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RONALD KEITH GRAY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

RONALD KEITH GRAY, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

LESLIE'S POOLMART, INC.; and DOES 1
through 20, inclusive,

Defendants.

Case No. C22-02072

ASSIGNED FOR ALL PURPOSES TO
HON. CHARLES S. TREAT, DEPT. 12

**STIPULATION AND SETTLEMENT
OF REPRESENTATIVE ACTION**

Dept: 12

Trial Date: Not Yet Set
Complaint Filed: September 28, 2022

1 **STIPULATION AND SETTLEMENT OF REPRESENTATIVE ACTION**

2 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Ronald Keith
3 Gray ("Plaintiff"), on behalf of himself and on behalf of the State of California and all allegedly
4 aggrieved employees, and Defendant Leslie's Poolmart, Inc. ("Defendant" or the "Company")
5 (collectively, the "Parties"), subject to the approval of the Court, that the Settlement of the Action
6 (as defined below) shall be effectuated upon and subject to the following terms and conditions.

7 **I. Recitals.**

8 WHEREAS, Plaintiff was formerly employed by the Company and on September 28, 2022,
9 Plaintiff filed a civil complaint in Contra Costa County Superior Court alleging class and individual
10 claims entitled *Ronald Keith Gray v. Leslie's Poolmart, Inc.*, bearing case number C22-02072;

11 WHEREAS, on September 28, 2022, Plaintiff notified the Labor & Workforce
12 Development Agency ("LWDA") of his intent to allege claims and seek penalties under the Labor
13 Code Private Attorneys General Act of 2004 ("PAGA");

14 WHEREAS, on December 6, 2022, Plaintiff filed his first amended complaint in the Action,
15 wherein he alleged: (1) failure to pay minimum wages; (2) failure to pay overtime; (3) failure to
16 provide meal periods; (4) failure to permit rest breaks; (5) failure to reimburse for business
17 expenses; (6) failure to provide accurate itemized wage statements; (7) failure to timely pay wages
18 during employment; (8) waiting time penalties; (9) unfair practices under California Business and
19 Professions Code section 17200; and (10) Labor Code §2698, *et seq.*;

20 WHEREAS, on December 27, 2022, Plaintiff moved to dismiss his individual and class
21 claims against Defendant, which the Court granted on December 30, 2022;

22 WHEREAS, on June 1, 2023, the Parties participated in a private mediation with mediator
23 Tripper Ortman and reached a Settlement of Plaintiff's claims;

24 WHEREAS, as a result of the Settlement, the Parties have agreed to fully and finally resolve
25 the Action and all released claims upon the terms and conditions and for the consideration set forth
26 in this Settlement Agreement, which will be subject to Court approval;

27 NOW, THEREFORE, in consideration of the mutual promises and covenants contained
28 herein, it is hereby agreed by and between the Parties hereto as follows:

II. Defined Terms.

The following definitions are applicable to this Settlement Agreement.

1. “Action” means the lawsuit brought by Plaintiff in Contra Costa County Superior Court entitled *Ronald Keith Gray v. Leslie’s Poolmart, Inc.*, bearing case number C22-02072.

2. “Attorneys’ Fees” means Settlement PAGA Counsel’s attorneys’ fees, for which Settlement PAGA Counsel will seek Court approval for up to one-third of the Gross PAGA Settlement Amount (or \$66,000.00) from the Gross PAGA Settlement Amount.

3. “Attorneys’ Costs” means the reasonable costs that Settlement PAGA Counsel intends to request from the Court, which shall also be included in the Gross PAGA Settlement Amount.

4. “Complaint” means the First Amended Complaint filed by Plaintiff in the Action on December 6, 2022, which is the operative complaint.

5. “Court” means the Superior Court of the State of California, County of Contra Costa.

6. “Defendant” means Leslie’s Poolmart, Inc.

7. “Defense Counsel” means the law firm of Littler Mendelson, P.C., counsel for Defendant.

8. “Effective Date” of the Settlement means the date upon which the Settlement Approval Order and Judgment is entered by the Court and the entry of judgment becomes final and is no longer appealable. In the event that the Court does not approve the Settlement as provided herein, or the Effective Date does not occur for any other reason, then this Settlement Agreement and any documents generated to bring it into effect will be null and void, and the Parties will be returned to their respective positions. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement from becoming final and binding.

