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16 Attorneys for Defendants
THRIFTY PAYLESS, INC. and
RITE AID CORPORATION
17

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF LOS ANGELES**

20 ELARIO SANDOVAL, an individual,
21 on behalf of himself and all others
similarly situated,
22

23 Plaintiffs,

24 vs.

25 THRIFTY PAYLESS, INC., a
California corporation; RITE AID
CORPORATION, a Delaware
26 corporation; and DOES 1 through
100, inclusive,
27

28 Defendants.

Case No.: 20STCV07120

Assigned for all purposes to Hon. Kenneth R.
Freeman, Dept. 14

**CLASS ACTION AND PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND
RELEASE**

Action Filed: February 25, 2020
Trial Date: None set

1 This Class Action and Private Attorneys General Act (“PAGA”) Settlement
2 Agreement and Release (hereinafter “**Settlement**” or “**Agreement**”) is made and entered
3 into by and between Plaintiffs Elario Sandoval and Sanjiv Ahuja (hereinafter collectively,
4 “**Plaintiffs**” or “**Representative Plaintiffs**”), individually and on behalf of all
5 Participating Class Members (as defined in Paragraph 10(e)), on the one hand, and
6 Defendants Thrifty Payless, Inc. (“TPI”) and Rite Aid Corporation (“RAC”) (collectively,
7 “**Defendants**”), on the other hand, (collectively, the “**Parties**”), and subject to the
8 approval of the Court.

9
10 1. On February 25, 2020, Plaintiff Elario Sandoval filed his class action Complaint in
11 the Superior Court of California, County of Los Angeles entitled “*Elario Sandoval*
12 *v. Thrifty Payless, Inc., et al.*,” pending as Case No. 20STCV07120. He
13 subsequently filed a First Amended Complaint on or about August 19, 2021. On
14 October 24, 2022, Plaintiff Elario Sandoval and Sanjiv Ahuja filed a Second
15 Amended Complaint (collectively with the original Complaint and First Amended
16 Complaint, the “**Action**”), adding (1) Ahuja as a representative plaintiff and (2) a
17 representative claim under the Private Attorney General Act (“PAGA”) premised
18 on the same allegations in the original Complaint and First Amended Complaint.

19
20 2. The Action asserts the following claims: (1) failure to reimburse employee
21 expenses; and (2) unfair competition, on behalf of Representative Plaintiffs and all
22 individuals who worked for Defendants as a Shift Supervisor, Assistant Store
23 Manager, and/or Store Manager in California at any time on or after four years
24 before the filing of the Complaint. The Action also asserts a representative claim
25 under PAGA on behalf of Representative Plaintiffs and all individuals who worked
26 for Defendants as a Shift Supervisor, Assistant Store Manager, and/or Store
27 Manager in California at any time on or after August 8, 2021, premised on the
28 same allegations in the original Complaint and First Amended Complaint.

1 3. In the Action, Representative Plaintiffs allege, *inter alia*, that (1) Defendants failed
2 to reimburse expenses incurred by the Class Members in the course of their
3 employment duties for vehicle usage, mileage and cell phone (or similar device)
4 usage pursuant to California Labor Code section 2802 and 2698 *et seq.*, and (2)
5 Defendants obtained valuable property, money, and services through unfair,
6 unlawful and fraudulent business practices by failing to reimburse the foregoing
7 expenses. Plaintiffs seek to recover damages, restitution, penalties and other relief,
8 back four years prior to the filing of the Action, *i.e.*, February 25, 2016.

9
10 4. The Parties participated in a mediation session with highly-regarded mediator
11 Steve Rottman on August 4, 2022. During the mediation session, the Parties
12 reached a settlement resolving this Action including a settlement of potential
13 claims under California Labor Code section 2698, *et seq.*, premised on the same
14 allegations in the Action. This claim was added in the Second Amended
15 Complaint filed on October 24, 2022.

16
17 5. Under mediation privilege and a stipulation that discovery protections afforded by
18 the attorney work-product doctrine were not waived, Defendants provided
19 analyses concerning the Settlement Class performed by a well-regarded litigation
20 consulting firm retained by Defendants. Furthermore, counsel for the Parties
21 exchanged additional documents and conferred concerning this information, the
22 merits of the Parties' claims and/or defenses, and other issues relevant to reaching
23 a settlement.

24
25 6. Class Counsel also spoke with multiple putative class members on whose behalf
26 this Action was brought to better inform their analysis of the case.

27
28 7. Representative Plaintiffs and their counsel have conducted sufficient investigation

1 and analysis to evaluate the strengths and weaknesses of their claims and
2 Defendants' defenses and to recommend this Settlement to the Class Members
3 and the Court.

- 4
5 8. Class Counsel has fully advised Representative Plaintiffs of this Agreement and
6 represents that they approve of and consent to the terms herein.

7
8 **TERMS OF SETTLEMENT**

9
10 NOW, THEREFORE, in consideration of the mutual covenants, promises and
11 warranties set forth herein, the Parties agree, subject to the Court's approval, as follows:

- 12
13 9. Amending the Complaint. As part of the settlement of this Action and for purposes
14 of this settlement only, the Parties filed a stipulation allowing Plaintiffs to file the
15 Second Amended Complaint to add a second class representative, Sanjiv Ahuja,
16 and to add a claim under the Private Attorneys General Act ("PAGA") for
17 allegations arising from the theories of liability in the original Complaint and First
18 Amended Complaint regarding the reimbursement of expenses incurred by
19 Participating Class Members during the course of employment for vehicle usage,
20 mileage and cell phone (or similar device) usage (the "**Stipulation**"). The forms of
21 the Stipulation and Order (signed by the Court) and Second Amended Complaint
22 are attached hereto as **Exhibit A**. The Second Amended Complaint is otherwise
23 identical to the First Amended Complaint. If this Agreement does not become final
24 for any reason, the Parties' willingness to stipulate to the filing of the Second
25 Amended Complaint shall have no bearing on, and will not be admissible in
26 connection with, these issues in the Action or any subsequent proceeding. If this
27 Agreement does not become final, neither the Parties nor their counsel will offer or
28 refer to this Stipulation for purposes of settlement in any subsequent proceeding in

the Action or any other action.

