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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOHNNY CRUZ, as an aggrieved employee
pursuant to the Private Attorneys General Act
("PAGA"),

Plaintiff,

vs.

WAL-MART ASSOCIATES, INC., a Delaware
corporation; WALMART INC. (f/k/a WAL-
MART STORES, INC.), a Delaware
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 18STCV03128

**JOINT STIPULATION OF PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

BRITTNEY JOHNSON, as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"),

Plaintiff,

vs.

WAL-MART ASSOCIATES, INC., a Delaware
corporation; WALMART INC. (f/k/a WAL-
MART STORES, INC.), a Delaware
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVDS1602699

1 This Joint Stipulation of PAGA Representative Action Settlement (“Settlement Agreement”) is
2 made and entered into by and between the following parties: Plaintiffs Johnny Cruz and Brittney
3 Johnson (“Plaintiffs”), individually and as proxies of the State of California and the LWDA on behalf of
4 all other allegedly aggrieved employees and Defendants Wal-Mart Associates, Inc. and Walmart, Inc.
5 (“Defendants”) (collectively, the “Parties”). This Settlement Agreement is subject to the terms and
6 conditions set forth below and to the approval of the Court. This Settlement Agreement sets forth the
7 Parties’ PAGA representative action settlement in the total amount of Fifteen Million Dollars
8 (\$15,000,000) to resolve all claims, as detailed below.

9 **I. DEFINITIONS**

10 1. “Action” means, collectively, the actions entitled *Cruz v. Wal-Mart Associates, Inc.*, No.
11 18STCV03128 (Los Angeles County Superior Court) and *Johnson v. Wal-Mart Associates, Inc.*, No.
12 CIVDS1602699 (San Bernardino County Superior Court).

13 2. “Aggrieved Employee(s)” means all individuals who are or previously were employed
14 by Defendants at “Walmart” retail stores in the State of California in non-exempt positions at any time
15 during the period from December 28, 2014 to the earlier of June 14, 2021 or the Date of Court Approval.

16 3. “Applicable Pay Periods” means, as reflected in Defendants’ internal records, any pay
17 periods worked for Defendants by an Aggrieved Employee in a non-exempt position at any California
18 “Walmart” retail store location during the Covered Period. Any pay period during which the Aggrieved
19 Employee worked in California any amount of time in a non-exempt position (e.g., when not on a leave
20 of absence) will be counted as an Applicable Pay Period.

21 4. “Approval Hearing” means the hearing on the Motion for Court Approval of PAGA
22 Settlement.

23 5. “Court” means the Superior Court of California in and for the County of Los Angeles, or
24 any other court taking jurisdiction of the Action.

25 6. “Covered Period” means the period between December 28, 2014 to the earlier of June
26 14, 2021 or the Date of Court Approval.

27 7. “Date of Court Approval” means the date the Court enters an Order Granting Settlement
28 Approval and Judgment to that effect.

8. “Defendants” means Wal-Mart Associates, Inc. and Walmart Inc.

9. “Individual Settlement Amount” means the final gross amount sent and paid to any Aggrieved Employee under this Agreement.

10. “LWDA” means the California Labor and Workforce Development Agency.

11. “Maximum Settlement Amount” is the sum of Fifteen Million Dollars (\$15,000,000), which represents the maximum amount payable in this Settlement by Defendants, and includes all attorneys’ fees, litigation costs and expenses, Settlement Administration Expenses, Service Enhancements to the Plaintiffs, and all settlement payments to the LWDA and the Aggrieved Employees.

12. “Motion for Court Approval of PAGA Settlement” means the motion and supporting papers, including this Settlement Agreement and the proposed Order and Judgment consistent with the terms of this Settlement, prepared by PAGA Counsel. Concurrently with this motion, PAGA Counsel may also seek court approval for payment of Service Enhancement awards to Plaintiffs and apply for an award of attorneys’ fees and reimbursement of out-of-pocket litigation costs and expenses, which, so long as they are consistent with the terms of this Settlement Agreement, Defendants will not oppose.

13. “Net Settlement Amount” equals the Maximum Settlement Amount less PAGA Counsel’s attorneys’ fees and actual litigation costs, Settlement Administration Expenses, and the Service Enhancements to Plaintiffs.

14. “Order and Judgment” means, collectively, the order (in substantially the form attached as Exhibit A) and judgment (in substantially the form attached as Exhibit B) entered by the Court following the filing of the Motion for Court Approval of PAGA Settlement and the Approval Hearing that, *inter alia*: (a) approves the terms and conditions of this Settlement Agreement, including the payments and the release of claims as set forth herein; (b) approves the amount of attorneys’ fees and litigation costs and expenses to be awarded to PAGA Counsel, the Settlement Administration Expenses, and the Service Enhancements to be awarded from the Maximum Settlement Amount; and (c) enters judgment pursuant to and consistent with the terms and conditions of this Settlement Agreement.

15. “PAGA” will mean the California Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*

1 16. “PAGA Counsel” means Capstone Law APC, the Law Offices of Mark Yablonovich,
2 and their associated counsel of record.

3 17. “Parties” means collectively Plaintiffs and Defendants, as defined herein.

4 18. “Plaintiffs” means Johnny Cruz and Brittney Johnson.

5 19. “Service Enhancements” means the incentive payments paid to Plaintiffs for their
6 service on behalf of the State of California and Aggrieved Employees, and for general releases of all
7 claims arising out of their employment with Defendants.

8 20. “Settlement Administration Expenses” are those expenses and costs incurred by the
9 Settlement Administrator in effectuating the Settlement and approved by the Court in an amount
10 estimated at Three Hundred and Thirty-Five Thousand Dollars (\$335,000).

11 21. “Settlement Administrator” means CPT Group, Inc., or any other third-party settlement
12 administrator that the Parties jointly select, subject to Defendants’ third-party oversight policy.

13 22. “Settlement Agreement” or “Settlement” will mean this Joint Stipulation of PAGA
14 Representative Action Settlement.

15 23. “Settlement Effective Date” means the date upon which both of the following have
16 occurred: (A) the Court, or other court assuming jurisdiction of this Action, enters the Order approving
17 the Settlement, and (B) the Court’s Judgment approving the Settlement becomes Final. “Final” shall
18 mean the latest of: (1) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on
19 appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of
20 certiorari to the California Supreme Court, or (2) if a petition for writ of certiorari is filed, the date of
21 denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition;
22 or if no challenge to the Settlement is filed prior to entry of the Order and Judgment, the date of entry of
23 the Order and Judgment.

