlement with respect to the PAGA claims regardless of whether they opt out of the Settlement.

Maximum Settlement Amount. Walmart has agreed to pay \$12,000,000.00 (the "Maximum Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class Members, Aggrieved Employees, settlement administration costs, attorneys' fees and expenses, Class Representatives' Service Awards, and payment to the Labor Workforce Development Agency ("LWDA"). After the Judgment becomes Final in this Action, Walmart will pay the Maximum Settlement Amount by depositing the money with the Settlement Administrator. "Final" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Court-Approved Deductions from Maximum Settlement Amount. The following deductions from the Maximum Settlement Amount to be made before settlement payments are made to Settlement Class

Members will be requested by the parties and are subject to comment or objection by Participating Settlement Class Members. The Court will fix these amounts at the Final Approval Hearing:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$431,950.00 from the Maximum Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Settlement Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to thirty-five percent (35%) of the Maximum Settlement Amount, which is estimated to be \$4,200,000, as reasonable compensation for the work Class Counsel performed and will continue to perform in the Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$100,000 for verified costs Class Counsel incurred in connection with the Action.

Service Award to Class Representative. Class Counsel will ask the Court to award each Plaintiff (a.k.a. “Class Representative”) a service award in the amount of \$10,000 for a total of \$40,000 to compensate them for their services and extra work provided on behalf of the Settlement Class Members.

PAGA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$400,000 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorneys General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or One Hundred Thousand Dollars and Zero Cents (\$100,000.00), will be payable to Settlement Class Members who are also Aggrieved Employees as the “Individual PAGA Payment,” as described in Section 1, above. Individual PAGA Payments will be distributed to the Aggrieved Employees irrespective of whether they exclude themselves from the Settlement.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Class Settlement Amount, which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below).

If the Court approves all of the above amounts as requested, the Net Class Settlement Amount is estimated at approximately \$6,828,050.00, to be shared among an estimated 109,222 Settlement Class Members. The Net Class Settlement Amount will be distributed to each Settlement Class Member who does not submit a valid and timely Request for Exclusion, as defined in the Settlement Agreement (“Participating Settlement Class Members”) and as described in detail in Section 4, below.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to all Participating Settlement Class Members, and Individual PAGA Payments will be mailed to all Settlement Class Members who are Aggrieved Employees regardless of whether they submit a Request for Exclusion.

Payment by Walmart of Maximum Settlement Amount. The Maximum Settlement Amount shall be paid by Walmart as follows: The Maximum Settlement Amount shall be deposited with the Settlement Administrator within 14 (14) calendar days of the Effective Date (which, for this purpose, shall be defined as the later of (1) the last date on which any appeal might be filed (i.e., no later than 60 calendar days following entry of judgment) or (2) the successful resolution of any appeal(s), including expiration of any time to seek reconsideration or further review).

Within fifteen (15) calendar days following Walmart's deposit of the Maximum Settlement Amount with the Settlement Administrator, the Settlement Administrator will distribute the Individual Settlement Payments and Individual PAGA Payments.

Allocation and Taxes. For tax purposes, all Individual Settlement Payments to Former Employee Sick Pay Class Members and Individual PAGA Payments shall be classified as 100% penalties. Individual Settlement Payments to Sick Pay Class Members shall be classified as 20% wages and 80% penalties. The Settlement Administrator will be responsible for issuing IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties, interest, and non-wage damages to Settlement Class Members, as applicable. Notwithstanding the treatment of the payments to each Participating Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion of the Individual Settlement Payment, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

Release. If the Court approves the Settlement, the following claims will be released by Participating Settlement Class Members and Aggrieved Employees:

"Released Class Claims for Sick Pay Class Members" means all causes of action that were alleged or reasonably could have been alleged against the Released Parties, and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations in the Complaint that Defendants did not properly pay for paid sick days provided for under the Healthy Workplace Healthy Family Act of 2014 (hereinafter "HWHFA") (Labor Code Sections 245-249), including, but not limited to, of violations of Cal. Labor Code sections 201-203, 204, 210, 226, 226.3, 246, and 1174 and Cal. Bus. & Prof. Code section 17200 set seq. predicated on the alleged failure to properly pay for paid sick days that accrued at any time between April 12, 2018 through December 31, 2022.