10. Definitions of Certain Settlement Terms:

- a. **“Person”** shall have the meaning set forth in California Government Code Section 17.
- b. **“Settlement Class”**: Those individuals who, according to TPI’s personnel and payroll records, worked for TPI as a Shift Supervisor, Assistant Store Manager, and/or Store Manager in California as to any time during the period of February 25, 2016 through the date of the Court’s order granting preliminary approval of this Settlement. This Settlement Class shall exclude any individual who (i) previously signed an individual release that encompasses all claims contained in this Action and/or Release, and (ii) is a party to any civil action alleging all of the claims contained in the Action.
- c. **“Class Period”**: February 25, 2016 through the date of the Court’s order granting Preliminary Approval of this Settlement.
- d. Each individual member of the Settlement Class shall be referred to as a **“Class Member.”**
- e. **“Participating Class Members”**: All Members of the Settlement Class except those who timely submit a valid Request for Exclusion (as defined in Paragraph 33) from this Settlement pursuant to the process described in this Agreement. For the purposes of the release of PAGA claims, “Participating Class Members” also includes Class Members employed during the PAGA Period, even if they submit a valid Request for Exclusion.

- 1 f. **“PAGA Period”**: August 8, 2021, through the date of preliminary approval
2 of this Settlement.
- 3
- 4 g. **“PAGA Aggrieved Employees”**: Those individuals who, according to
5 TPI’s personnel and payroll records, worked for TPI as a Shift Supervisor,
6 Assistant Store Manager, and/or Store Manager in California at any time
7 during the PAGA Period (*i.e.*, August 8, 2021 through the date of the
8 Court’s order granting preliminary approval of this Settlement).
- 9
- 10 h. **“Class Counsel”**: Mike Arias, Alfredo Torrijos, and Craig Momita of Arias
11 Sanguinetti Wang & Torrijos LLP.
- 12
- 13 i. **“Notice”**: The notice form to Class Members, substantially in the form
14 attached hereto as **Exhibit B**, which will, among other things, notify Class
15 Members of the preliminary approval of the settlement and scheduling of
16 the final approval hearing.
- 17
- 18 j. **“Effective Date”**: The Settlement embodied in this Agreement shall
19 become effective upon execution by all Parties, Class Counsel, Defendants’
20 counsel, and Final Approval from the Court, following Notice to Class
21 Members and a formal fairness hearing and entry of a final judgment by the
22 Court in accordance with and upholding its terms herein.
- 23
- 24 k. **“Final Approval”**: The date of the Court’s order granting final approval of
25 the Settlement.
- 26
- 27 l. **“Administrator”**: The administrator responsible for administering this
28 settlement, Simpluris.

11. Settlement of the Action: As detailed in Paragraph 36 below, all causes of action alleged in this Action—including any claims, damages, or causes of action that could have been brought based on the factual allegations in the Action (including for reimbursement of expenses incurred during the course of employment duties for vehicle usage, mileage and cell phone (or similar device) usage) under any provision of California and/or federal law—shall be settled and compromised in full and without exception as between each Participating Class Member and Defendants, subject to the terms and conditions set forth in this Agreement and the approval of the California Superior Court, County of Los Angeles.

12. Settlement Amount:

a. **“Gross Settlement Amount”:** In consideration for this Settlement and a release by the Participating Class Members, Defendants have agreed to pay the sum of One Million Two Hundred and Ninety Thousand Dollars and Zero Cents (\$1,290,000.00). The Gross Settlement Amount is the maximum amount that Defendants are required to pay for any and all purposes under this Agreement. In no event shall any part of the Gross Settlement Amount revert to the Defendants.

b. **“Net Settlement Amount”:** The Gross Settlement Amount of One Million Two Hundred and Ninety Thousand Dollars and Zero Cents (\$1,290,000.00) less the following deductions:

i. The sum of Ten Thousand Dollars and Zero Cents (\$10,000.00) total for enhancement payments to Representative Plaintiffs under Paragraph 16 or such other lesser amount as approved by the Court;

- 1 ii. The sum of attorneys’ fees to Class Counsel under Paragraph 18(a),
2 which shall not exceed Four Hundred Twenty-Five Thousand Seven
3 Hundred Dollars and Zero Cents (\$425,700.00) (33 % of the Gross
4 Settlement Amount);
- 5
- 6 iii. The sum of costs expended in litigating this matter which shall be
7 awarded to Class Counsel under Paragraph 18(b), which shall not
8 exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00);
- 9
- 10 iv. The administrative expenses approved by the Court pursuant to this
11 Agreement, estimated at Twenty Five Thousand Dollars and Zero
12 Cents (\$25,000.00); and
- 13
- 14 v. Thirty Thousand Dollars and Zero Cents (\$30,000.00), which is 75%
15 of the Forty Thousand Dollars and Zero Cents (\$40,000.00)
16 designated for the release of Representative Plaintiffs’ and each
17 PAGA Aggrieved Employees’ claims under the PAGA, and which
18 will be paid to the California Labor and Workforce Development
19 Agency.
- 20
- 21 vi. **“Net PAGA Settlement Amount”**: Ten Thousand Dollars and Zero
22 Cents (\$10,000.00), which is 25% of the Forty Thousand Dollars and
23 Zero Cents (\$40,000.00) designated for the release of Representative
24 Plaintiffs’ and each PAGA Aggrieved Employees’ claims.
- 25