24 24. “Settling Defendants” means Defendants Wal-Mart Associates, Inc. and Walmart Inc.,
25 their affiliates, divisions, subsidiaries, parents, predecessors, any merged entity or merged entities and/or
26 its or their present and former officers, partners, directors, employees, agents, shareholders and/or
27 successors, assigns, trustees, heirs, administrators, executors, representatives and/or principals thereof.
28

II. LITIGATION BACKGROUND

25. On December 28, 2015, Plaintiff Brittney Johnson sent notice of her claims to the LWDA. On February 26, 2016, Ms. Johnson filed a representative PAGA action against Defendants in the Superior Court of California for the County of San Bernardino. Ms. Johnson alleges PAGA claims based on the following theories: (i) unpaid overtime and minimum wages; (ii) failure to provide meal periods; (iii) failure to authorize and permit rest periods and pay rest break premiums; (iv) noncompliant wage statements; (v) failure to timely pay wages during employment; and (vi) failure to timely pay wages upon termination.

26. On August 24, 2018, Plaintiff Johnny Cruz sent notice of his claims to the LWDA. On October 31, 2018, Mr. Cruz filed a representative PAGA action against Defendants in the Superior Court of California for the County of Los Angeles. Mr. Cruz alleges PAGA claims based on the following theories: (i) unpaid overtime and minimum wages; (ii) failure to authorize and permit employees to leave the premises during paid rest periods; (iii) failure to reimburse for business expenses; (iv) failure to pay reporting time pay; (v) failure to pay split shift premiums; and (vi) unlawfully passing on the cost of employer mandated drug testing.

27. Defendants deny Plaintiffs' claims, and assert that they have complied with California's laws. Consequently, Defendants do not believe that any liability to Plaintiffs, the State of California or the LWDA, or to any other Aggrieved Employee exists, or that Plaintiffs, the State of California or the LWDA, or any other Aggrieved Employee are entitled to any recovery in the Action.

28. On November 18, 2020, counsel for the Parties participated in a mediation with Louis Marlin, Esq., an experienced mediator of wage and hour class actions and PAGA actions. Although the Parties did not settle at mediation, Mr. Marlin presented the Parties with a "mediator's proposal" outlining the principal terms of a settlement. The Parties subsequently accepted Mr. Marlin's mediator's proposal. At all times, the Parties' negotiations were adversarial and non-collusive. The Settlement therefore constitutes a fair, adequate, and reasonable compromise of the claims at issue, and the PAGA civil penalties provided by the Settlement are genuine and meaningful.

29. It is the intention of the Parties that this Settlement Agreement will constitute a full and complete settlement and release of the PAGA claims averred in the Action by the Plaintiffs, both

1 individually and as proxies of the State of California and the LWDA on behalf of all Aggrieved
2 Employees pursuant to PAGA, as well as a general release of any individual claims the named Plaintiffs
3 may have had against Settling Defendants.

4 30. The Parties and their counsel recognize the expense and length of continued proceedings
5 necessary to litigate the disputes through trial and through any possible appeals. The Parties have also
6 taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
7 delays inherent in such litigation. The Parties and their counsel are aware of the burdens of proof
8 necessary to establish liability for the claims alleged, and the affirmative and other defenses asserted.
9 Based on the foregoing, Plaintiffs have determined that the settlement is fair and promotes PAGA's
10 objectives.

11 **III. JURISDICTION AND VENUE**

12 31. This Court has jurisdiction over the Parties and the subject matter of this Settlement.
13 This Court will have continuing jurisdiction over the terms and conditions of this Settlement Agreement
14 pursuant to Code of Civil Procedure section 664.6, until all payments and obligations provided for herein
15 have been fully executed.

16 **IV. TERMS OF SETTLEMENT**

17 **A. Settlement Payments**

18 32. Defendants agree to pay a Maximum Settlement Amount of Fifteen Million Dollars
19 (\$15,000,000), inclusive of: (a) all PAGA penalty settlement payments to the LWDA and Aggrieved
20 Employees; (b) any award of attorneys' fees and out-of-pocket litigation costs and expenses to PAGA
21 Counsel; (c) any award of Service Enhancemnts; and (d) Settlement Administration Expenses. The
22 Parties specifically agree, subject to Court approval, to the following allocations to be paid from the
23 Maximum Settlement Amount:

24 32(a) Attorneys' Fees. In full satisfaction of all claims Plaintiffs may have for
25 attorneys' fees, and all out-of-pocket costs incurred and to be incurred by
26 PAGA Counsel in the Action, including but not limited to fees and expenses
27 of experts, investigation expenses, postage, telephone, and photocopying
28 charges, costs associated with documenting the Settlement, the Parties agree

that from the Maximum Settlement Amount, PAGA Counsel may seek from the Court Five Million Dollars (\$5,000,000) in attorneys' fees and one hundred twenty-five thousand (\$125,000) in litigation costs and expenses, for a total of \$5,125,000 (collectively "Attorneys' Fees and Costs") which Defendants will not oppose.

32(b) Service Enhancements. From the Maximum Settlement Amount, Plaintiffs may seek from the Court Service Enhancements of \$15,000 to each Plaintiff (for a total of \$30,000), which Defendants will not oppose.

32(c) Settlement Administration Expenses. From the Maximum Settlement Amount, Settlement Administration Expenses in a reasonable amount currently estimated at \$335,000.

32(d) Net Settlement Amount. From the Net Settlement Amount (i.e., the remainder of the Maximum Settlement Amount, including interest accruing to it, after payments have been made for attorneys' fees and litigation costs and expenses, Service Enhancements, and Settlement Administration Expenses), settlement payments attributable to PAGA penalties will be allocated and paid to the LWDA and the Aggrieved Employees.

32(d)(i) Seventy-five percent (75%) of the Net Settlement Amount will be paid to the LWDA as its share of the Settlement attributable to PAGA penalties.

32(d)(ii) The remaining twenty-five percent (25%) of the Net Settlement Amount will be distributed as Individual Settlement Amounts to the Aggrieved Employees.

32(d)(iii) The Individual Settlement Amount for each Aggrieved Employee will be determined by the following formula: 25% of the Net Settlement Amount $\times$ [Applicable Pay Periods worked by individual Aggrieved Employee during the Covered Period $\div$ Total Applicable Pay Periods worked by all Aggrieved

Employee during the Covered Period].

32(d)(iv) The number of Applicable Pay Periods worked by Aggrieved Employees in non-exempt positions during the Covered Period will be provided to the Settlement Administrator by Defendants based on their employment records.