"Released Class Claims for Former Employee Sick Pay Class Members" means all causes of action that were alleged or reasonably could have been alleged against the Released Parties, and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations in the Complaint that Defendants did not properly pay for paid sick days provided for under the HWHFA, and that this resulted in a failure to pay all wages owed at the time of separation of employment, including but not limited to violations of Cal. Labor Code sections 201-203 and 246 that accrued at any time between April 6, 2017 through December 31, 2022.

"Released PAGA Claims" means any and all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 *et seq.*, which were alleged

or reasonably could have been alleged against the Released Parties, and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations in the Complaint that Defendants did not properly pay for paid sick days provided for under the HWHFA, including but not limited to violations of Labor Code sections 201-203, 204, 210, 226, 226.3, 246, and 1174 predicated on the failure to properly pay for paid sick days that accrued at any time between April 12, 2021 through December 31, 2022.

“Released Parties” means Walmart and all of its past and present parent, subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint venturers and affiliates, and each of its respective current and former directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of its respective executors, predecessors, successors, assigns and legal representatives.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

Please be advised that you are responsible for all taxes, penalties and interest owed with respect to your Settlement payment, regardless of the foregoing allocations. You should consult with an accountant or other tax professional with any questions. Neither the Parties, their lawyers nor the Court is providing you with financial or tax advice.

You must cash your Settlement check by the void date stated on the check (180 days of issuance). If you do not cash your check by the void date, your check will be automatically cancelled and your funds will be sent to the California State Controller’s Office to be held in your name.

(4) How Much Will My Payment Be?

According to Walmart’s records, you have been identified as a member of the [Former Employee Sick Pay Class and/or Sick Pay Class]. Based on Walmart’s records, and the Parties’ current assumptions, your Individual Settlement Payment is estimated to be \$ [and your Individual PAGA Payment is estimated to be \$]. The actual amount you may receive may be different and will depend upon the number of pay periods during which you worked at Walmart and were subject to the alleged sick pay miscalculation (see Section 3 below) between April 6, 2017 and December 31, 2022.

Specifically, your share of the Net Class Settlement Amount will be determined based on the following allocation:

- (1) 50% of the Net Settlement Amount is allocated to the Sick Pay Class Members by dividing said amount by the total number of pay periods in which all Sick Pay Class Members were paid sick pay wages in the same time period that they earned any incentive pay between April 12, 2018 and December 31, 2022, and multiplying said value by the number of pay periods each Sick Pay Class Member was paid sick pay wages in the same time period that they earned any incentive pay between April 12, 2018 and December 31, 2022; and/or
- (2) 50% of the Net Settlement Amount is allocated to the Former Employee Sick Pay Class Members on a pro rata basis based on the number of Former Employee Sick Pay Class Members.

Your Individual PAGA Payment is based upon the fact that Walmart's records reflect you worked [xxx] pay periods during the PAGA Period (April 12, 2021 and December 31, 2022).

If you wish to challenge these calculations, you must submit documentation pertaining to your dispute in accordance with the terms set forth in Section 6 below.

(5) How can I claim money from the Settlement?

To get money from the settlement, you do not have to do anything. If you do nothing, you will be entitled to your share of the Settlement based on the calculations described above. You also will be bound by the Settlement, including the release of claims stated above.

(6) What other options do I have?

Dispute Information in Notice of Settlement Award. If you disagree with the calculation of your settlement amount, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated herein. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class Members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written Request for Exclusion, at <<INSERT ADMINISTRATOR CONTACT INFO>> within forty-five (45) calendar days of the date of the initial mailing of the Class Notice (the "Response Deadline"). The Request for Exclusion must: (1) contain the case name and number of the Mejia Lawsuit; (2) contain the full name, address, signature, telephone number, and the last four digits of the Social Security number of the Settlement Class Member requesting exclusion; (3) clearly state that the Settlement Class Member does not wish to be included in the Class Settlement; and (4) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the <<RESPONSE DEADLINE>>. The Request for Exclusion will be deemed valid if the Settlement Administrator can ascertain the identity of the Settlement Class Member and ascertain that the Settlement Class Member wants to opt out of the Class Settlement. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Class Settlement will not be entitled to any Individual Settlement Payment and will not be bound by the terms of the Class Settlement or have any right to object, appeal or comment thereon.