- 26 13. Settlement Formula and Distribution: Subject to the conditions of this Agreement,
27 Participating Class Members shall be entitled to a share (the **“Settlement Share”**)
28 of the Net Settlement Amount. The Net Settlement Amount is comprised of two

parts: (1) the “**Net PAGA Settlement Amount;**” and (2) “**the Net Class Settlement Amount**” (*i.e.*, the entire Net Settlement Amount, less the Net PAGA Settlement Amount). The Net Class Settlement Amount is to be divided among all Participating Class Members as follows: (i) each Class Member will be designated as either a Store Manager, Assistant Store Manager, or Shift Supervisor based on their last position held; (ii) the total months worked in the Class Period in any one of the three foregoing positions covered by this Agreement will be calculated by dividing the total days in such positions during the Class Period by 30; (iii) Store Managers and Assistant Store Managers shall be paid 5x per month, and Shift Supervisors 1x per month; (iv) “x” will be calculated as follows: Net Settlement Amount divided by the sum of 5 times the total months worked by Store Managers and Assistant Store Managers and 1 times the total months worked by Shift Supervisors. The allocation of the Net PAGA Settlement Amount to each PAGA Aggrieved Employee, regardless of any opt-out of objection, shall be calculated pro rata based on the total number of pay periods each PAGA Aggrieved Employee worked during the PAGA Period.

14. Reference to TPI’s Records: The number of days, months and/or pay periods worked by Class Members as Shift Supervisors, Assistant Store Managers, and/or Store Managers in California during the Class Period will be determined by reference to TPI’s records. TPI’s records shall be presumptively correct for determining who the Class Members are and the number of days, months and/or pay periods worked by the Class Members as a Shift Supervisor, Assistant Store Manager, and/or Store Manager in California during the Class Period.

15. Allocation of Settlement Payments: One Hundred Percent (100%) of all Settlement Share payments to Participating Class Members shall be considered non-wages for the settlement of non-wage reimbursements of business expenses,

1 interest claims, statutory and civil penalty claims, and for attorneys' fees.

2 Participating Class Members will receive from the Administrator an IRS Form
3 1099 for these payments, in accordance with and if required by IRS requirements,
4 and will be responsible for correctly characterizing this compensation for tax
5 purposes and to pay any taxes owing, if any.

6
7
8 16. Service Payment Award to Representative Plaintiffs: From the Gross Settlement
9 Amount Representative Plaintiffs will be paid up to Five Thousand Dollars and
10 Zero Cents (\$5,000.00) each as a service award for their time and effort as
11 Representative Plaintiffs. If the Court approves a Representative Plaintiff's
12 Service Payment for less than the amount requested, the Administrator will retain
13 the remainder in the Net Settlement Amount. These service payment awards are in
14 addition to their rights to payments provided in this Agreement. In addition, the
15 Representative Plaintiffs will execute a general release of all known and unknown
16 claims, substantially in the form attached hereto as **Exhibit C** in exchange for their
17 service payment awards.

18
19 a. The Representative Plaintiffs will receive an IRS Form 1099 for their
20 service award payments and will be responsible for correctly characterizing
21 this compensation for tax purposes and to pay any taxes owing.

22
23 b. The Representative Plaintiffs hereby indemnify and hold Defendants
24 harmless for and against any action or liability of Representative Plaintiffs,
25 including but not limited to any costs and/or legal fees incurred by
26 Defendants if any tax authority should dispute the characterization of this
27 compensation.

1 c. The Representative Plaintiffs shall not be entitled to the payment set forth in
2 the Subparagraph above unless they provide their Social Security number or
3 tax identification number to the Administrator.
4

5 17. PAGA Payment: Subject to Court Approval, from the Gross Settlement Amount, a
6 payment of Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be made to
7 the California Labor and Workforce Development Agency (“LWDA”), which is
8 the payment to the State of California for its share of civil penalties pursuant to the
9 Labor Code Private Attorneys General Act, Cal. Labor Code Section 2698, *et seq.*
10 (“PAGA”), approved by the Court. The Thirty Thousand Dollars and Zero Cents
11 (\$30,000.00) payment is 75% of Forty Thousand Dollars and Zero Cents
12 (\$40,000.00), which is the amount that the Parties have designated for the release
13 of claims under PAGA. If the Court approves PAGA Penalties of less than the
14 amount requested, the Administrator will allocate the remainder to the Net
15 Settlement Amount. The Administrator will report the Individual PAGA Payments
16 on IRS 1099 Forms. A PAGA Aggrieved Employee may not Opt-Out of releasing
17 his or her PAGA Claims or from receiving his or her allocated share of the Net
18 PAGA Settlement Amount. Prior to Final Approval, Class Counsel will submit the
19 proposed settlement agreement to the LWDA pursuant to Lab. Code §2699, subd.
20 (l)(2).
21

22 18. Attorneys’ Fees and Costs
23

24 a. Class Counsel shall submit an application for an award of attorneys’ fees not
25 to exceed Four Hundred Twenty-Five Thousand Seven Hundred Dollars and
26 Zero Cents (\$425,700.00) which is 33% of the Gross Settlement Amount.
27 The amount not to exceed Four Hundred Twenty Five Thousand Seven
28 Hundred Dollars and Zero Cents (\$425,700.00) will cover all work

performed to date and all work to be performed in connection with the approval by the Court of this Agreement and the final conclusion of this Action. Defendants agree not to oppose any fee application that is not in excess of the amount specified in this Paragraph. If the Court approves a Class Counsel attorney fees payment and/or a Class Counsel costs less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.

- b. Class Counsel shall submit an application for the reimbursement of costs and expenses in an amount not to exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00). The amount not to exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00) will cover all costs and expenses incurred to date or to be incurred. This amount shall come from the Gross Settlement Amount. Defendants agree not to oppose any cost and expense application that is not in excess of the amount specified in this Paragraph.