32(d)(v) Defendants estimate that, as of the date of signing this Settlement Agreement, there are approximately 314,408 Aggrieved Employees who worked for the Defendants during the Covered Period. If the actual number of Aggrieved Employees increases by more than four percent of that number, the Maximum Settlement Amount will increase proportionally for all additional persons above the four percent allowance (e.g., if the number of Aggrieved Employees is seven percent greater than 314,405, then the Maximum Settlement Amount will increase by an additional three percent).

32(e) If the Court approves a lesser amount of attorneys' fees and litigation costs and expenses, Service Enhancements, or Settlement Administrator Expenses than those sought by Plaintiffs and PAGA Counsel in a Motion for Court Approval of PAGA Settlement, any amount not approved by the Court will be added to the Net Settlement Amount. The Parties agree that the Settlement Agreement will remain binding with such modification(s) as ordered by the Court, and its terms will be otherwise unchanged except as provided in Paragraph 37.

32(f) The Settlement Administrator will disburse monies from the Net Settlement Amount as and when authorized in this Settlement Agreement and, by order of the Court, will file and issue any necessary tax reporting documents, and will inform the Parties and the Court of its fulfillment of the duties imposed by this Settlement Agreement.

32(g) The Settlement Administrator will issue settlement checks to the LWDA and Aggrieved Employees under this Settlement Agreement, as well as Service Enhancements to the Plaintiffs and attorneys' fees and expenses awarded to PAGA Counsel, by sending such payments by mail, wire, or other reliable means to the respective recipients as specified below.

B. Injunctive and/or Prospective Relief

a. Defendants deny that Plaintiffs' claims have merit and deny any liability or wrongdoing as to Plaintiffs, the Aggrieved Employees, or any other person.

b. Notwithstanding, the Parties acknowledge that subsequent to the filing of the Action, and in response thereto, Defendants made changes to certain company policies, namely: (1) Defendants no longer use the Global Associate Interactive Network (GAIN) system to issue final paychecks to terminated employees at the store-level in California, and now uses a system entitled Work Day; (2) Defendants have implemented the use of an electronic key log system for the retrieval, monitoring, and return of department keys for their California stores; and (3) Defendants have changed the language in their Meal and Rest Break Policy in California to specifically state that employees are not required to remain on the premises for their rest breaks.

C. Release of Claims

33. Upon the Settlement Effective Date, Plaintiffs individually, and the LWDA and all Aggrieved Employees, through Plaintiffs acting as proxies for the State of California and the LWDA and as Private Attorneys General acting on behalf of all other current and former employees of Defendants in California, will be deemed to have fully, finally, and forever released the Settling Defendants from all Released Claims during the Covered Period, as set forth in Section VII(A) herein. Plaintiffs, in conjunction with their request for Service Enhancements, will also enter into the General Release as set forth in Section VII(B) herein.

D. No Defense to *Magadia v. Wal-Mart Assocs., Inc*

34. This Settlement Agreement will not be used as a defense in any manner in the action entitled *Magadia v. Wal-Mart Assocs., Inc. et al.*, United States District Court, Northern District of California Case No. 5:17-cv-00062-LHK.

1 35. The Settlement Agreement will not be used as a defense in any manner to pending
2 certified or settled class action claims, but will resolve the PAGA claims in those matters which contain
3 both class claims and PAGA claims.

4 **E. Motion for Settlement Approval and Entry of Judgment**

5 36. Plaintiffs will file a Motion for Court Approval of PAGA Settlement with the Court. At
6 the Approval Hearing, Plaintiffs will request that the Court, among other things, enter the Order and
7 Judgment. Concurrent with filing the Motion for Court Approval of PAGA Settlement, Plaintiffs will
8 submit that Motion and any supporting papers, including a copy of this Settlement Agreement, to the
9 LWDA pursuant to Labor Code section 2699(l)(2).

10 **F. Waiver of Appeal**

11 37. The Parties expressly acknowledge and agree that approval of this Settlement
12 Agreement, through the Order Granting Settlement Approval and Judgment, effectuates the Releases set
13 forth in Section VII, and resolves all claims at issue in the Action. Upon the Settlement Effective Date,
14 Plaintiffs, Defendants, and their counsel expressly agree to hereby waive and extinguish their right to
15 appeal any order or judgment in the Action, and the judgment entered in the Action will be final, except
16 however that PAGA Counsel may appeal an order reducing their requested attorneys' fees and costs.

17 **G. No Right to Exclusion or Objections by Aggrieved Employees**

18 38. Because this Settlement resolves claims and actions brought pursuant to PAGA by
19 Plaintiffs acting as proxies and as Private Attorneys General of and for the State of California and the
20 LWDA, the Parties agree that no Aggrieved Employee has the right to exclude himself, herself or itself
21 from the Settlement. Aggrieved Employees will be bound by the terms of the Settlement Agreement,
22 upon its approval by the Court, regardless of whether he, she, or it cashes any Individual Settlement
23 Amount payment received as a result of this Settlement. The Parties also agree that no Aggrieved
24 Employee has the right to object to the terms of the Settlement Agreement.

25 **H. Non-Admission of Liability**

26 39. Nothing in this Settlement Agreement, or any communications, papers, or orders related
27 to this Settlement Agreement, will be construed to be or deemed an admission by Settling Defendants of
28 any liability, culpability, negligence, or wrongdoing toward the Plaintiffs, the Aggrieved Employees, or

any other person, and the Settling Defendants specifically disclaim any liability, culpability, negligence, or wrongdoing toward the Plaintiffs, the Aggrieved Employees, the State of California, or any other person. Whether or not the Court approves the Settlement, this Settlement Agreement and any communications, papers, or orders related to the Settlement Agreement may not be cited or otherwise admitted as evidence of liability, whether in the Action or elsewhere. There has been no final determination by any Court as to the merits of the claims asserted by Plaintiffs against Defendants, or of Defendants' defenses thereto.

I. Non-Approval By The Court

40. The Parties agree to utilize best efforts to effectuate the terms of this Settlement Agreement and to obtain approval by the Court of the Settlement. If the Settlement fails to become effective notwithstanding the Parties' best efforts to get it approved:

- 40(a) The Settlement Agreement will have no force or effect, other than the confidentiality and non-disclosure provisions in Section XI, the non-admission provisions in Section IV(H), and the litigation restoration provisions in Paragraph 41(e) below and in Paragraph 63;
- 40(b) The Settlement Agreement will not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
- 40(c) None of the parties to this Settlement Agreement will be deemed to have waived any claims, objections, defenses or arguments with respect to the merits of Plaintiffs' claims;
- 40(d) Defendants do not waive, and instead expressly reserve their rights to challenge the propriety of the Action proceeding as a representative action; and
- 40(e) The Action will be restored to its status quo ante as of November 18, 2020 (the date of the last mediation attended by the Parties), and the Parties will cooperate to the fullest extent possible to restore the Action to its status quo ante.