Objecting to the Settlement. Settlement Class Members who do not submit a valid and timely Request for Exclusion (i.e., Participating Settlement Class Members) may object to the Class Settlement by submitting a completed and timely written objection ("Notice of Objection") to the Settlement Administrator or by presenting an objection orally at the Final Approval Hearing. The Notice of Objection must: (1) contain the case name and number of the Mejia Lawsuit; (2) contain the full name, address,

signature, and telephone number; (3) contain the identification of any attorney that represents the objector with respect to the objection; (4) contain a written statement of all grounds for the objection; (5) attach copies of any papers, briefs, or other documents upon which the objection is based; and (6) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. Participating Settlement Class Members who fail to object by submitting a Notice of Objection by the Response Deadline or by presenting their objection at the Final Approval Hearing will be deemed to have waived all objections to the Class Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement. Defendants' counsel and Class Counsel may file written responses to objections at least five (5) court days before the Final Approval Hearing and may respond orally to objections at the Final Approval Hearing.

[Insert Administrator's Contact Information]

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department S26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is: *Mejia v. Walmart Inc.*, San Bernardino County Superior Court Case No. CIV-SB-2207614.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

(7) What is the next step?

If you are a Settlement Class Member who has not excluded yourself from the Settlement, you can object to any aspect of the Settlement, including its fairness, the amount of fees and costs to be awarded to Class Counsel, and the amount of the enhancement payment to be awarded to the Class Representatives, and you can give reasons for your objection.

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department S26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to each Class Representative. The date, time and location of the Final Approval Hearing may be changed without further notice to you. If you are interested in attending or participating the Final Approval Hearing, you should confirm the date, time and location by contacting the Settlement Administrator. **You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through _____.** A prescheduled appointment is currently necessary to review any documents in the clerk's office.

(8) How can I get additional information?

This Notice, which has been approved by the Court, is only a summary. If you wish to obtain more detailed information, you should review the Settlement Agreement, which contains the complete terms of the Settlement. The Settlement Agreement, along with the records and other papers regarding the Settlement, are available on the Settlement Administrator's dedicated website for this case located at www.settlementadministrator.com. You may also contact Settlement Administrator or Class Counsel using the contact information listed below for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANTS, OR THEIR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

Attorneys for the Plaintiffs / Settlement Class Members: BRADLEY/GROMBACHER, LLP Marcus Bradley, Esq. Kiley Grombacher, Esq. 31365 Oak Crest Drive, Suite 240 Westlake Village, CA 91361 Telephone: (805) 270-7100 Facsimile: (805) 618-2939 Email: mbradley@bradleygrombacher.com Email: kgrombacher@bradleygrombacher.com MAJARIAN LAW GROUP APC Garen Majarian, Esq. Sahag Majarian, II, Esq. 18250 Ventura Boulevard Tarzana, California 91356 Telephone: (818) 263-7343 Facsimile: (818) 609-0892 E-Mail: garen@majarianlawgroup.com E-Mail: sahagii@aol.com DIVERSITY LAW GROUP, P.C. Larry W. Lee lwlee@diversitylaw.com Simon L Yang sly@diversitylaw.com 515 S. Figueroa Street, Suite 1250 Los Angeles, CA 90071 Tel: (213) 488-6555 Fax: (213) 488-6554 FITZPATRICK & SWANSTON B. James Fitzpatrick, Esq.	Attorneys for Defendants Walmart Inc., Wal-Mart Associates, Inc., and Wal-Mart Stores, Inc.: OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. Paloma P. Peracchio paloma.peracchio@ogletree.com 400 South Hope Street, Suite 1200 Los Angeles, CA 90071 Telephone: 213-239-9800 Facsimile: 213-239-9045
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bjfitzpatrick@fandslegal.com Laura L. Franklin, Esq. lfranklin@fandslegal.com 555 S. Main Street Salinas, CA 93901 Telephone: (831) 755-1311 Facsimile: (831) 755-1319 Dennis S. Hyun HYUN LEGAL, APC 515 S. Figueroa St., Suite 1250 Los Angeles, CA 90071 (213) 488-6555 (213) 488-6554 facsimile	
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Settlement Administrator Phoenix Settlement Administrators P.O. Box ----- Email Fax Number
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(2) REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

ADDRESS CHANGES

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator. To update your mailing address, please contact the Settlement Administrator at [phone number].