9. “Gross PAGA Settlement Amount” means the amount of One Hundred Ninety-Eight Thousand Dollars and Zero Cents (\$198,000.00), which is inclusive of Thirteen Thousand Dollars and Zero Cents (\$13,000.00) as a reimbursement by Defendant for Plaintiff’s portion of the

mediator's fees, to be paid by Defendant to resolve the claims of the PAGA Settlement Group Members, if the Court approves this Settlement and the Effective Date occurs. The Gross PAGA Settlement Amount includes the LWDA Payment, the Net Settlement Amount to be distributed to the PAGA Settlement Group Members, Attorneys' Fees, Attorneys' Costs (including the \$13,000.00 for Plaintiff's portion of the mediator's fee), Settlement Administration Fees, and the Plaintiff Enhancement Award. In no event shall Defendant be liable for the payment of any amounts exceeding the Gross PAGA Settlement Amount.

10. "LWDA Payment" means 75% of the Net PAGA Fund, which shall be paid to the LWDA.

11. "Net PAGA Fund" means the allocation of the remaining Gross PAGA Settlement Amount after payment of Attorneys' Fees, Attorneys' Costs, Settlement Administration Fees, and the Plaintiff Enhancement Award, where 75% of the Net PAGA Fund shall be paid to the LWDA as the LWDA Payment, with the remaining 25% distributed to the PAGA Settlement Group Members as the Net Settlement Amount.

12. "Net Settlement Amount" means the Gross PAGA Settlement Amount less Attorneys' Fees, Attorneys' Costs, Settlement Administration Fees, Plaintiff Enhancement Award, and LWDA Payment. The Net Settlement Amount will be distributed to the PAGA Settlement Group Members.

13. "Notice" means the form of notice that will be sent to each PAGA Settlement Group Member accompanying their PAGA Payment, which shall be substantially in the form attached hereto as **Exhibit A**.

14. "PAGA Payment" means any check issued to any PAGA Settlement Group Member of their share of the Net Settlement Amount.

15. "PAGA Period" means the time period from September 28, 2021 through the date of the PAGA Settlement Approval.

16. "PAGA Settlement Approval" means and refers to the date the settlement is approved by the Court.

17. "PAGA Settlement Group Members" means all current and former non-exempt

1 employees employed by Defendant and who worked at Leslie's retail store locations in California
2 at any time from September 28, 2021 through and including the date of the PAGA Settlement
3 Approval.

4 18. "PAGA Settlement Member List" means the list of PAGA Settlement Group
5 Members' full names, telephone numbers, most recent mailing addresses, Social Security numbers,
6 and the total number of pay periods worked as a non-exempt employee at any of Defendant's
7 California retail stores at any time during the PAGA Period, which Defendant will diligently and
8 in good faith compile from its records.

9 19. "Plaintiff" means Ronald Keith Gray.

10 20. "Plaintiff Enhancement Award" means the amount from the Gross PAGA
11 Settlement Amount that the Court awards to Plaintiff as a service award for representing others and
12 as consideration for executing this Settlement Agreement and providing a Complete and General
13 Release of all PAGA claims against the Released Parties. The Plaintiff Enhancement Award shall
14 not exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) and Defendant shall
15 have no further obligation to pay any amount to Plaintiff relating to the Action apart from this
16 Plaintiff Enhancement Award.

17 21. "Released Claims" means the claims released by the PAGA Settlement Group
18 Members, including all PAGA claims pled in the Action, any PAGA letter sent to the LWDA by
19 Plaintiff in or prior to the Action, or any PAGA claims which could have been alleged under the
20 facts, allegations, and/or claims pled in the Action or any PAGA letter sent to the LWDA by
21 Plaintiff in or prior to the Action, against the Released Parties (as defined below) during the PAGA
22 Period, including claims under the California Labor Code and California Industrial Welfare
23 Commission Wage Orders that were alleged, specifically California Labor Code §§201, 202, 203,
24 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1,
25 1198, 2800, 2802, 2698 *et seq.*, Cal. Bus & Prof. Code §17200 *et seq.*, and Cal. Code Civ. Proc.
26 §1021.5.

27 22. "Released Parties" include Defendant and any of its past, present, and future direct
28 or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their

1 past, present, and future officers, directors, employees, partners, members, shareholders and agents,
2 attorneys, insurers, reinsurers, and any individual or entity that could be jointly liable with
3 Defendant.

4 23. "Settlement Administration Fees" means the actual and direct fees/costs reasonably
5 charged by the Settlement Administrator for its services in administering and distributing the Gross
6 PAGA Settlement Amount. Settlement Administration Fees are to be paid from the Gross PAGA
7 Settlement Amount.

8 24. "Settlement Administrator" means Phoenix Settlement Administrators, a third-party
9 settlement administrator that the Parties will ask the Court to appoint for the purposes of
10 administering and distributing the Gross PAGA Settlement Amount.

11 25. "Settlement Agreement" means and refers to this agreement.

12 26. "Settlement Approval Order and Judgment" means the settlement approval order
13 and judgment that will be entered by the Court.