1 **V. SETTLEMENT ADMINISTRATION**

2 **A. Settlement Administrator Duties**

3 41. Pursuant to the terms of this Settlement Agreement, the Settlement Administrator will be
4 responsible for: (a) calculating and determining the LWDA's 75% share of the Net Settlement Amount,
5 and preparing and mailing that payment to the LWDA; (b) calculating the Individual Settlement
6 Amounts due to each Aggrieved Employee from the remaining 25% share of the Net Settlement
7 Amount, and issuing and mailing checks payable to said Aggrieved Employees, including taking
8 appropriate steps to trace, update and locate any Aggrieved Employees whose address or contact
9 information as provided to the Settlement Administrator is inaccurate or outdated; (c) maintaining the
10 Maximum Settlement Amount account in an interest-bearing account at a federally insured banking
11 institution, as discussed below; (d) preparing and paying the amount of attorneys' fees and litigation
12 costs and expenses awarded to PAGA Counsel from the Maximum Settlement Amount; (e) preparing
13 and paying the Service Enhancements awarded to Plaintiffs from the Maximum Settlement Amount; (f)
14 reporting to Defendants' Counsel, PAGA Counsel, and, if necessary, the Court regarding the completion
15 of the tasks identified in this paragraph; and (g) carrying out other related tasks including the proper
16 maintenance of undisbursed Net Settlement Amounts or uncashed checks in an interest bearing account
17 and reporting required for that account, in accordance with the terms of this Settlement Agreement.

18 42. Plaintiffs, PAGA Counsel, Defendants, and Defendants' counsel shall not bear any
19 responsibility for the Settlement Administrator's errors or omissions in the calculation or distribution of
20 the Individual Settlement Amounts to Aggrieved Employees.

21 43. All disputes relating to the Settlement Administrator's ability and need to perform its
22 duties will be referred to the Court, if necessary, which will have continuing jurisdiction over the terms
23 and conditions of this Settlement Agreement, until all payments and obligations contemplated by the
24 Settlement Agreement have been fully executed.

25 **B. Qualified Settlement Fund**

26 44. The Settlement Administrator will create a Qualified Settlement Fund ("QSF"), to be
27 funded by the Maximum Settlement Amount paid by Defendants and administered by the Settlement
28 Administrator. Should the Settlement Effective Date never occur for any reason whatsoever, the entire

1 amount of the Maximum Settlement Amount will revert to Defendants along with any accrued interest.
2 Should the Settlement Effective Date occur, all interest earned on the Maximum Settlement Amount will
3 inure to the benefit of the LWDA and the Aggrieved Employees, and will be treated as part of the Net
4 Settlement Amount.

5 45. The Settlement Administrator will not distribute any money from the QSF until the
6 Settlement Effective Date has occurred, and each condition in this Settlement Agreement has been
7 satisfied.

8 **C. Calculating and Issuing Payments**

9 46. When and if the Court enters the Order Granting Settlement Approval and Judgment,
10 and the Settlement Effective Date as defined herein has passed, the Settlement Administrator will be
11 responsible for: (a) calculating the Individual Settlement Amounts due to each Aggrieved Employee, and
12 issuing and mailing checks payable to said Aggrieved Employees; (b) issuing and mailing a check to the
13 LWDA for its 75% share of the Net Settlement Amount as penalties pursuant to PAGA; (c) issuing and
14 mailing checks to Plaintiffs for the Service Enhancements awarded by the Court; (d) issuing a check or
15 wire to PAGA Counsel for any attorneys' fees and out-of-pocket litigation costs and expenses awarded
16 by the Court.

17 47. Prior to mailing the Individual Settlement Amount payments to Aggrieved Employees,
18 the Settlement Administrator will update the addresses for the Aggrieved Employees using the National
19 Change of Address database and other available resources deemed suitable by the Settlement
20 Administrator. Any returned envelopes from the initial mailing with forwarding addresses will be used
21 by the Settlement Administrator to locate Aggrieved Employees and re-mail the Individual Settlement
22 Amount payments to the correct or updated address. The Settlement Administrator will use appropriate
23 tracing methods, including skip tracing, to ensure that the Individual Settlement Amount payments are
24 received by Aggrieved Employees. The Settlement Administrator will also take reasonable steps,
25 including skip tracing, to locate any Aggrieved Employee whose Individual Settlement Amount
26 payments are returned as undeliverable.

27 48. The Individual Settlement Amount payments mailed to each Aggrieved Employee will
28 include the notice letter attached to this Settlement Agreement as Exhibit C.

49. All settlement payments, including any payment to the LWDA, any Individual Settlement Amount Payments, and any Service Enhancements approved by the Court, will be treated as civil penalties under PAGA, and will be reported on an IRS 1099 without withholdings. The Plaintiffs and Aggrieved Employees will be exclusively liable for any and all tax liability, if any. All Parties represent that they have not received, and will not rely on, advice or representations from other Parties or their agents or attorneys regarding the tax treatment of payments under federal, state, or local law.

D. Settlement Administration Expenses

50. All Settlement Administration Expenses will come out of the Maximum Settlement Amount. If the actual Settlement Administration Expenses are less than the amount approved by the Court, those funds will be added to the Net Settlement Amount.

VI. DISTRIBUTION OF NET SETTLEMENT AMOUNT

A. Process and Deadlines

51. Within thirty (30) days after the Settlement Effective Date, Defendants will provide information in an electronic format regarding all Aggrieved Employees, including names, last known residence addresses, Social Security numbers, and all Applicable Pay Periods worked, to the Settlement Administrator only, who will maintain this information in the strictest confidence. Aggrieved Employee data will only be used by the Settlement Administrator for the purpose of calculating settlement shares and finding and paying Aggrieved Employees their portion of the Net Settlement Amount. Data for Aggrieved Employees will be kept confidential by the Settlement Administrator, and will not be disclosed to Plaintiffs, PAGA Counsel, the LWDA, or any other Aggrieved Employee without the prior written consent of Defendants.