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

EXHIBIT 2

**NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND FINAL
HEARING DATE**

*(Mejia, et al. v. Walmart Inc., et al.,
San Bernardino County Superior Court Case No. CIV-SB-2207614)*

**(SI DESEA UNA COPIA DE ESTE AVISO EN ESPAÑOL, PUEDE OBTENERLA EN ESTE
SITIO WEB:*****)**

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

You Can Do Nothing:	If you do nothing and the Court grants final approval of the Settlement, you will become part of the Action and may receive a payment from the Settlement. You will be bound to the release of the Released Claims as defined in the Settlement Agreement and the Judgment. You will also give up your right to pursue the Released Claims as defined below. See Section 3.
You Can Opt Out Of The Settlement:	If you do not want to participate as a Settlement Class Member, you may “opt out,” which will remove you from the Class Settlement, but not the PAGA Settlement. If the Court grants final approval of the Settlement, you will not receive a payment from the Net Settlement Amount, and you will not give up the right to sue Defendants and the Released Parties for the Released Claims as defined below. You will, however, receive the payment to which you are entitled, if any, from the PAGA Amount. See Section 6. The deadline to opt out is [date].
You Can Object To The Settlement:	You may submit a legal objection to the proposed Settlement. If you would like to object, you may not opt out of the Settlement. See Section 6. The deadline to submit written objections is [date].
You Can Participate In The Final Approval Hearing:	The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department S26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415.

(1) Why did I get this notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the San Bernardino County Superior Court (the “Court”) and entitled *Mejia, et al. v. Walmart Inc., et al.*, Case No. CIV-SB-2207614 (the “Action”) has been reached between Plaintiffs Mejia, Dearl Powell (“Powell”), Christina Gast (“Gast”), and Elijha Gonzalez (“Gonzalez”) (collectively, “Plaintiffs”) and Defendants Walmart Inc., Wal-Mart Associates, Inc. and Wal-Mart Stores, Inc. (“Walmart”). The Court has granted preliminary approval of the Settlement.

There are two components to the Settlement: (1) a Class Settlement, which resolves the Released Claims for Former Employee Sick Pay Class, and Released Claims for Sick Pay Class, as set forth in more detail in Section 5 below; and (2) a PAGA Settlement, which is a settlement of claims for civil penalties under the California Private Attorneys General Act (“PAGA”), and which resolves the PAGA Released Claims for Aggrieved Employees, as defined in this Notice.

The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights. You have received this Notice because you have been identified as a “Settlement Class Member,” meaning a member of one or more of the Classes, defined as follows:

“Former Employee Sick Pay Class”: all former non-exempt California employees of Walmart who worked in a Walmart retail store and whose employment ended, either voluntarily or involuntarily, at any time during the period of time from April 6, 2017, through December 31, 2022, and who during their employment with Walmart at any time between April 6, 2017, through December 31, 2022, received payment of paid sick days in the same quarter in which they earned a MyShare incentive;

“Sick Pay Class”: all current and former non-exempt California employees who worked at a Walmart retail store and received a payment of paid sick days in the same quarter in which they earned a MyShare incentive or within 90 days after receipt of any incentive pay during the period of April 12, 2018 through December 31, 2022.

Additionally, you may also be an “Aggrieved Employee” (defined as a member of the Sick Pay Class who was employed at Walmart in California during the PAGA Period [April 12, 2021 to December 31, 2022]), and are entitled to an “Individual PAGA Penalty,” based upon the number of pay periods you were employed at Walmart during the PAGA Period.

(2) What is this case about?

Plaintiffs Mejia, Dearl Powell (“Powell”), Christina Gast (“Gast”), and Elijha Gonzalez (“Gonzalez”) (collectively, “Plaintiffs”) are former Walmart retail store associates. Plaintiffs allege that Walmart Inc., Wal-Mart Associates, Inc. and Wal-Mart Stores, Inc. (collectively, “Walmart”) violated the California Labor Code and the California Business & Professions Code by allegedly not paying sick pay wages at the regular rate of pay by not including all non-discretionary incentive pay into the rate of pay. Plaintiffs also seek waiting-time and wage statements penalties under the Labor Code and civil penalties recoverable under the Private Attorneys General Act (the “PAGA”).