19. Date of Defendants' Payment to Administrator: Defendants shall pay the Administrator all amounts awarded and approved by the Court, for payment to the Settlement Class, to the LWDA, the service payment awards, and for attorneys' fees and costs on the "**Payment Date**," which shall be the latest of the following occurrences:

- a. Sixty (60) calendar days following the entry of a Judgment finally approving this Settlement, provided no objection is made to this Settlement prior to or at the hearing for final approval of this Settlement, or if any objection is made, but is resolved formally and withdrawn prior to the final approval hearing of this Settlement.

1 b. If an objection to this Settlement is made before or at the hearing for final
2 approval (that is not resolved prior to the hearing and is not formally
3 withdrawn), fourteen (14) calendar days after the deadline to file a notice of
4 appeal under California Rules of Court 8.104 lapses, provided no appeal is
5 filed.

6
7 c. If an appeal has been taken or sought, fourteen (14) calendar days after the
8 date the Judgment is finally affirmed by an appellate court with no
9 possibility of subsequent appeal or other judicial review, or the date the
10 appeal(s) or other judicial review are finally dismissed (and upholding the
11 Settlement) with no possibility of subsequent appeal or other judicial
12 review.

13
14 20. Date of Administrator's Payment to Recipients: Within ten (10) business days of
15 the Payment Date, the Administrator shall distribute all payments due under the
16 Settlement, including the checks for payments to each Participating Class Member,
17 to Representative Plaintiffs, to the LWDA, and Class Counsel.

18
19 21. No Further Payments: Defendants shall have no obligation to pay or provide any
20 further consideration to any Class Member by reason of this Agreement or because
21 of the foregoing payments, including but not limited to contributions to any 401(k)
22 or other retirement or employee benefit plan, vacation or sick pay, etc. Any
23 payments made pursuant to this Agreement will not trigger any obligation of
24 Defendants to make any withholding for 401(k) contributions or to make any
25 contributions to any 401(k) or similar plan. Nor will it trigger any obligation of
26 Defendants to make any contributions to any employee welfare benefit plan for the
27 benefit of any Class Member who is a member of any union.

1 22. Certification for Settlement Purposes Only: As part of this Agreement and for
2 purposes of this Settlement only, the Parties stipulate to the certification of the
3 Settlement Class. If this Agreement does not become final for any reason, the
4 Parties' willingness to stipulate to class certification as part of this Settlement shall
5 have no bearing on, and will not be admissible in connection with, the issue of
6 whether any class should be certified in this case or in any other pending or future
7 lawsuit. The Parties and their counsel will not offer or make reference to this
8 provisional stipulation to class certification for purposes of this Settlement in any
9 subsequent proceeding in this Action (except for purposes of having this
10 Agreement approved by the Court) or in any other action.

11
12 23. Parties' Contentions: In entering into this Agreement, Defendants do not admit to
13 any liability or wrongdoing of any kind associated with the asserted claims, and
14 deny that this Action is appropriate for class treatment. Defendants further deny
15 that Rite Aid Corporation employed any Class Member in California. In entering
16 into this Agreement, Representative Plaintiffs believe that they have filed a
17 meritorious action and that class certification is appropriate.

18
19 24. Settlement Fair, Reasonable, and Adequate: Representative Plaintiffs and Class
20 Counsel are of the opinion that the terms set forth in this Agreement are fair,
21 reasonable, and adequate and this Agreement is in the best interest of the
22 Settlement Class in light of all known facts and circumstances, including the risk of
23 significant delay, defenses asserted by Defendants, and numerous potential
24 appellate issues. Defendants and their counsel also agree that this Agreement is
25 fair and is in the best interests of the Settlement Class and each Class Member.

THE ADMINISTRATOR

25. Selection of Administrator: Subject to the Court's approval, Simpluris shall be retained as the Administrator.
26. Class List: Within thirty (30) calendar days of the date the Court enters an order granting preliminary approval of the Settlement (the "**Preliminary Approval Date**"), Defendants shall provide to the Administrator a list containing, for each Class Member, the following information: (1) name; (2) last known address; (3) number of months worked by each individual as a Shift Supervisor, Assistant Store Manager, or Store Manager in California during the Class Period; (4) number of pay periods worked by each individual as a Shift Supervisor, Assistant Store Manager, or Store Manager in California during the PAGA Period; (5) the last position held by the Class Member; and (6) Social Security number.
27. Administrator's Duties: The Administrator's duties will include preparing, printing, and mailing the Notice, in substantially the form attached hereto as **Exhibit B** to Class Members and may translate the Settlement Notice into Spanish (the Parties make no representations regarding the accuracy of any translation); conducting any necessary verifications of Social Security numbers; updating addresses contained in the Class List by way of search of the National Change of Address registry before the initial mailing of the Notice; re-mailing any Notice Packet that is returned by the U.S. Postal Service as non-deliverable but with a forwarding address; conducting a skip-trace on any Notice returned by the U.S. Postal Service as non-deliverable, as needed, and re-mailing the Notice to any new address obtained by way of skip-trace; reviewing and processing disputes (as defined in Paragraph 35), Requests for Exclusion (as defined in Paragraph 33), and objections to the Settlement (as defined in Paragraph 34); providing Class Counsel

1 and Defendants' Counsel with periodic status reports about the delivery of the
2 Notice, disputes, Requests for Exclusions, and objections to the Settlement; issuing
3 the checks to effectuate the payments due under the Settlement; mailing reminder
4 postcards to all Participating Class Members who have been issued checks but have
5 not cashed all checks issued to them within ninety (90) calendar days after the
6 checks' issuance; providing a report listing the amounts of payments made to each
7 Participating Class Member; issuing any tax reports required under this Settlement;
8 and otherwise administering the Settlement pursuant to this Agreement. Settlement
9 checks will be valid for one hundred and eighty (180) days. At the end of that 180-
10 day period, settlement checks will be void. The amounts of any voided Settlement
11 Share check shall be distributed to the Controller of the State of California to be
12 held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et seq.*
13 for the benefit of those Settlement Class Members who did not cash their checks,
14 until such time that they claim their property. The Parties agree that this
15 disposition results in no "unpaid residue" under California Civil Procedure Code §
16 384, because the entire Net Settlement Fund will be paid out to Settlement Class
17 Members, whether or not they all cash their checks. Therefore, Defendants shall
18 not be required to pay any interest on the funds distributed to the Controller.