52. Within thirty (30) days after the Settlement Effective Date, Defendants will also provide payment of the Maximum Settlement Amount to the Settlement Administrator to fund the QSF to be created by the Settlement Administrator. Within ten (10) calendar days of the funding of the Settlement, the Settlement Administrator will calculate each Aggrieved Employee's Individual Settlement Payment in accordance with Paragraph 32(d) above, and will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated payments to each Aggrieved Employee. The Settlement Administrator shall obtain approval from all counsel of the calculations before issuing any payments.

Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiffs; (d) Plaintiffs' Counsel; and (e) itself. The Settlement Administrator, and not Defendants, will issue the appropriate tax forms for all payments issued under this Settlement.

B. Uncashed Settlement Checks

53. Aggrieved Employees who are sent Individual Settlement Amount payments will have 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks and will be so advised of such deadline. If Aggrieved Employees do not cash their checks within that period, those checks will become void and the settlement payment amounts will be paid out to the State Controller's Office, Unclaimed Property Division, in the name of the Aggrieved Employees who did not cash their settlement checks pursuant to California Code of Civil Procedure sections 1300, *et seq.*

VII. RELEASE OF CLAIMS

A. Release of Claims by Plaintiffs, the LWDA, and All Aggrieved Employees

54. Upon the Settlement Effective Date, Plaintiffs, on behalf of themselves, the State of California and the LWDA, and all Aggrieved Employees, fully and forever release and discharge the Settling Defendants from any and claims for PAGA civil penalties based on the factual or legal theories that were alleged in the PAGA Complaints and/or PAGA exhaustion letters during the Covered Period or that reasonably could have been alleged against the Settling Defendants based on the facts, legal theories, Labor Code sections, and primary rights at issue in Plaintiffs' PAGA Complaints and/or PAGA exhaustion letters to the LWDA during the Covered Period, including: (a) pay overtime under Labor Code sections 510 and 1198; (b) pay minimum wages under Labor Code sections 1182.12, 1194, 1197, and 1198; (c) provide and record meal periods under Labor Code sections 226.7, 512(a), and 1198; (d) authorize and permit rest periods under Labor Code sections 226.7 and 1198; (e) provide and maintain compliant wage statements under Labor Code sections 226(a), 1174(d), and 1198; (f) pay wages during employment under Labor Code section 204; and (g) pay wages upon termination under Labor Code sections 201, 202, and 203 ("Released Claims").

55. The Released Claims include any and claims for PAGA civil penalties accruing from August 24, 2017 to July 7, 2021 that were or reasonably could have been alleged in Plaintiffs' PAGA

1 Complaints and/or PAGA exhaustion letters to the LWDA, including: (a) pay split-shift pay under
2 Labor Code section 1198; (b) pay reporting time pay under Labor Code section 1198; (c) pay costs of
3 medical or physical examinations under Labor Code section 222.5; and (d) reimburse necessary business
4 expenses under Labor Code section 2802.

5 56. Aggrieved Employees, other than Plaintiffs, will not be deemed to have released any
6 individual wage and hour claims by virtue of this Settlement.

7 **B. General Release by Plaintiffs**

8 57. Upon the Settlement Effective Date, in addition to the claims for civil penalties being
9 released by all Aggrieved Employees, Plaintiffs will release and forever discharge Settling Defendants,
10 to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and
11 not asserted, which Plaintiffs have or may have against the Settling Defendants as of the date of
12 execution of this Settlement Agreement. This release is intended to have the broadest possible effect
13 under the law, and specifically includes any and all claims, demands, obligations and/or causes of action
14 for wages, damages, liquidated damages, benefits, fringes, equitable relief, restitution, penalties, interest,
15 and attorneys' fees and costs (except provided by the Settlement) relating to or in any way connected
16 with the matters referred to herein, whether or not known or suspected to exist, and whether or not
17 specifically or particularly described herein. Specifically, Plaintiffs will be deemed to have waived all
18 rights and benefits afforded by California Civil Code Section 1542, which provides:

19 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
20 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
21 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
22 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
23 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
24 PARTY.

25 **VIII. DUTIES OF THE PARTIES**

26 58. PAGA Counsel will submit this Settlement Agreement to the Court together with the
27 Motion for Court Approval of PAGA Settlement and the proposed Order Granting Settlement Approval
28 and Judgment. Concurrent with filing the Motion for Court Approval of PAGA Settlement with the

1 Court, Plaintiffs will submit the Motion and any supporting papers, including a copy of this Settlement
2 Agreement, to the LWDA pursuant to Labor Code section 2699(l)(2).

3 59. Following entry of the Court's Order Granting Settlement Approval and Judgment, the
4 Parties will each act to assure its timely execution and the fulfillment of all provisions in that Order and
5 in this Settlement Agreement, including but not limited to the following:

6 59(a) Within thirty (30) days after the Date of Court Approval, Defendants will
7 provide to the Settlement Administrator: (1) payment of the Maximum
8 Settlement Amount to fund the QSF, and (2) the Aggrieved Employee list
9 and identification and contact information specified in Section 41 above.
10 Defendants will submit this information in electronic format as specified by
11 the Settlement Administrator and will thereafter assist the Settlement
12 Administrator as necessary or as requested to use, correct, or update this
13 information in order to enable the Settlement Administrator to locate and
14 contact Aggrieved Employees, and to provide information needed or
15 requested by the Settlement Administrator in order to make determinations
16 on Aggrieved Employees' challenges.

17 59(b) Within ten (10) days after the Court signs the Order Granting Settlement
18 Approval and Judgment, PAGA Counsel will submit a copy of that Order
19 Granting Settlement Approval and Judgment to the LWDA pursuant to
20 Labor Code section 2699(l)(3).

21 59(c) Upon entry of each of the Order Granting Settlement Approval and
22 Judgment, all Parties will waive their right to appeal the judgment and all
23 other court orders in the Action, except that PAGA Counsel reserve the right
24 to appeal any reduction by the Court of the amounts requested for their
25 attorneys' fees and costs.

26 59(d) PAGA Counsel and Defendants' Counsel will assist the Settlement
27 Administrator as needed or requested in the process of identifying and
28 locating Aggrieved Employees entitled to payments from the Net Settlement

Amount and assuring delivery of such payments.

59(e) PAGA Counsel and Defendants' Counsel will cooperate with each other and assist the Settlement Administrator as needed or requested in completing the distribution of any residual amount of the Net Settlement Amount for any uncashed checks to the State Controller's Office, Unclaimed Property Division.