Walmart denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. Walmart denies that it owes Settlement Class Members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Walmart, which expressly deny all liability.

The Court has not made a determination as to whether Plaintiffs or Walmart are correct. However, to avoid additional expense, inconvenience, and interference with Walmart's business operations, the Parties have concluded that it is in their best interests and the interests of Settlement Class Members to settle the Action on the terms summarized in this Notice. After Walmart provided relevant information to each Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

Plaintiffs and their counsel—Bradley/Grombacher, LLP, Majarian Law Group, APC, Diversity Law Group, P.C., Fitzpatrick & Swanston, and Hyun Legal, APC (collectively, "Class Counsel") support the Settlement. While Plaintiffs and Class Counsel believe that the claims alleged in this Action have merit, they also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Plaintiffs and Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Settlement Class Members.

If you are still employed at Walmart, your decision about whether to participate in the Settlement will not affect your employment. California law and Walmart's policies strictly prohibit unlawful retaliation. Walmart will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class Member because of the Settlement Class Member's decision to either participate or not participate in the Settlement.

(3) What are the terms of the Settlement?

On **[INSERT DATE OF PRELIMINARY APPROVAL]**, the Court preliminarily certified the Settlement Class comprised of the Settlement Class Members, for settlement purposes only. The precise definition of the class approved for settlement can be found above and in the Settlement Agreement. Settlement Class Members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Walmart as described below. Settlement Class Members who are also Aggrieved Employees will be bound by the Settlement with respect to the PAGA claims regardless of whether they opt out of the Settlement.

Maximum Settlement Amount. Walmart has agreed to pay \$12,000,000.00 (the "Maximum Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class Members, Aggrieved Employees, settlement administration costs, attorneys' fees and expenses, Class Representatives' Service Awards, and payment to the Labor Workforce Development Agency ("LWDA"). After the Judgment becomes Final in this Action, Walmart will pay the Maximum Settlement Amount by depositing the money with the Settlement Administrator. "Final" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Court-Approved Deductions from Maximum Settlement Amount. The following deductions from the Maximum Settlement Amount to be made before settlement payments are made to Settlement Class

Members will be requested by the parties and are subject to comment or objection by Participating Settlement Class Members. The Court will fix these amounts at the Final Approval Hearing:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$431,950.00 from the Maximum Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Settlement Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to thirty-five percent (35%) of the Maximum Settlement Amount, which is estimated to be \$4,200,000, as reasonable compensation for the work Class Counsel performed and will continue to perform in the Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$100,000 for verified costs Class Counsel incurred in connection with the Action.

Service Award to Class Representative. Class Counsel will ask the Court to award each Plaintiff (a.k.a. “Class Representative”) a service award in the amount of \$10,000 for a total of \$40,000 to compensate them for their services and extra work provided on behalf of the Settlement Class Members.

PAGA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$400,000 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorneys General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or One Hundred Thousand Dollars and Zero Cents (\$100,000.00), will be payable to Settlement Class Members who are also Aggrieved Employees as the “Individual PAGA Payment,” as described in Section 1, above. Individual PAGA Payments will be distributed to the Aggrieved Employees irrespective of whether they exclude themselves from the Settlement.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Class Settlement Amount, which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below).

If the Court approves all of the above amounts as requested, the Net Class Settlement Amount is estimated at approximately \$6,828,050.00, to be shared among an estimated 109,222 Settlement Class Members. The Net Class Settlement Amount will be distributed to each Settlement Class Member who does not submit a valid and timely Request for Exclusion, as defined in the Settlement Agreement (“Participating Settlement Class Members”) and as described in detail in Section 4, below.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to all Participating Settlement Class Members, and Individual PAGA Payments will be mailed to all Settlement Class Members who are Aggrieved Employees regardless of whether they submit a Request for Exclusion.

Payment by Walmart of Maximum Settlement Amount. The Maximum Settlement Amount shall be paid by Walmart as follows: The Maximum Settlement Amount shall be deposited with the Settlement Administrator within 14 (14) calendar days of the Effective Date (which, for this purpose, shall be defined as the later of (1) the last date on which any appeal might be filed (i.e., no later than 60 calendar days following entry of judgment) or (2) the successful resolution of any appeal(s), including expiration of any time to seek reconsideration or further review).