14 27. "Settlement Fund Account" means the bank account established by the Settlement
15 Administrator pursuant to the terms of this Settlement Agreement, from which all monies payable
16 under the terms of this Settlement shall be paid, as set forth herein.

17 28. "Settlement PAGA Counsel" means Plaintiff's counsel, the Aegis Law Firm.

18 **III. Consideration.**

19 1. Gross PAGA Settlement Amount. If the Court approves the Settlement and the
20 Effective Date occurs, Defendant will pay the Gross PAGA Settlement Amount of One Hundred
21 Ninety-Eight Thousand Dollars and Zero Cents (\$198,000.00), which is inclusive of Thirteen
22 Thousand Dollars and Zero Cents (\$13,000.00) for Plaintiff's portion of the mediator's fees. All
23 amounts to be paid by Defendant shall be deposited into the Settlement Fund Account, which shall
24 be administered by the Settlement Administrator. All amounts to be paid to anyone pursuant to
25 this Settlement Agreement shall be paid out of the Gross PAGA Settlement Amount from the
26 Settlement Fund Account.

27 2. Plaintiff's Release. Plaintiff and his respective former and present spouses,
28 representatives, agents, attorneys (including Settlement PAGA Counsel), heirs, administrators,

1 successors, and assigns generally, release and discharge Released Parties from all claims,
2 transactions, or occurrences that occurred during the PAGA Period, including but not limited to the
3 Released Claims (“Plaintiff’s Release”). Plaintiff’s Release does not extend to any claims or
4 actions to enforce this Settlement Agreement, or to any claims for vested benefits, unemployment
5 benefits, disability benefits, Social Security benefits, workers’ compensation benefits that arose at
6 any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff
7 may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows
8 or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective
9 in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

10 a. Plaintiff’s Waiver of Rights Under California Civil Code §1542. For
11 purposes of Plaintiff’s Release, upon the Settlement Agreement taking
12 effect, Plaintiff shall be deemed to have, and by operation of the Settlement
13 Approval Order and Judgment shall have, expressly waived and relinquished
14 to the fullest extent permitted by law the provisions, rights, and benefits of
15 section 1542 of the California Civil Code or other similar provision under
16 federal or state law that purports to limit the scope of a general release, which
17 provides as follows:

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

22 3. PAGA Settlement Members’ Release. Upon the Effective Date, Plaintiff, on behalf
23 of himself, the State of California, and all PAGA Settlement Group Members, releases the Released
24 Parties from the Released Claims. PAGA Settlement Group Members may discover facts in
25 addition to those they now know or believe to be true with respect to the subject matter of the
26 Released Claims, but upon the Effective Date, PAGA Settlement Group Members shall be deemed
27 to have, and by operation of the Settlement Approval Order and Judgment shall have, fully, finally,
28 and forever settled and released any and all of the Released Parties from the Released Claims,

1 without regard to the subsequent discovery or existence of such different or additional facts. PAGA
2 Settlement Group Members agree not to sue or otherwise make a claim against any of the Released
3 Parties that seeks recovery for any of the Released Claims. It is the intent of the Parties that the
4 Settlement Approval Order and Judgment entered by the Court shall have full res judicata effect
5 and be final and binding upon PAGA Settlement Group Members regarding the Released Claims.

6 **IV. Settlement Approval.**

7 1. Settlement Approval Motion. Following full execution of this Settlement
8 Agreement, Plaintiff will promptly request a hearing before the Court to seek approval of the
9 Settlement on a mutually available date. In conjunction with such hearing, PAGA Settlement
10 Counsel will present this Settlement Agreement to the Court and will request that the Court issue a
11 Settlement Approval Order and Judgment approving and incorporating by reference the terms and
12 conditions of the Settlement Agreement (“Settlement Approval Motion”). Settlement PAGA
13 Counsel will draft the Settlement Approval Motion, will make it available to Defense Counsel at
14 least five (5) business days prior to the filing of the motion, and will work with Defense Counsel
15 in good faith to make the motion acceptable to Defendant. The Company agrees not to oppose the
16 Settlement Approval Motion unless the motion is inconsistent with the terms set forth in this
17 Settlement Agreement. Should the Court decline to approve material aspects of the Settlement
18 (including but not limited to the scope of release to be granted by PAGA Settlement Group
19 Members or the binding effect of the Settlement on PAGA Settlement Group Members), the Parties
20 shall work together in good faith to address any concerns raised by the Court and propose a revised
21 Settlement Agreement for the Court’s approval.

22 2. No Right of PAGA Settlement Group Members to Object or Opt Out. The Parties
23 agree there is no statutory right for any PAGA Settlement Group Member to object, opt out, or
24 otherwise exclude himself or herself from the Settlement. Except as otherwise stated, the Parties
25 will vigorously defend against any attempt by any PAGA Settlement Group Member or by any
26 entity or agency to intervene in this matter or object to/opt out of this Settlement. The Parties
27 further agree there is no right or opportunity for any PAGA Settlement Group Member to appeal
28 the approval of the Settlement by the Court. The Parties will jointly defend against any appeal filed

1 with respect to the Settlement Approval Order and Judgment.