- 19
20 28. Qualified Settlement Fund: The Parties agree that the settlement funds will be
21 placed in an account held by the Administrator to effectuate the terms of this
22 Agreement and the orders of the Court. The Parties agree that the settlement fund
23 (1) shall be established pursuant to an order of the Court prior to the receipt of any
24 monies from Defendants; (2) that it shall be established to resolve and satisfy the
25 contested claims that have resulted, or may result, from the matters that are the
26 subject of this Action and that are released by this Settlement; and (3) that the fund
27 or account that is established and its assets are segregated and shall be segregated
28 (within a separately established fund or account) from the assets of Defendants and

1 all related other persons. The Administrator shall be responsible for establishing,
2 administering and otherwise operating the settlement fund, including the
3 preparation and filing of federal, state, and local tax returns. The Administrator
4 shall also be responsible for preparing and issuing all checks to the Participating
5 Class Members, Representative Plaintiffs, Class Counsel, the employer's share of
6 any payroll taxes and all checks for claims administration costs and expenses that
7 are approved by the Court and any other payments included in this Agreement and
8 approved by the Court. Checks shall be accompanied by a cover letter or other
9 notice clearly indicating the case from which the settlement relates and how to
10 obtain additional information.

11
12 29. Administrator's Findings: The Administrator shall report, in summary or narrative
13 form, the substance of its findings regarding the notice and claims process, and, in
14 that regard, the Administrator's approval of claims shall be conclusive and binding.
15 The Administrator shall be granted reasonable access to TPI's records to perform
16 its duties. All disputes relating to the Administrator's ability and need to perform
17 its duties shall be referred, if necessary, to the Court, which will have continuing
18 jurisdiction over the terms and conditions of this Agreement. The Administrator
19 submits to the jurisdiction of the Court in connection with its appointment as
20 Administrator.

21
22 30. Administrator's Reports: The Administrator shall provide weekly reports to
23 counsel concerning receipt of Class Members' requests for exclusion and returned
24 mail.

ADMINISTRATION OF SETTLEMENT

31. Notice: Within fourteen (14) calendar days of receipt of the Class List, the Notice, in the form attached hereto as **Exhibit B**, as approved by the Court, shall be sent by the Administrator to each Class Member. The Notice shall be sent by first class mail to each Class Member's current or last known address on file with TPI, following an updated review of the National Change of Address Registry by the Administrator.

a. Returned Notice: For Notices returned from this mailing with forwarding addresses affixed thereto, the Administrator will re-mail the Notice to the forwarding address within ten (10) days of receipt of the returned mail. For Notices returned without a forwarding address, the Administrator will utilize reasonable and customary skip-tracing efforts to locate an updated address, and promptly perform a single re-mailing to such updated address, if found. If a re-mailing is unsuccessful, the Administrator will take reasonable and customary steps to identify the correct address for that Class Member and re-mail the Notice.

b. If a Class Member receives a re-mailed Notice (as specified herein), he or she shall have an additional ten (10) days from the date of re-mailing to Opt-Out, Object, or a submit a dispute as detailed in Paragraph 35.

c. At least ten (10) days prior to the final approval hearing, the Administrator shall provide the Court with a declaration of due diligence and proof of mailing with regard to the mailing of the Notice, and all attempts to locate Class Members. Class Counsel shall be responsible for working with the Administrator to timely file the declaration of due diligence.

32. Administrator's Responsibility for Payment: All settlement checks will be valid for one hundred eighty (180) calendar days. At the end of that 180-day period, settlement checks will be cancelled, and the funds associated with such cancelled checks shall be considered unpaid, unclaimed, or abandoned cash residue pursuant to California Code of Civil Procedure Section 384 ("Unpaid Residue"). Within ten (10) calendar days after the expiration of the 180-day period, the Unpaid Residue plus any accrued interest that has not otherwise been distributed, shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, for the benefit of those Settlement Class Members who did not cash their checks, until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, because the entire Net Settlement Fund will be paid out to Settlement Class Members, whether or not they all cash their checks. Therefore, Defendants shall not be required to pay any interest on the funds distributed to the Controller.

33. Exclusions:

a. The Notice shall describe the process for Class Members to submit a request for exclusion ("**Request for Exclusion**") from this Settlement. Requests for Exclusion must contain the Class Member's name, current address, a statement that he/she wishes to exclude himself/herself from the Settlement, and conform with any other requirements set forth in the applicable Notice. Except as provided in sub-paragraph (e) below, Class Members who submit a Request for Exclusion are not entitled to any Settlement Payment under this Agreement.

b. Any Class Member who does not mail or fax a valid Request for Exclusion

1 to the Administrator that is postmarked or fax-stamped within forty-five
2 (45) calendar days of the date the Notices are sent to the Settlement Class
3 shall be bound by the terms of this Agreement and shall have released the
4 Released Claims (as defined in Paragraph 36), even if he/she files an
5 objection to the Settlement.

6
7 c. A Class Member who has submitted a Request for Exclusion may withdraw
8 or revoke his/her Request for Exclusion in writing provided that the writing
9 is mailed or faxed to the Administrator and postmarked or fax-stamped no
10 later than five (5) days prior to the Final Approval hearing.