60. Other than as specified above, this Settlement Agreement may not be changed, altered, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

IX. CONFIDENTIALITY AND PUBLICITY

61. Names of Aggrieved Employees and their allocation amounts will be kept strictly confidential by the Settlement Administrator, who will not release such information to PAGA Counsel and will only file such information under seal if necessary. PAGA Counsel agrees that any information they receive or have received in connection with this Settlement, may be used for the purposes of settling the Action only, and may not be used for any purpose or in any other action or proceeding.

62. To permit judicial review and approval of the Settlement Agreement, PAGA Counsel will file the Settlement Agreement with the Court and submit the Settlement to the LWDA as part of the Parties' seeking Court approval of the Settlement Agreement, pursuant to Labor Code section 2699(l)(2). Except to the extent necessary to effectuate the Settlement Agreement or as required by court or legal process, Plaintiffs and PAGA Counsel will not issue a press release, hold a press conference, publish information about the Settlement Agreement on any website or through any social media or otherwise publicize the Settlement Agreement, or communicate its terms (including the amount), unless ordered by the Court. However, PAGA Counsel may discuss the settlement in court filings to, *inter alia*, establish adequacy as Counsel, or support their hourly rates/settlement approval.

X. PARTIES' AUTHORITY

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

XI. MUTUAL FULL COOPERATION

64. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement, including any motion to approve the Settlement Agreement. The Parties to this Settlement Agreement will use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, PAGA Counsel will, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the Court's approval of this Settlement Agreement. In the event that, for any reason, Court approval of the settlement is denied or Defendants withdraw from the Settlement pursuant to Section X, the Parties agree to fully cooperate with each other to restore the Action to the status quo ante as of November 18, 2020, the date of the Parties' mediation with Mr. Marlin.

65. The Parties' mutual agreement to use their best efforts to effectuate this agreement, as set forth in Paragraphs 39 and 63 herein shall be in effect immediately upon full execution of this Settlement Agreement.

XII. NOTICES

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

To PAGA Counsel:

Raul Perez
CAPSTONE LAW APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396
raul.perez@capstonelawyers.com

Mark Yablonovich
LAW OFFICES OF MARK YABLONOVICH
9595 Wilshire Blvd., Suite 900

1 Beverly Hills, CA 90212
2 Telephone: (310) 286-0246
3 Facsimile: (310) 407-5391
4 mark@yablonovichlaw.com

5 To Defendants' Counsel:

6 Paloma Peracchio
7 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
8 400 South Hope Street, 12th Floor
9 Los Angeles, CA 90071
10 Telephone: 213.298.9800
11 Facsimile: 213.239.9045
12 Paloma.peracchio@ogletree.com

13 Spencer C. Skeen
14 OGLETREE, DEAKINS, NASH, SMOAK, AND STEWART, P.C.
15 4370 La Jolla Village Dr., Suite 990
16 San Diego, CA 92122
17 Telephone: (858) 652-3100
18 Facsimile: (858) 652-3101
19 spencer.skeen@ogletree.com

20 If the identity of the persons to be notified for any party changes, or their address changes, that party will
21 notify all other parties of said change in writing.

22 **XIII. MISCELLANEOUS PROVISIONS**

23 **A. Captions and Titles**

24 67. Paragraph titles, headings, or captions contained herein are inserted as a matter of
25 convenience and for reference, and in no way define, limit, extend, or describe the scope of this
26 Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual
27 and not merely a recital.

28 **B. Drafting**

68. The Parties hereto agree that the terms and conditions of this Settlement Agreement are
the result of lengthy, intensive arms-length negotiations between the Parties. Neither party will be
considered the "drafter" of the Settlement Agreement for purposes of having terms construed against that
party, and this Settlement Agreement will not be construed in favor of or against any Party by reason of
the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement

1 Agreement.

2 **C. Governing Law**

3 69. The rights and obligations of the parties hereunder will be construed and enforced in
4 accordance with, and will be governed by, the laws of the State of California, without regard to principles
5 of conflict of laws.

6 **D. No Impact on Benefit Plans**

7 70. Neither the Settlement Agreement nor any amounts paid under the Settlement
8 Agreement will modify any previously credited hours or service under any employee benefit plan,
9 policy, or bonus program sponsored by Defendants. Such amounts will not form the basis for additional
10 contributions to, benefits under, or any other monetary entitlement under Defendants' sponsored benefit
11 plans, policies, or bonus programs. The payments made under the terms of this Settlement will not be
12 applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form
13 of compensation for the purposes of Defendants' benefit plan, policy, or bonus program. Defendants
14 retain the right to modify the language of their benefit plans, policies and bonus programs to effect this
15 intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours
16 worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans,
17 policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose,
18 and that additional contributions or benefits are not required by this Settlement Agreement.

19 **E. Integration**

20 71. This Settlement Agreement contains the entire agreement between the Parties relating to
21 the settlement contemplated hereby, and all prior or contemporaneous settlement agreements,
22 understandings, representations, and statements, whether oral or written and whether by a Party or such
23 Party's legal counsel regarding the terms of the settlement, are merged herein. No rights hereunder may
24 be waived except in writing.

25 **F. No Prior Assignments**

26 72. This Settlement Agreement will be binding upon and inure to the benefit of the Parties
27 hereto and their respective heirs, trustees, executors, administrators and successors. The Parties hereto
28 represent, covenant, and warrant that they have not directly or indirectly assigned, transferred,

1 encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any
2 liability, claim, demand, action, cause of action or rights herein released and discharged except as set
3 forth herein.

4 **G. COUNTERPARTS**

5 73. This Settlement Agreement may be executed in counterparts with signatures transmitted
6 by facsimile or as an electronic image (including DocuSign) of the original signature. When each Party
7 has signed and delivered at least one such counterpart, each counterpart will be deemed an original, and,
8 when taken together with other signed counterparts, will constitute one Settlement Agreement, which
9 will be binding upon and effective as to all Parties. A facsimile signature or electronic image will have
10 the same force and effect as the original signature.

11 **SECTION LEFT INTENTIONALLY BLANK**

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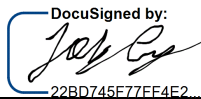
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THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE
CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND
KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING,
AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND
ITS FINAL AND BINDING EFFECT.

DATED: 5/3/2021 _____

DocuSigned by:

22BD745E77FF4E2

JOHNNY CRUZ,
as a PAGA Representative

DATED: _____

BRITTNEY JOHNSON,
as a PAGA Representative

DATED: _____

By: _____
Authorized Signatory for Defendants
WAL-MART ASSOCIATES, INC. and
WALMART INC.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE
CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND
KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING,
AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND
ITS FINAL AND BINDING EFFECT.