2 3. Submissions of Documents to the LWDA. Pursuant to California Labor Code
3 §2699(l)(2), Plaintiff will provide a copy of this Settlement Agreement to the LWDA concurrently
4 with the filing of the Settlement Approval Motion. Settlement PAGA Counsel will also file a
5 declaration in support of his Settlement Approval Motion confirming that they have submitted the
6 Settlement Agreement to the LWDA in compliance with California Labor Code § 2699(l)(2).
7 Within ten (10) calendar days after the Court's entry of the Settlement Approval Order and
8 Judgment, Settlement PAGA Counsel will submit a copy of the Settlement Approval Order and
9 Judgment to the LWDA pursuant to California Labor Code §2699(l)(3).

10 4. Continued Jurisdiction. After entry of the Settlement Approval Order and
11 Judgment, the Court will have continuing and exclusive jurisdiction solely for purposes of
12 addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b) matters
13 relating to the administration of the Settlement; and (c) such post-judgment matters as may be
14 appropriate under Court rules or as set forth in this Settlement Agreement.

15 **V. Fees, Costs, and Enhancement Award.**

16 1. Attorneys' Fees. Settlement PAGA Counsel intends to request attorneys' fees from
17 the Court. In full satisfaction of all claims Plaintiff and Settlement PAGA Counsel may have for
18 attorneys' fees arising out of the Action, the Parties agree that no more than one-third (\$66,000) of
19 the Gross PAGA Settlement Amount may be allocated in attorneys' fees. Attorneys' fees paid
20 pursuant to this Settlement shall be inclusive of all fees in this matter. Defendant agrees not to
21 oppose Settlement PAGA Counsel's application for an award not exceeding this sum. If the Court
22 awards Settlement PAGA Counsel less than one-third (\$66,000) of the Gross PAGA Settlement
23 Fund for Attorneys' Fees, then Defendant shall have no obligation to pay Settlement PAGA
24 Counsel any additional amount for attorneys' fees. If the Court awards less than one-third
25 (\$66,000) of the Gross PAGA Settlement Amount for Attorneys' Fees, the remainder will be added
26 to the Net PAGA Fund and such a reduction shall not be sufficient grounds to void the Settlement.

27 2. Attorneys' Costs. Settlement PAGA Counsel intends to request attorneys' costs
28 from the Court. In full satisfaction of all claims Plaintiff and Settlement PAGA Counsel may have

1 for attorneys' costs arising out of the Action, the Parties agree that no more than Twenty Thousand
2 Dollars (\$20,000.00) may be allocated to Attorneys' Costs. Attorneys' Costs shall include
3 Defendant's reimbursement of Plaintiff's portion of the mediator's fees in the amount of Thirteen
4 Thousand Dollars and Zero Cents (\$13,000.00). Defendant agrees not to oppose Settlement PAGA
5 Counsel's application for an award not exceeding this sum. If the Court awards Settlement PAGA
6 Counsel less than Twenty Thousand Dollars (\$20,000.00) for Attorneys' Costs, then Defendant
7 shall have no obligation to pay Settlement PAGA Counsel any additional amount for attorneys'
8 costs. If the Court awards less than Twenty Thousand Dollars (\$20,000.00) for Attorneys' Costs,
9 the remainder will be added to the Net PAGA Fund and such a reduction shall not be sufficient
10 grounds to void the Settlement.

11 3. Settlement Administration Fees. The Parties agree that no more than Eight
12 Thousand Seven Hundred Fifty Dollars and Zero Cents (\$8,750.00) may be allocated to Settlement
13 Administration Fees, which is subject to the Court's approval and will be paid only from the Gross
14 PAGA Settlement Amount. Any portion of the Settlement Administration Fees not awarded by the
15 Court will be added to the Net PAGA Fund. Defendant shall have no obligation to pay any
16 additional amount for Settlement Administration Fees.