11
12 d. No Class Member will be permitted to pursue a claim released by this
13 Settlement on the grounds that a Request for Exclusion was submitted
14 timely and lost, destroyed, misplaced or otherwise not received by the
15 Administrator unless the Class Member has adequate proof that the Request
16 for Exclusion was mailed timely certified and return receipt requested or has
17 equivalent proof of timely delivery.

18
19 e. A PAGA Aggrieved Employee may not Opt-Out of releasing his or her
20 PAGA Claims or from receiving his or her allocated share of the Net PAGA
21 Settlement Amount.

22
23 34. Objections to the Settlement:

24
25 a. Class Members who do not submit a timely Request for Exclusion shall be
26 permitted to object to the Settlement before final approval.

27
28 b. Any written objections shall state each specific objection and any legal and

factual support for each objection. The objection must also state the Class Member's full name, address, and the dates of his/her employment at TPI. To be valid and effective, any objections to approval of the Settlement must be submitted to the Administrator no later than forty-five (45) calendar days after the Notices are sent to the Settlement Class.

- c. If the Court rejects the Class Member's objection, the Class Member will still be bound by the terms of this Agreement including the release.
- d. Class Members (or their representative(s)) may also appear at the time of the Final Approval Hearing to object to the Settlement, regardless of whether they filed a written objection. The Court will hear from any Class Members who attend the Final Approval Hearing and asks to be heard by the Court.
- e. Class Members may appear remotely at the Final Approval Hearing by using LACourtConnect. Class Members can schedule a remote appearance at <https://my.lacourt.org/laccwelcome>.

35. Handling of Disputes: Class Member disputes may arise from the following information: (1) the last job position held during the Class Period; (2) the number of months worked as a Shift Supervisor, Assistant Store Manager, or Store Manager in California during the Class Period and/or (3) in the case of a late claim postmarked or received after the deadline date, whether a sufficient showing of hardship was made to allow for acceptance of the late claim.

- a. Counsel for the Parties will make a good faith effort to resolve all disputes. If the dispute is not thereby resolved, it will be referred to the Administrator, who will talk to such persons and representatives from Defendants

telephonically, and issue a non-appealable, final decision as to the total amount due, if any, to the Class Member.

- b. Any such disputes must be made in a writing that is mailed or faxed to the Administrator, postmarked or fax-stamped within forty-five (45) calendar days after the Notices are sent to the Settlement Class. To be valid, a dispute must identify the alleged inaccuracy and explain why the Class Member believes the information is inaccurate. It must also contain the Class Member's name, job positions held during the Class Period, number of months worked in relevant job positions during the Class Period.

RELEASE OF CLASS CLAIMS

36. Release of Claims: Upon the Final Approval by the Court of this Agreement, and except as to such rights or claims as may be created by this Agreement, each Participating Class Member fully releases and discharges Defendants, their present, former, and future parents, subsidiaries, affiliates, predecessors, successors and assigns, and each of their respective past and present members, shareholders, directors, officers, employees, agents, servants, registered representatives, insurers and attorneys (collectively hereafter, the "**Released Parties**") from any and all claims, debts, liabilities, demands, claims for restitution or injunctive relief, obligations, guarantees, costs, expenses, attorneys' fees, damages, liquidated damages, penalties, interest, actions, causes of action and any other relief (of whatever kind or nature, whether known or unknown), from February 25, 2016 through the date the Court grants Final Approval, that were or reasonably could have been alleged based on the claims, facts and/or allegations contained in the Action (including the Second Amended Complaint), including *inter alia*, reimbursement of expenses incurred during the course of employment for vehicle

1 usage, mileage and cell phone (or similar device) usage. This includes but is not
2 limited to Plaintiffs' claims for any violations of California, federal, and/or any
3 other law pertaining to Defendants' alleged failure to reimburse employee expenses
4 for vehicle usage, mileage and/or cell phone (or similar device) use. This release
5 includes but is not limited to claims for violations of California Labor Code
6 Sections 2802 and 2698 *et seq.*, and California Business and Professions Code
7 Section 17200, *et seq.* (to the extent based on the same protections as provided by
8 California Labor Code Section 2802) (collectively, "**Released Claims**").

9
10 Each Participating Class Members' Release does not extend to any claims not
11 covered by the preceding Paragraph, including specifically any claims or actions to
12 enforce this Agreement, or to any claims for vested benefits, unemployment
13 benefits, disability benefits, social security benefits, workers' compensation
14 benefits that arose at any time, or based on occurrences outside the Class Period.

15
16 In order to achieve a full and complete release of the Released Parties as to the
17 release directly above, the Representative Plaintiffs and each Participating Class
18 Member acknowledge that the release directly above is also intended to include in
19 its effect all such Released Claims listed above whether or not the Representative
20 Plaintiffs and each Class Member know or suspect them to exist.

21
22 The Parties also agree that the Notice of Settlement will contain the following
23 sentence: "To the extent any of the claims alleged in the cases of *Dennis Gutierrez,*
24 *et al. v. Rite Aid Corporation, et al.*, San Bernardino Superior Court, Case No.
25 CIVSB2210918, and/or *Cherie Russell, et al. v. Thrifty Payless, Inc., et al.*,
26 Siskiyou Superior Court, Case No. SC-CVCV-21-648 (consolidated with Case No.
27 SC-CVCV-21-935, and thereafter referred to as Case Nos. SCCV-CVCV-2021-648
28 and SCCV-CVCV-2021-935 on the caption page of Plaintiff's Second Amended

Consolidated Complaint), are Released Claims, as defined in this Section of this Notice, those claims are also being released by this Settlement.”