DATED: _____

JOHNNY CRUZ,
as a PAGA Representative

DATED: 4/30/2021

DocuSigned by:

Brittney Johnson

BRITNEY JOHNSON,
as a PAGA Representative

DATED: _____

By: _____
Authorized Signatory for Defendants
WAL-MART ASSOCIATES, INC. and
WALMART INC.

1 THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE
2 CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND
3 KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING,
4 AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND
5 ITS FINAL AND BINDING EFFECT.

6 DATED: _____

7 _____
8 JOHNNY CRUZ,
as a PAGA Representative

9
10 DATED: _____

11 _____
12 BRITTNEY JOHNSON,
as a PAGA Representative

13
14
15 DATED: 05/06/2021

16
17
18 By: kerri Rittenberg
19 Authorized Signatory for Defendants
20 WAL-MART ASSOCIATES, INC. and
21 WALMART INC.
22
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28

APPROVED AS TO FORM:

DATED: April 30, 2021

CAPSTONE LAW APC

By:



RAUL PEREZ

Attorney for Plaintiff Johnny Cruz

DATED: April 30, 2021

LAW OFFICES OF MARK YABLONOVICH

By:



MARK YABLONOVICH

Attorney for Plaintiff Brittney Johnson

DATED: April 30, 2021

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

By:



PALOMA P. PERACCHIO

SPENCER C. SKEEN

Attorneys for Defendants

Wal-Mart Associates, Inc. and Walmart Inc.

45582848.1

46982360.1

Exhibit A

1 Raul Perez (SBN 174687)
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2 Mark A. Ozzello (SBN 116595)
Mark.Ozzello@capstonelawyers.com
3 Brandon Brouillette (SBN 273156)
Brandon.Brouillette@capstonelawyers.com
4 Joseph Hakakian (SBN 323011)
Joseph.Hakakian@capstonelawyers.com
5 Capstone Law APC
1875 Century Park East, Suite 1000
6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff Johnny Cruz

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 JOHNNY CRUZ, as an aggrieved employee
pursuant to the Private Attorneys General Act
12 (“PAGA”),

13 Plaintiff,

14 vs.

15 WAL-MART ASSOCIATES, INC., a Delaware
corporation; WALMART INC. (f/k/a WAL-
16 MART STORES, INC.), a Delaware
corporation; and DOES 1 through 10, inclusive,
17

18 Defendants.

Case No.: 18STCV03128

**[PROPOSED] ORDER APPROVING THE
PARTIES’ PAGA SETTLEMENT
AGREEMENT**

1 Mark Yablonovich, Esq. (SBN 186670)
Mark@Yablonovichlaw.com
2 LAW OFFICES OF MARK YABLONOVICH
9595 Wilshire Boulevard, Suite 900
3 Beverly Hills, California 90212-2511
Telephone: (310) 286-0246
4 Facsimile: (310) 407-5391

5 Attorney for Plaintiff Brittney Johnson

6 Paloma P. Peracchio (SBN 259034)
paloma.peracchio@ogletree.com
7 OGLETREE, DEAKINS, NASH, SMOAK &
8 STEWART, P.C.
400 South Hope Street, Suite 1200
9 Los Angeles, CA 90071
Telephone: (213) 239-9800
10 Facsimile: (213) 239-9045

11 Mitchell A. Wrosch (SBN 262230)
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12 OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.
13 Park Tower, Fifteenth Floor
695 Town Center Drive
14 Costa Mesa, CA 92626
Telephone: (714) 800-7900
15 Facsimile: (714) 754-1298

16 Spencer C Skeen (SBN 182216)
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17 OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.
18 4370 La Jolla Village Dr, Ste 990
San Diego, CA 92122
19 Telephone: (858) 652-3100
20 Facsimile: (858) 652-3101

21 Attorneys for Defendants Wal-Mart Associates, Inc., and Walmart Inc.
(f/k/a Wal-Mart Stores, Inc.)
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1 **ORDER APPROVING THE PARTIES' PAGA SETTLEMENT AGREEMENT**

2 1. The Court has received and considered the application of Plaintiffs Johnny Cruz and
3 Brittney Johnson ("Plaintiffs"), as aggrieved employees acting as private attorneys general under the
4 Labor Code Private Attorneys General Act of 2004, §§ 2698, *et seq.* ("PAGA"), for approval of the
5 Parties' Joint Stipulation of PAGA Representative Action Settlement ("PAGA Settlement Agreement").
6 **GOOD CAUSE** having been shown, the Court hereby approves the Parties' PAGA Settlement
7 Agreement.

8 2. This Order hereby adopts and incorporates by reference the terms and conditions of the
9 PAGA Settlement Agreement, together with the definitions used and contained therein.

10 3. The Court finds that it has jurisdiction over the subject matter of the action and over all
11 Parties to the action, including all Aggrieved Employees.

12 4. The Court has considered all relevant factors for determining the fairness of the PAGA
13 Settlement Agreement and has concluded that all such factors weigh in favor of approving the PAGA
14 Settlement Agreement. In particular, the Court finds that the settlement was reached following
15 meaningful discovery and investigation conducted by Plaintiffs; that the PAGA Settlement Agreement is
16 the result of serious, informed, adversarial, and arm's-length negotiations between the Parties; and that
17 the penalties obtained are genuine and meaningful.

18 5. Accordingly, the Court hereby approves the settlement as set forth in the PAGA
19 Settlement Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate
20 and hereby directs implementation of all remaining terms, conditions, and provisions of the PAGA
21 Settlement Agreement.

22 6. The PAGA Settlement Agreement is not an admission by Defendants, nor is this Order a
23 finding of the validity of any allegations or of any wrongdoing by Defendants Wal-Mart Associates, Inc.
24 and Walmart Inc. ("Defendants"). Neither this Order, the PAGA Settlement Agreement, nor any
25 document referred to herein, nor any action taken to carry out the PAGA Settlement Agreement, may be
26 construed as, or may be used as, an admission of any fault, wrongdoing, omission, concession, or
27 liability whatsoever by or against Defendants.

28 7. The Court approves \$5,000,000 in attorneys' fees and \$106,305.61 in costs to Plaintiffs'

1 Counsel, Capstone Law APC and the Law Offices of Mark Yablonovich. The Court finds that the
2 litigation costs and expenses were reasonably incurred, and that the requested award of attorneys' fees is
3 reasonable for a contingency fee in a PAGA action such as this.