17 4. Plaintiff Enhancement Award. In consideration for Plaintiff's release as to any and
18 all PAGA claims and as a service award for prosecuting the Action for the benefit of the State of
19 California and PAGA Settlement Group Members, the Company agrees to pay Plaintiff a Plaintiff
20 Enhancement Award in an amount no more than Seven Thousand Five Hundred Dollars and Zero
21 Cents (\$7,500.00). Defendant agrees not to oppose Plaintiff's application for a Plaintiff
22 Enhancement Award not to exceed this sum. The Plaintiff Enhancement Award is subject to
23 approval of the Court and will be paid from the Gross PAGA Settlement Fund. In the event that
24 the Court reduces the requested Plaintiff Enhancement Award, Settlement PAGA Counsel shall not
25 have the right to revoke this Settlement Agreement, and it will remain binding. Any portion of the
26 Plaintiff Enhancement Award not awarded to Plaintiff will be added to the Net PAGA Fund.
27 Plaintiff understands and agrees that this Agreement and the Releases herein shall remain in full
28 force and effect even if the amount of the Plaintiff Enhancement Award identified herein is not

1 awarded by the Court. Defendant shall have no further obligation to pay any amount to Plaintiff
2 relating to the Action apart from the Plaintiff Enhancement Award. Plaintiff agrees that any
3 enhancement award he may receive shall not be considered wages and Defendant shall issue
4 Plaintiff an IRS Form 1099 reflecting any such payment. Plaintiff agrees that he alone is
5 responsible for the tax consequences, including penalties or interest, relating to the payment of the
6 Plaintiff Enhancement Award. Plaintiff shall not have the right to revoke his agreement to the
7 Settlement on the grounds the Court does not approve any or all of the requested Plaintiff
8 Enhancement Award.

9 **VI. Settlement Administration.**

10 1. Settlement Administrator. Before or on the date on which the Court grants approval
11 of the Settlement, Plaintiff will retain Phoenix Settlement Administrators as the third party
12 Settlement Administrator to administer this Settlement. The Settlement Administrator will be
13 responsible for at least the following:

- 14 a. Establishing the Settlement Fund Account, which meets the requirements of
15 a Qualified Settlement Fund ("QSF") under U.S. Treasury Regulation
16 section 468B-1;
- 17 b. Receiving, tracking, and organizing the PAGA Settlement Group Member
18 List provided by Defendant;
- 19 c. Following up with Defendant with any questions about the PAGA
20 Settlement Group Member List provided;
- 21 d. Resolving any issues that may arise concerning whether an individual is a
22 PAGA Settlement Group Member and/or the number of pay periods at issue
23 with regard to each PAGA Settlement Group Member;
- 24 e. Performing address updates and verifications prior to the mailing of the
25 Notice and performing at least a single skip trace address follow up on any
26 returned mail;
- 27 f. Consulting with Settlement PAGA Counsel and Defense Counsel
28 concerning any relevant issue, including (without limitation) distribution of

1 the Notice and PAGA Payments;

2 g. Calculating the LWDA Payment, Net PAGA Fund, and PAGA Payments,
3 consistent with the terms of this Settlement Agreement and any order of the
4 Court;

5 h. Disbursing the PAGA Payments, LWDA Payment, any Attorneys' Fees
6 award, Attorneys' Costs award, Plaintiff Enhancement Award, and
7 Settlement Administration Fees as may be ordered by the Court or as
8 otherwise required by this Settlement Agreement;

9 i. Preparing, printing, and mailing to the PAGA Settlement Group Members
10 the PAGA Payments and the accompanying Notice approved by the Court;

11 j. Preparing and providing any legally mandated tax reports, tax filings, or
12 other tax documents required by the administration of the Settlement and as
13 required under applicable law;

14 k. And for such other tasks as the Parties mutually agree or the Court orders.

15 2. The Settlement Administrator shall keep the Parties timely apprised of the
16 performance of all Settlement Administrator responsibilities, and shall not mail any payments to
17 Plaintiff, the LWDA, Settlement PAGA Counsel or any PAGA Settlement Group Members until
18 the amounts are approved by the Parties.

19 3. The Parties each represent they do not have any financial interest in the Settlement
20 Administrator or otherwise have a relationship with the Settlement Administrator that could create
21 a conflict of interest.

22 4. The Settlement Administrator is not an agent of Plaintiff, Settlement PAGA
23 Counsel, Defendant, or Defense Counsel.

24 5. All tasks assigned to the Settlement Administrator under this Settlement Agreement,
25 which, if not completed properly or accurately, shall subject the Settlement Administrator to
26 liability for any costs, fines, losses, or expenses or other amounts incurred by the Parties.

27 6. PAGA Settlement Member List. Within twenty-one (21) business days of the
28 Effective Date or on such date otherwise ordered by the Court, Defendant shall use commercially

1 reasonable efforts to provide to the Settlement Administrator the PAGA Settlement Member List.
2 The PAGA Settlement Member List shall be used solely for the administration of this Settlement
3 and for no other purpose, and shall not be shared with any persons or entity not employed by the
4 Settlement Administrator and working on the administration of this Settlement. Because PAGA
5 Settlement Group Members' sensitive personal information is included in the PAGA Settlement
6 Member List, the Settlement Administrator shall maintain the PAGA Settlement Member List
7 securely and in confidence, maintaining the strictest standards of data privacy. Access to the PAGA
8 Settlement Member List shall be limited to employees of the Settlement Administrator with a need
9 to use the PAGA Settlement Member List for administration of this Settlement.