The Settlement shall be binding on, and have *res judicata* and preclusive effect in, the Action and any and all other pending and future lawsuits or other proceedings encompassed by the Release above, maintained by or on behalf of the Representative Plaintiffs or any Participating Class Members. The Parties agree that the Release may be raised as a complete defense to and will preclude any action or proceeding based on any of the Released Claims.

The release of the Released Claims shall be of no force and effect if the Qualified Settlement Fund is not fully funded by Defendants.

37. Subsequent Actions: If any Class Member initiates a new lawsuit against Defendants based on any claim released under this Agreement, and the Court invalidates the release, any recovery by the Class Member shall be offset by the amount, if any, paid to the Class Member in connection with this Settlement. The language in this Paragraph shall be included in the Notice of Settlement.

DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL

38. The Parties shall promptly submit this Agreement to the California Superior Court, County of Los Angeles in support of the motion for preliminary approval and determination by the Court as to its fairness, adequacy, and reasonableness. The Parties shall also apply to the Court for the entry of a preliminary order substantially in the form attached hereto as **Exhibit D**. Class Counsel shall submit the preliminary approval papers to Defendants’ Counsel for their review at least five (5) court days prior to the filing of such papers with the Court.

1 If the Parties disagree on any aspect of the proposed Motion for Preliminary
2 Approval and/or the supporting declarations and documents, Class Counsel and
3 Defendants' Counsel will expeditiously work together on behalf of the Parties by
4 meeting in person or by telephone, and in good faith, to resolve the disagreement.
5 If the Court does not grant Preliminary Approval or conditions Preliminary
6 Approval on any material change to this Agreement, Class Counsel and
7 Defendants' Counsel will expeditiously work together on behalf of the Parties by
8 meeting in person or by telephone, and in good faith, to modify the Agreement and
9 otherwise satisfy the Court's concerns.
10

11 **DUTIES OF THE PARTIES FOR FINAL COURT APPROVAL**

12

- 13 39. In advance of the final approval hearing of the Settlement provided for in this
14 Agreement, the Parties will jointly submit a proposed final judgment. Class
15 Counsel shall submit the final approval papers to Defendants' Counsel for their
16 review at least five (5) court days prior to the filing of such papers with the Court.
17
- 18 40. Pursuant to Cal. Rules of Court, Rule 3.771(b), notice of the final judgment will be
19 posted on the Claims Administrator's website.
20

21 **VOIDING THE AGREEMENT**

22

- 23 41. If the Court disapproves of or refuses to enforce any of the material conditions set
24 forth in the preceding Paragraphs, this Settlement shall, at the option of
25 Defendants, be void, and of no further force and effect and shall not be used or
26 admissible in any subsequent proceeding. Defendants may exercise their option to
27 void this Settlement as provided in this Paragraph by giving notice, in writing, to
28 Class Counsel and to the Court within two (2) weeks of the entry of the Court's

1 order disapproving or refusing to enforce any portion of the aforementioned
2 Paragraphs.

3
4 42. Defendants shall have the right, in their sole discretion, to rescind this Agreement
5 if more than five percent (5%) of Class Members “opt-out” by submitting valid and
6 timely Requests for Exclusion. Defendants may exercise their option to void this
7 Agreement as provided in this Paragraph by giving notice, in writing, to Class
8 Counsel and to the Court at any time prior to Final Approval of the settlement by
9 the Court, but not later than two (2) weeks after receiving notice that the number of
10 Requests for Exclusion exceeds five percent (5%).

11
12 43. If the conditions of the Settlement set forth herein are not satisfied, or if
13 Defendants void the Settlement under Paragraph 41 or 42 above, or if the Payment
14 Date does not occur, or, if one or more of the material terms of the Agreement is
15 not approved or is materially modified or reversed, with the exception of the
16 Court’s reduction of the amounts of attorneys’ fees and costs, Representative
17 Plaintiffs’ service payment award, or Administrator’s fee, then this Agreement
18 shall be cancelled, terminated, and shall have no force or effect, unless Defendants
19 agree otherwise. If the Settlement is not finally approved, or if this Settlement is
20 terminated, revoked or cancelled pursuant to its terms, the Parties to this Settlement
21 shall be deemed to have reverted to their respective status as of the date and time
22 immediately prior to the execution of this Agreement.

23
24 **PARTIES’ AUTHORITY**

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26 44. The signatories hereby represent that they are fully authorized to enter into this
27 Agreement and bind the Parties hereto to the terms and conditions hereof.

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TAXES

48. Neither Class Counsel nor Defendants' Counsel intend anything contained herein to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall it be relied upon as such. The tax issues for each Class Member may be unique, and each Class Member is advised to obtain tax advice from his/her own tax advisor with respect to any payments resulting from this Agreement.
49. It shall be the responsibility of the Administrator to timely and properly withhold from individual settlement payments to Participating Class Members all applicable federal, state and local income and employment taxes, if any, and to prepare and deliver the necessary tax documentation for signature by all necessary Parties and, thereafter, to cause the appropriate deposits of withholding taxes and informational and other tax return filing to occur. It shall be the responsibility of the Administrator to pursue tax refunds on any uncashed checks, and to remit such payments accordingly. Payments to Participating Class Members and to Class Counsel pursuant to this Agreement shall be reported on IRS Forms and provided by the Administrator to the respective Class Members, Class Counsel and all applicable governmental authorities as required by law.

