

EVAN S. GAINES, ESQ. SBN 287668
GAINES LAW CORPORATION
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 93162
Telephone: (805) 892-8200
Facsimile: (805) 800-8928
Email: evan@gaines.law

Attorneys for Plaintiff Jacqueline Martinez,
on behalf of herself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*

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

JACQUELINE MARTINEZ, on behalf of
herself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

CATALINA’S SUPERMARKET, a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: 23STCV18357

Assigned to the Hon. Mel Red Recana, Dept. 45

**DECLARATION OF EVAN S. GAINES IN
SUPPORT OF REQUEST FOR
DISMISSAL**

[Filed Concurrently: Request for Dismissal]

Complaint Filed: August 2, 2023

1 I, Evan S. Gaines, declare as follows:

2 1. I am an attorney duly admitted to practice law in the State of California and I am the
3 principal at Gaines Law Corporation, counsel of record for Plaintiff Jacqueline Martinez (“Plaintiff”)
4 in this matter. The matters set forth herein are of my own personal knowledge, and if sworn as a
5 witness, I could and would testify competently thereto.

6 2. On August 2, 2023, Plaintiff filed the instant Action seeking penalties on a
7 representative basis, on behalf of herself and all “aggrieved employees,” for Defendant Catalina’s
8 Supermarket (“Defendant”) violations of California Labor Code and the Private Attorneys General
9 Act of 2004 (“PAGA”), codified as § 2698, *et seq.*, by failing to pay all minimum and overtime wages
10 earned, failing to provide meal and rest periods, or compensation in lieu thereof, failing to provide
11 suitable seating, failing to reimburse expenses, failing to issue complete and accurate wage
12 statements, and failing to timely pay all wages due at separation of employment. The alleged
13 violations occurred when Plaintiff worked for Defendant in Los Angeles County, California.

14 3. Following conversations with Defendant’s counsel, my office has ascertained that
15 Plaintiff’s claims are quite individual. Furthermore, liability is disputed. This determination is based
16 on information provided by Defendant’s counsel through discussions in this matter.

17 4. The Parties have negotiated a settlement of Plaintiff’s individual claims only, and the
18 PAGA representative claims will be dismissed *without* prejudice, as set forth in the concurrently-filed
19 request for dismissal. Attached hereto as **Exhibit A** is a true and correct redacted copy of the Parties’
20 Confidential Settlement Agreement and General Release of Claims (the “Settlement Agreement”).

21 5. The settlement does not contemplate the waiver of any claims by anyone other than
22 Plaintiff and does not provide for the waiver of PAGA representative claims asserted on behalf of any
23 employee or the State, such that there is no allocation of civil penalties in the Settlement.

24 6. No notice is required to be given to the aggrieved employees because no notice of the
25 pending Action was ever given; there has been no publicity of which the Parties are aware; neither
26 Plaintiff nor my office have communicated with any absent aggrieved employees about the Action;
27 there is no other pending action, of which the Parties are aware, brought by any aggrieved employee;
28

1 and the aggrieved employees are not reasonably ascertainable at the present time; consequently, no
2 absent aggrieved employee will suffer prejudice as a result of this dismissal.

3 7. Plaintiff, therefore, requests that the Court enter a dismissal of this action *with*
4 *prejudice* as to Plaintiff's individual claims and *without prejudice* as to the PAGA representative
5 claims, pursuant to the request submitted concurrently herewith.

6 8. Concurrent with the filing of this Request for Dismissal, Plaintiff has submitted the
7 Settlement Agreement to the LWDA in compliance with Labor Code section 2699(1)(2).

8 I declare under penalty of perjury under the laws of the State of California that the foregoing
9 is true and correct and was executed on March 1, 2024, at Westlake Village, California.

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12 EVAN S. GAINES
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EXHIBIT A

**CONFIDENTIAL SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF CLAIMS**

This Confidential Settlement Agreement and General Release of Claims ("Agreement") is entered into by and between Catalina's Supermarket (the "Company") and Jacqueline Martinez ("Employee") (the Company and Employee are collectively referred to as the "Parties") with respect to the following facts:

A. The Company previously employed Employee;

B. On or about August 2, 2023, the Employee filed a representative action complaint against Company in Los Angeles Superior Court, Case No. 23STCV18357, pursuant to California's Private Attorneys General Act ("PAGA") alleging an entitlement to civil penalties for the following alleged violations of the California Labor Code: §§ 201, 202, 226, 226.3, 226.7, 510, 512, 558, 1194, and 2802 (the "Complaint"). The Company denies each and every allegation of wrongdoing contained in, and relating to, Employee's Complaint;

C. Company and Employee entered into a Dispute Resolution Agreement ("Arbitration Agreement") on or about April 16, 2021; and

D. The Parties now desire to settle all claims and issues that have been raised, or could have been raised, in relation to Employee's employment with Company, and arising out of or in any way related to the acts, transactions, or occurrences involving Employee, including, but not limited to, Employee's employment with Company or termination of that employment, on the terms as set forth below.