10 7. Funding of the Settlement Fund. Within twenty-one (21) business days following
11 the Effective Date, the Company shall fund the Settlement by delivering the Gross PAGA
12 Settlement Amount to the Settlement Administrator. All amounts to be paid by the Company shall
13 be deposited into the Settlement Fund Account, which shall be administered by the Settlement
14 Administrator.

15 8. Payment of Attorneys' Fees and Attorneys' Costs. Within fifteen (15) business days
16 after Defendant funds the Settlement Fund Account, the Settlement Administrator shall pay from
17 the Settlement Fund Account the Court-approved Attorneys' Fees and Attorneys' Costs to
18 Settlement PAGA Counsel. Settlement PAGA Counsel agrees to provide the Settlement
19 Administrator with an executed IRS Form W-9 before payments for Attorneys' Fees and Attorneys'
20 Costs are issued. The Settlement Administrator shall issue an IRS Form 1099 to Settlement PAGA
21 Counsel for the payments made pursuant to this paragraph.

22 9. Payment of Plaintiff Enhancement Award. Within fifteen (15) business days after
23 Defendant funds the Settlement Fund Account, the Settlement Administrator shall pay from the
24 Settlement Fund Account the Court-approved Plaintiff Enhancement Award to Plaintiff. Plaintiff
25 agrees to provide the Settlement Administrator with an executed IRS Form W-9 before the Plaintiff
26 Enhancement Award is issued to him.

27 10. Settlement Administration Fees. Within fifteen (15) business days after Defendant
28 funds the Settlement Fund Account, the Settlement Administrator shall pay from the Settlement

1 Fund Account the Court-approved Settlement Administration Fees.

2 11. LWDA Payment. Within fifteen (15) business days after Defendant funds the
3 Settlement Fund Account, the Settlement Administrator shall pay from the Settlement Fund
4 Account a check payable to the LWDA for seventy-five percent (75%) of the Net PAGA Fund.

5 12. Calculation of PAGA Payments. All PAGA Settlement Group Members will
6 receive a PAGA Payment calculated by dividing the Net Settlement Amount by the total number
7 of pay periods worked by PAGA Settlement Group Members during the PAGA Period, and then
8 multiplying that amount by the total number of pay periods attributed to that PAGA Settlement
9 Group Member.

10 13. PAGA Payments to PAGA Settlement Group Members. Within fifteen (15)
11 business days following receipt of the PAGA Settlement Member List, the Settlement
12 Administrator shall issue from the Net Settlement Amount the PAGA Payments to each PAGA
13 Settlement Group Member's last known mailing address along with the Notice. Prior to mailing,
14 the Settlement Administrator will perform a search based on the National Change of Address
15 Database for information to update and correct for any known or identifiable address changes. Any
16 checks returned as non-deliverable on or before the Void Date will be sent promptly via regular
17 First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is
18 provided, the Settlement Administrator will promptly attempt to determine the correct address
19 using a skip trace, or other search using the name, address, or Social Security number of the PAGA
20 Settlement Group Member involved, and will then perform a single re-mailing. Any check re-
21 mailings will not extend the 180-day period to cash a check ("Void Date"). A PAGA Settlement
22 Group Member must cash his or her PAGA Payment check within 180 days after it is issued. If a
23 check is returned to the Settlement Administrator, the Settlement Administrator will make all
24 reasonable efforts to re-mail it to the PAGA Settlement Group Member at his or her correct address.
25 If a PAGA Settlement Group Member's PAGA Payment check is not cashed by the expiration of
26 the Void Date, the funds from such uncashed checks will be paid to the Legal Aid Foundation in
27 the name of the PAGA Settlement Group Member and the PAGA Settlement Group Member will
28 remain bound by the Settlement.

1 14. Report of Completion. Within thirty (30) calendar days after the end of the Void
2 Date for the PAGA Payments, the Settlement Administrator shall provide counsel for all Parties
3 with a written report listing the total amount of Net Settlement Amount paid; the number of checks
4 issued to the PAGA Settlement Group Members; the number and total dollar amount of such checks
5 that were negotiated and cashed; the number and total dollar amount of checks issued that were not
6 negotiated and cashed, if any; the amount of Settlement Administration Fees; and the amount of
7 the Net Settlement Amount paid or to be paid to the Legal Aid Foundation, if any.