NOTICES

50. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States certified mail with return receipt requested, addressed as follows:

To Plaintiffs and Settlement Class:

1 Mike Arias, Esq.
2 Alfredo Torrijos, Esq.
3 Craig S. Momita, Esq.
4 Arias Sanguinetti Wang & Torrijos LLP
5 6701 Center Drive West, Suite 1400
6 Los Angeles, California 90045

7 To Defendants' Counsel:

8 Glenn L. Briggs, Esq.
9 Kymberleigh Damron-Hsiao, Esq.
10 Sarah R. Mohammadi, Esq.
11 Kading Briggs LLP
12 100 Spectrum Center Drive, Suite 800
13 Irvine, California 92618

14 **CONSTRUCTION**

- 15 51. The terms and conditions of this Agreement are the result of lengthy, intensive
16 arms-length negotiations between the Parties, and this Agreement shall not be
17 construed in favor of or against any party by reason of the extent to which any
18 party or his, her, or its counsel participated in its drafting.

19 **CAPTIONS AND INTERPRETATIONS**

- 20 52. Paragraph titles or captions contained herein are inserted as a matter of
21 convenience and for reference, and in no way define, limit, extend, or describe the
22 scope of this Agreement or any provision hereof. Each term of this Agreement is
23 contractual and not merely a recital.
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1 executed by each Class Member.

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3 **CORPORATE SIGNATORIES**
4

5 57. Any Person executing this Agreement or any such related document on behalf of a
6 corporate signatory hereby warrants and promises for the benefit of all Parties
7 hereto that such Person has been duly authorized by such corporation to execute
8 this Agreement or any such related document.
9

10 **COUNTERPARTS**
11

12 58. This Agreement may be executed in counterparts, and when each Party has signed
13 and delivered at least one such counterpart, each counterpart shall be deemed an
14 original, and, when taken together with other signed counterparts, shall constitute
15 one Agreement, which shall be binding upon and effective as to all Parties as set
16 forth herein. Copies and facsimile transmissions of signatures shall be considered
17 the same as an original signature.
18

19 **CONTROLLING LAW**
20

21 59. The Agreement shall be governed by and construed in accordance with the laws of
22 the State of California. In any dispute about the scope of the Release provisions set
23 forth herein or their application to bar any future claim, including regarding the
24 assertion of a res judicata / collateral estoppel defense, this Agreement is governed
25 exclusively by California state law and without regard to any other state or federal
26 law, and without regard to whether any future action is venued in state or federal
27 court.
28

1
2 **PUBLIC COMMENT**
3

4 60. The Parties and their counsel will not, unless required by law, issue any press
5 releases or have any communications to the press concerning this litigation, or the
6 terms of this Agreement, and/or the business practices of Defendants, except that
7 this provision shall not limit communications with Class Members up to the Final
8 Approval of this Agreement, so long as the subject matter of such communications
9 is limited to this Action and Settlement. Nothing in this provision shall affect the
10 ability of Class Counsel or the Administrator to carry out their duties consistent
11 with and as required by any other provision herein. Nothing contained in this
12 Paragraph shall limit or restrict Class Counsels' ability to file a declaration with
13 any court that identifies this case by name and case number and provides any
14 information about this case and the Settlement in such declaration reasonably
15 necessary to the filing with such court.
16

17 **IT IS SO AGREED.**
18

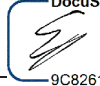
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ARIAS SANGUINETTI WANG & TORRIJOS LLP

DATED: November 10, 2022 By: 
MIKE ARIAS, Esq.
Attorneys for Plaintiffs and the Class

DATED: 11/9/2022, 2022 PLAINTIFF ELARIO SANDOVAL

By: 
9C8261F808AA451...
ELARIO SANDOVAL

DATED: _____, 2022

PLAINTIFF SANJIV AHUJA

By: _____
SANJIV AHUJA

DATED: _____, 2022

KADING BRIGGS LLP

By: _____
GLENN L BRIGGS, Esq.
Attorneys for Defendants Rite Aid Corporation and
Thrifty Payless, Inc.

DATED: _____, 2022 DEFENDANT RITE AID CORPORATION

By: _____
Its: _____

DATED: _____, 2022 DEFENDANT THRIFTY PAYLESS, INC.

By: _____
Its: _____

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ARIAS SANGUINETTI WANG & TORRIJOS LLP

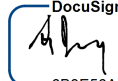
DATED: _____, 2022 By: _____
MIKE ARIAS, Esq.
Attorneys for Plaintiffs and the Class

DATED: _____, 2022 PLAINTIFF ELARIO SANDOVAL

By: _____
ELARIO SANDOVAL

DATED: 11/10/2022, 2022

PLAINTIFF SANJIV AHUJA

By:  _____
SANJIV AHUJA

DATED: _____, 2022

KADING BRIGGS LLP

By: _____
GLENN L BRIGGS, Esq.
Attorneys for Defendants Rite Aid Corporation and
Thrifty Payless, Inc.

DATED: _____, 2022 DEFENDANT RITE AID CORPORATION

By: _____
Its: _____

DATED: _____, 2022 DEFENDANT THRIFTY PAYLESS, INC.

By: _____
Its: _____

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ARIAS SANGUINETTI WANG & TORRIJOS LLP

DATED: _____, 2022 By: _____
MIKE ARIAS, Esq.
Attorneys for Plaintiffs and the Class

DATED: _____, 2022 PLAINTIFF ELARIO SANDOVAL

By: _____
ELARIO SANDOVAL

DATED: _____, 2022

PLAINTIFF SANJIV AHUJA

By: _____
SANJIV AHUJA

DATED: February 21, 2023 KADING BRIGGS LLP

By:  _____
GLENN L BRIGGS, Esq.
Attorneys for Defendants Rite Aid Corporation and
Thrifty Payless, Inc.

DATED: Feb 19, 2023 DEFENDANT RITE AID CORPORATION

By:  _____
Emily Edmunds (Feb 19, 2023 22:13 EST)
Its: VP, AGC - Employment Law

DATED: Feb 19, 2023 DEFENDANT THRIFTY PAYLESS, INC.

By:  _____
Emily Edmunds (Feb 19, 2023 22:13 EST)
Its: VP, AGC - Employment Law