4 8. The Court approves settlement administration costs and expenses in the amount of
5 approximately \$335,000 to CPT Group, Inc.

6 9. The Court approves Service Enhancement Awards of \$15,000, each, to Plaintiffs Johnny
7 Cruz and Brittney Johnson.

8 10. The Court shall retain exclusive and continuing jurisdiction over the above-captioned
9 action and the Parties for purposes of enforcing the terms of the Settlement Agreement.

10 **IT IS SO ORDERED.**

11
12 Date _____

13 Hon. Michelle Williams Court
14 Los Angeles County Superior Court Judge

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Exhibit B

1 Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
2 Mark A. Ozzello (SBN 116595)
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3 Brandon Brouillette (SBN 273156)
Brandon.Brouillette@capstonelawyers.com
4 Joseph Hakakian (SBN 323011)
Joseph.Hakakian@capstonelawyers.com
5 Capstone Law APC
1875 Century Park East, Suite 1000
6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff Johnny Cruz

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 JOHNNY CRUZ, as an aggrieved employee
pursuant to the Private Attorneys General Act
12 (“PAGA”),

13 Plaintiff,

14 vs.

15 WAL-MART ASSOCIATES, INC., a Delaware
corporation; WALMART INC. (f/k/a WAL-
16 MART STORES, INC.), a Delaware
corporation; and DOES 1 through 10, inclusive,
17

18 Defendants.

Case No.: 18STCV03128

[PROPOSED] JUDGMENT

1 Mark Yablonovich, Esq. (SBN 186670)
2 Mark@Yablonovichlaw.com
3 LAW OFFICES OF MARK YABLONOVICH
4 9595 Wilshire Boulevard, Suite 900
5 Beverly Hills, California 90212-2511
6 Telephone: (310) 286-0246
7 Facsimile: (310) 407-5391

8 Attorney for Plaintiff Brittney Johnson

9 Paloma P. Peracchio (SBN 259034)
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11 OGLETREE, DEAKINS, NASH, SMOAK &
12 STEWART, P.C.
13 400 South Hope Street, Suite 1200
14 Los Angeles, CA 90071
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16 Facsimile: (213) 239-9045

17 Mitchell A. Wrosch (SBN 262230)
18 mitchell.wrosch@ogletree.com
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20 STEWART, P.C.
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22 695 Town Center Drive
23 Costa Mesa, CA 92626
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25 Facsimile: (714) 754-1298

26 Spencer C Skeen (SBN 182216)
27 spencer.skeen@ogletree.com
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OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.
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Telephone: (858) 652-3100
Facsimile: (858) 652-3101

Attorneys for Defendants Wal-Mart Associates, Inc., and Walmart Inc.
(f/k/a Wal-Mart Stores, Inc.)

1 **JUDGMENT**

2 Pursuant to the Order Approving the Parties' Joint Stipulation of PAGA Representative Action
3 Settlement (the "Order"), it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

4 1. Judgment in this matter is entered in accordance with the terms of the Order and the
5 Parties' Joint Stipulation of PAGA Representative Action Settlement ("Settlement" or "Settlement
6 Agreement"). Unless otherwise provided, all capitalized terms used herein shall have the same meaning
7 as those defined by the Settlement Agreement.

8 2. This Judgment shall be binding on all Aggrieved Employees and the State of California,
9 who are hereby barred by the doctrine of res judicata from re-litigating the Released Claims, as that term
10 is defined by the Settlement Agreement. *See Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009)
11 (holding that a judgment in a representative action brought by an aggrieved employee under PAGA is
12 binding not only on the named employee plaintiff but also on state labor law enforcement agencies and
13 any aggrieved employee not a party to the proceeding).

14 3. Without affecting the finality of the Judgment, the Court shall retain exclusive and
15 continuing jurisdiction over the above-captioned action and the Parties for purposes of enforcing the
16 terms of the Judgment and the Settlement pursuant to Code of Civil Procedure section 664.6.

17 4. Neither this Judgment, the Order, the Joint Stipulation of PAGA Representative Action
18 Settlement, the Parties' Settlement, any document referred to herein, any exhibit to any document
19 referred to herein, any action taken to carry out the settlement, nor any negotiations or proceedings
20 related to the settlement are to be construed as, or deemed to be evidence of, or an admission or
21 concession with regard to, the denials or defenses of Defendants Wal-Mart Associates, Inc. and Walmart
22 Inc. ("Defendants") (or any settling party), and shall not be offered in evidence in any proceeding against
23 the Parties hereto in any court, administrative agency, or other tribunal for any purpose whatsoever other
24 than to enforce the provisions of the Order and Judgment.

25 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

26 Date _____

Hon. Michelle Williams Court
Los Angeles County Superior Court Judge

28 47111465.1

Exhibit C

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment From The Settlement of the Lawsuits Entitled *Cruz v. Wal-Mart Associates, Inc.*, No. 18STCV03128 (Los Angeles County Superior Court) and *Johnson v. Wal-Mart Associates, Inc.*, No. CIVDS1602699 (San Bernardino County Superior Court)

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuits entitled *Cruz v. Wal-Mart Associates, Inc.*, No. 18STCV03128 (Los Angeles County Superior Court) and *Johnson v. Wal-Mart Associates, Inc.*, No. CIVDS1602699 (San Bernardino County Superior Court) (collectively, the “Action”).

The Action was filed against Defendants Wal-Mart Associates, Inc. and Walmart Inc. (“Defendants”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). The Action was brought by former employees of Defendants on behalf of the State of California and all allegedly “aggrieved employees” of Defendants. You have been identified as one of the employees on whose behalf the case was brought.

The Plaintiffs in the Action claimed that Defendants owed civil penalties recoverable under PAGA for alleged violations of the California Labor Code and California Wage Orders. Defendants deny that they violated the Labor Code or California Wage Orders. Moreover, in agreeing to this settlement, Defendants do not admit that they are liable in any way for any penalties.

The Court has not ruled on the merits of the Action but it has approved the settlement of PAGA civil penalties, of which 75% will be paid to the California Labor and Workforce Development Agency, and the remaining 25% will be paid to aggrieved employees. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties.

Aggrieved employees, other than Plaintiffs, will not be deemed to have released any individual wage and hour claims based on alleged violations of the Labor Code or of a California Wage Order, for which they have a private right of action, by virtue of the Settlement.

You are not a party to this lawsuit, but you and the government will be bound by the settlement in this matter as to civil penalties. If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter).

Very Truly Yours,

[Administrator]