8 15. Destruction of PAGA Settlement Group Members' Personal Identifying
9 Information. Within thirty (30) calendar days after entry of the Settlement Administrator issues its
10 Report of Completion or such other date as the Court may order, the Settlement Administrator
11 shall destroy all PAGA Settlement Group Members' personal identifying information received
12 from Defendant and otherwise in connection with the implementation and administration of this
13 Settlement.

14 **VII. Miscellaneous.**

15 1. No Admission of Liability. Defendant denies the allegations in the PAGA letter and
16 Complaint, denies any failure to comply with the laws identified in in the PAGA letter and
17 Complaint, and denies any and all liability for the causes of action alleged. Defendant denies that
18 PAGA claims on these facts would be manageable. This Settlement Agreement is a compromise
19 of such disputed claims. Nothing contained in this Settlement Agreement, no documents referred
20 to herein, and no action taken to carry out this Settlement Agreement may be construed or used as
21 an admission by or against the Company or any of the Released Parties of any fault, wrongdoing,
22 or liability whatsoever.

23 2. Court Approval. If the Court does not grant approval of the Settlement or grants
24 approval conditioned on any material change to the Settlement Agreement (including, but not
25 limited to, the scope of release to be granted by the PAGA Settlement Group Members), then the
26 Parties shall work together in good faith to address any concerns raised by the Court and propose a
27 revised Settlement for the Court's approval. However, an award by the Court of a lesser amount
28 than that sought by Plaintiff and/or Settlement PAGA Counsel for the Plaintiff Enhancement

1 Award, Settlement Administration Fees, Attorneys' Fees, and Attorneys' Costs, will not constitute
2 a material modification to the Settlement Agreement within the meaning of this paragraph.

3 3. No Effect on Employee Benefits. Amounts paid to Plaintiff and other PAGA
4 Settlement Group Members pursuant to this Settlement Agreement do not count as earnings or
5 compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by the
6 Company ("Report of Completion").

7 4. Tax Liability. The Parties make no representation as to the tax treatment or legal
8 effect of the payments called for hereunder, and the Parties are not relying on any statement,
9 representation, or calculation by any of the Parties or by the Settlement Administrator in this regard.
10 Plaintiff understands and agrees that he will be solely responsible for the payment of any taxes and
11 penalties assessed on the payments described herein and will hold Settlement PAGA Counsel, the
12 Company, the Released Parties, Defense Counsel, and the Settlement Administrator free and
13 harmless from and against any claims resulting from treatment of such payments as non-taxable
14 damages. Neither Plaintiff, Settlement PAGA Counsel, Defendant, nor Defense Counsel are
15 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
16 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part
17 10, as amended) or otherwise.

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

22 6. No Other Pending Lawsuits By Plaintiff. Other than this Action, Plaintiff
23 represents that Plaintiff does not have any pending lawsuits, administrative complaints, or
24 charges against the Company or the Released Parties in any local, state, or federal court or
25 administrative agency. Plaintiff further acknowledges that all claims raised therein, if any, shall
26 be fully and finally extinguished by virtue of this Settlement Agreement and the Court's
27 Settlement Approval Order and Judgment.

28 7. Exhibits Incorporated by Reference. The terms of this Settlement Agreement

1 include the terms set forth in any attached Exhibits, which are incorporated by this reference as
2 though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of
3 the Settlement.

4 8. Entire Agreement. Upon execution by all Parties, Settlement PAGA Counsel, and
5 Defense Counsel, this Agreement together with its attached Exhibits shall constitute the entire
6 agreement between the Parties relating to the Settlement, superseding any and all prior or oral or
7 written understandings, negotiations, agreements, statements, promises, representations,
8 warranties, covenants, or inducements made to or by any Party.

9 9. Amendment or Modification. This Agreement may be amended or modified only
10 by a formal written instrument signed by counsel for all Parties or their successors-in-interest.

11 10. Authorization to Enter Into Settlement Agreement. Settlement PAGA Counsel
12 and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and
13 Defendant, respectively, to take all appropriate action required or permitted to be taken by such
14 Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents
15 reasonably required to effectuate the terms of this Agreement including any amendments to this
16 Agreement.

17 11. Binding Agreement. The Parties warrant that they understand and have full
18 authority to enter into this Settlement, and further intend that this Agreement will be fully
19 enforceable and binding on all Parties, and agree that it will be admissible and subject to
20 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
21 provisions that otherwise might apply under federal or state law.

22 12. Binding on Successors and Assigns. This Settlement Agreement will be binding
23 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
24 defined.

25 13. California Law. All terms of this Settlement Agreement and the Exhibits attached
26 hereto will be governed by and interpreted according to the laws of the State of California.

27 14. Execution and Counterparts. This Settlement Agreement may be executed in one
28 or more counterparts by facsimile, electronically (i.e. DocuSign), or e-mail which for purposes

of this Settlement Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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

16. Waiver of Certain Appeals. In the event the Court grants Approval of this Settlement Agreement, the Parties agree to waive appeals concerning this Settlement.

17. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the provisions of this Settlement Agreement.

18. Notices. Unless otherwise specifically provided, all notices, demands, or other communications in connection with this Settlement Agreement shall be: (a) in writing; (b) deemed given on the third business day after mailing; (c) sent via United States registered or certified mail, return receipt requested, addressed as follows; and (d) with a courtesy copy by e-mail:

To Settlement PAGA Counsel:

Kashif Haque, khaque@aegislawfirm.com

Kristy Connolly, kconnolly@aegislawfirm.com

AEGIS LAW FIRM, PC

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: 949.379.6250

Facsimile: 949.379.6251

To Defense Counsel:

Sophia Collins, scollins@littler.com

Shirley Shu, sshu@littler.com

Harman Deol, hdeol@littler.com

LITTLER MENDELSON, P.C.
Treat Towers
1255 Treat Boulevard, Suite 600
Walnut Creek, California 94597
Telephone: 925.932.2468
Facsimile: 925.946.9809

19. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full. Further, Plaintiff and Settlement PAGA Counsel warrant and represent that there are no liens on the Agreement.

20. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the mediator and/or the Court to resolve such disagreement.

21. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right, or remedy.

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22. Agreement Drafted By All Parties. This Agreement has been, and shall be construed to have been, drafted by all the Parties to it, and the Parties agree that any rule which construes ambiguities against the drafter shall have no force or effect.

The Parties and their counsel hereby execute this Agreement.

PLAINTIFF RONALD KEITH GRAY

DocuSigned by:

Ronald Keith Gray

D7E0898D65394B0...

Ronald Keith Gray

Dated: 07/25/2023

LESLIE'S POOLMART, INC.

DocuSigned by:

Ben Lindquist

AAC7A9416D2E489...

By: Ben Lindquist

Title: VP & Associate General Counsel

Dated: 8/15/2023

Approved as to form:

AEGIS LAW FIRM

Kristy Connolly

Dated: 7/25/2023

Kashif Haque

Kristy Connolly

Attorney for Plaintiff Ronald K. Gray

4855-9904-7793.1 / 053451-1119

EXHIBIT A

EXHIBIT A

NOTICE OF PAGA SETTLEMENT

Ronald Keith Gray v. Leslie's Poolmart, Inc.

Superior Court of the State of California, County of Contra Costa

Case No. C22-02072

[SETTLEMENT PAGA GROUP MEMBER NAME]

[MEMBER ADDRESS]

You are receiving this Notice because of a lawsuit brought by Ronald Keith Gray ("Plaintiff") on behalf of himself and all other aggrieved employees against Leslie's Poolmart, Inc. ("the Company"), for civil penalties pursuant to the Private Attorneys General Act, California Labor Code §§2698, *et seq.* ("PAGA"). Plaintiff claims violations of Cal. Lab. Code §§201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, Cal. Bus & Prof. Code §17200 *et seq.*, and Cal. Code Civ. Proc. §1021.5, and filed a lawsuit alleging: (1) failure to pay minimum wages; (2) failure to pay overtime; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to reimburse for business expenses; (6) failure to provide accurate itemized wage statements; (7) failure to timely pay wages during employment; (8) waiting time penalties; (9) unfair practices under California Business and Professions Code §17200; and (10) California Labor Code §2698, *et seq.* (the "Action").

The Superior Court for the County of Contra Costa has approved a settlement in the Action ("Settlement"). The Court has not made a determination about Plaintiff's claims or the Action, and this Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff's claims or the Action. The Company denies Plaintiff's allegations, and maintains they were and are in compliance with the California Labor Code. The Company entered into this Settlement with no admission of liability and solely for the purposes of compromising and settling the Action to avoid the cost and operational burden of continued litigation.

According to the Company's records, you are a PAGA Settlement Group Member as you worked in the State of California as a non-exempt employee at a Leslie's retail store between September 28, 2021 through the date of approval, and are therefore entitled to a share of the Settlement.

Your individual payment as a PAGA Settlement Group Member ("Settlement Payment") is enclosed with this Notice. The check shall remain valid for one hundred eighty (180) days. Plaintiff and the Company agree that all PAGA Settlement Group Members who receive payment pursuant to this Settlement will be responsible for any and all tax obligations associated with such receipt. You will be responsible for correctly characterizing this compensation for tax purposes and paying any taxes that may be due on the payment you receive. Neither Counsel for Plaintiff, Counsel for the Company, nor the Settlement Administrator may legally provide you with advice regarding the tax implications of the receipt of this Settlement Payment.

Any questions regarding the settlement can be directed to the Settlement Administrator:

[Settlement Administrator Name]

[Address]

[Telephone]