Within fifteen (15) calendar days following Walmart's deposit of the Maximum Settlement Amount with the Settlement Administrator, the Settlement Administrator will distribute the Individual Settlement Payments and Individual PAGA Payments.

Allocation and Taxes. For tax purposes, all Individual Settlement Payments to Former Employee Sick Pay Class Members and Individual PAGA Payments shall be classified as 100% penalties. Individual Settlement Payments to Sick Pay Class Members shall be classified as 20% wages and 80% penalties. The Settlement Administrator will be responsible for issuing IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties, interest, and non-wage damages to Settlement Class Members, as applicable. Notwithstanding the treatment of the payments to each Participating Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion of the Individual Settlement Payment, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

Release. If the Court approves the Settlement, the following claims will be released by Participating Settlement Class Members and Aggrieved Employees:

"Released Class Claims for Sick Pay Class Members" means all causes of action that were alleged or reasonably could have been alleged against the Released Parties, and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations in the Complaint that Defendants did not properly pay for paid sick days provided for under the Healthy Workplace Healthy Family Act of 2014 (hereinafter "HWHFA") (Labor Code Sections 245-249), including, but not limited to, of violations of Cal. Labor Code sections 201-203, 204, 210, 226, 226.3, 246, and 1174 and Cal. Bus. & Prof. Code section 17200 set seq. predicated on the alleged failure to properly pay for paid sick days that accrued at any time between April 12, 2018 through December 31, 2022.

"Released Class Claims for Former Employee Sick Pay Class Members" means all causes of action that were alleged or reasonably could have been alleged against the Released Parties, and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations in the Complaint that Defendants did not properly pay for paid sick days provided for under the HWHFA, and that this resulted in a failure to pay all wages owed at the time of separation of employment, including but not limited to violations of Cal. Labor Code sections 201-203 and 246 that accrued at any time between April 6, 2017 through December 31, 2022.

"Released PAGA Claims" means any and all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 *et seq.*, which were alleged

or reasonably could have been alleged against the Released Parties, and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations in the Complaint that Defendants did not properly pay for paid sick days provided for under the HWHFA, including but not limited to violations of Labor Code sections 201-203, 204, 210, 226, 226.3, 246, and 1174 predicated on the failure to properly pay for paid sick days that accrued at any time between April 12, 2021 through December 31, 2022.

“Released Parties” means Walmart and all of its past and present parent, subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint venturers and affiliates, and each of its respective current and former directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of its respective executors, predecessors, successors, assigns and legal representatives.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

Please be advised that you are responsible for all taxes, penalties and interest owed with respect to your Settlement payment, regardless of the foregoing allocations. You should consult with an accountant or other tax professional with any questions. Neither the Parties, their lawyers nor the Court is providing you with financial or tax advice.

You must cash your Settlement check by the void date stated on the check (180 days of issuance). If you do not cash your check by the void date, your check will be automatically cancelled and your funds will be sent to the California State Controller’s Office to be held in your name.

(4) How Much Will My Payment Be?

According to Walmart’s records, you have been identified as a member of the [Former Employee Sick Pay Class and/or Sick Pay Class]. Based on Walmart’s records, and the Parties’ current assumptions, your Individual Settlement Payment is estimated to be \$ [redacted] [and your Individual PAGA Payment is estimated to be \$ [redacted]]. The actual amount you may receive may be different and will depend upon the number of pay periods during which you worked at Walmart and were subject to the alleged sick pay miscalculation (see Section 3 below) between April 6, 2017 and December 31, 2022.

Specifically, your share of the Net Class Settlement Amount will be determined based on the following allocation:

- (1) 50% of the Net Settlement Amount is allocated to the Sick Pay Class Members by dividing said amount by the total number of pay periods in which all Sick Pay Class Members were paid sick pay wages in the same time period that they earned any incentive pay between April 12, 2018 and December 31, 2022, and multiplying said value by the number of pay periods each Sick Pay Class Member was paid sick pay wages in the same time period that they earned any incentive pay between April 12, 2018 and December 31, 2022; and/or
- (2) 50% of the Net Settlement Amount is allocated to the Former Employee Sick Pay Class Members on a pro rata basis based on the number of Former Employee Sick Pay Class Members.

Your Individual PAGA Payment is based upon the fact that Walmart's records reflect you worked [xxx] pay periods during the PAGA Period (April 12, 2021 and December 31, 2022).

If you wish to challenge these calculations, you must submit documentation pertaining to your dispute in accordance with the terms set forth in Section 6 below.

(5) How can I claim money from the Settlement?

To get money from the settlement, you do not have to do anything. If you do nothing, you will be entitled to your share of the Settlement based on the calculations described above. You also will be bound by the Settlement, including the release of claims stated above.

(6) What other options do I have?

Dispute Information in Notice of Settlement Award. If you disagree with the calculation of your settlement amount, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated herein. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class Members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written Request for Exclusion, at <<INSERT ADMINISTRATOR CONTACT INFO>> within forty-five (45) calendar days of the date of the initial mailing of the Class Notice (the "Response Deadline"). The Request for Exclusion must: (1) contain the case name and number of the Mejia Lawsuit; (2) contain the full name, address, signature, telephone number, and the last four digits of the Social Security number of the Settlement Class Member requesting exclusion; (3) clearly state that the Settlement Class Member does not wish to be included in the Class Settlement; and (4) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the <<RESPONSE DEADLINE>>. The Request for Exclusion will be deemed valid if the Settlement Administrator can ascertain the identity of the Settlement Class Member and ascertain that the Settlement Class Member wants to opt out of the Class Settlement. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Class Settlement will not be entitled to any Individual Settlement Payment and will not be bound by the terms of the Class Settlement or have any right to object, appeal or comment thereon.

Objecting to the Settlement. Settlement Class Members who do not submit a valid and timely Request for Exclusion (i.e., Participating Settlement Class Members) may object to the Class Settlement by submitting a completed and timely written objection ("Notice of Objection") to the Settlement Administrator or by presenting an objection orally at the Final Approval Hearing. The Notice of Objection must: (1) contain the case name and number of the Mejia Lawsuit; (2) contain the full name, address,

signature, and telephone number; (3) contain the identification of any attorney that represents the objector with respect to the objection; (4) contain a written statement of all grounds for the objection; (5) attach copies of any papers, briefs, or other documents upon which the objection is based; and (6) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. Participating Settlement Class Members who fail to object by submitting a Notice of Objection by the Response Deadline or by presenting their objection at the Final Approval Hearing will be deemed to have waived all objections to the Class Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement. Defendants' counsel and Class Counsel may file written responses to objections at least five (5) court days before the Final Approval Hearing and may respond orally to objections at the Final Approval Hearing.

[Insert Administrator's Contact Information]

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department S26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is: *Mejia v. Walmart Inc.*, San Bernardino County Superior Court Case No. CIV-SB-2207614.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

(7) What is the next step?

If you are a Settlement Class Member who has not excluded yourself from the Settlement, you can object to any aspect of the Settlement, including its fairness, the amount of fees and costs to be awarded to Class Counsel, and the amount of the enhancement payment to be awarded to the Class Representatives, and you can give reasons for your objection.

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department S26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to each Class Representative. The date, time and location of the Final Approval Hearing may be changed without further notice to you. If you are interested in attending or participating the Final Approval Hearing, you should confirm the date, time and location by contacting the Settlement Administrator. **You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through _____.** A prescheduled appointment is currently necessary to review any documents in the clerk's office.

(8) How can I get additional information?

This Notice, which has been approved by the Court, is only a summary. If you wish to obtain more detailed information, you should review the Settlement Agreement, which contains the complete terms of the Settlement. The Settlement Agreement, along with the records and other papers regarding the Settlement, are available on the Settlement Administrator's dedicated website for this case located at www.settlementadministrator.com. You may also contact Settlement Administrator or Class Counsel using the contact information listed below for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANTS, OR THEIR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

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Settlement Administrator Phoenix Settlement Administrators P.O. Box ----- Email Fax Number
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(2) REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>. These deadlines will be strictly enforced.

ADDRESS CHANGES

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator. To update your mailing address, please contact the Settlement Administrator at [phone number].

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.