NOW, THEREFORE, in consideration of the promises and obligations set forth in this Agreement, the Parties agree as follows:

1. No Admission of Liability. Nothing in this Agreement shall be construed as an admission by the Company of any wrongdoing, liability, or noncompliance with any federal, state, or local rule, ordinance, statute, common law, or other legal obligation. The Company specifically disclaims and denies any wrongdoing or liability to Employee.

2. Payment. In consideration of Employee's execution of and compliance with all obligations contained in this Agreement, including Employee's general release of claims and agreement to maintain confidentiality, the Company will pay Employee the gross amount of [REDACTED] (the "Settlement Amount"). The Settlement Amount will be paid as follows:

[REDACTED]



2.3 The Settlement Amount and a fully executed copy of this Agreement will be mailed to Gaines Law Corporation, 4550 E. Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362. attention Evan S. Gaines, Esq., within seven (7) calendar days of the date Employee submits to Company her signature on the Agreement, and Gaines Law Corporation's signed IRS Form W-9 (the "Effective Date").

3. Indemnification by Employee and No Representation Regarding Tax Issues. Employee agrees and acknowledges that the Company and its counsel have not made any representations to Employee regarding the tax consequences of any payments or amounts received by Employee under this Agreement. Employee agrees to indemnify the Company against the payment of any taxes, interest, penalties and other liabilities or costs that may be assessed as a result of her failure to pay taxes due on the Settlement Amount. Employee further agrees and acknowledges that Employee has been properly paid for all hours worked for the Company, that all salary, wages, commissions, bonuses, and other compensation due to Employee have been paid, and that Employee is not owed anything else from the Company other than as provided for in this Agreement.

4. General Release and Waiver of Claims. In exchange for, and conditioned upon the Company's payment of, the consideration provided by the Company in this Agreement, Employee and Employee's heirs, executors, representatives, administrators, agents, and assigns (collectively the "Releasors") irrevocably and unconditionally fully and forever waive, release, and discharge the Company, including the Company's parents, subsidiaries, affiliates, predecessors, successors, joint employers, and assigns, and each of its and their respective agents, officers, directors, managers, employees, shareholders, trustees, executors, and partners (collectively, the "Released Parties"), from any and all claims, demands, actions, causes of action, judgments, rights, fees, damages, debts, obligations, liabilities and expenses (inclusive of attorneys' fees) of any kind whatsoever, whether known or unknown, (collectively, the "Claims"), that the Releasors may have or have ever had against the Released Parties, or any of them, arising out of, or in any way related to, Employee's hire, benefits, employment, termination, or separation from employment with the Company by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter from the beginning of time up to and including the date of Employee's execution of this Agreement, including, but not limited to:

4.1 Any and all claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Family and Medical Leave Act, the California Family Rights Act, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, the Employee Retirement Income Security Act, the Civil Rights Act of 1991, Section 1981 of U.S.C. Title 42, the Fair Credit Reporting Act, the Worker Adjustment and Retraining Notification Act, the National Labor Relations Act ("NLRA"), the Uniform Services Employment and Reemployment Rights Act, the Genetic Information Nondiscrimination Act, the Immigration Reform and Control Act, the Internal Revenue Code, COBRA, the Older Workers Benefit Protection Act, the California Fair Employment and Housing Act, the California Labor Code or wage orders, the California Consumer Privacy Act, the California Business & Professions Code, penalties under the California Private Attorneys General Act, including any amendments and their respective implementing regulations, any safety and health laws, and any other federal, state, local, or foreign law (statutory, regulatory, or otherwise) that may be legally waived and released;

4.2 Any and all claims arising under tort, contract, or quasi-contract law, including but not limited to claims of breach of an express or implied contract, tortious interference with a contract or prospective business advantage, breach of the covenant of good faith and fair dealing, promissory estoppel, detrimental reliance, invasion of privacy, nonphysical injury, personal injury or sickness, or any other harm, wrongful or retaliatory discharge, fraud, defamation, false imprisonment, and negligent or intentional infliction of emotional distress; and

4.3 Any and all claims for monetary or equitable relief, including but not limited to attorneys' fees and costs, back pay, front pay, reinstatement, experts' fees, medical fees or expenses, costs and disbursements, punitive damages, liquidated damages, and penalties.

4.4 This General Release is not intended to bar any claims that, by law, may not be waived, such as claims for workers' compensation benefits, unemployment insurance benefits, and statutory indemnity. In addition, this General Release does not prevent Employee from contacting, providing information to, or filing a charge with any federal, state, or local government agency or commission, including but not limited to the Equal Employment Opportunity Commission ("EEOC"), the Securities and Exchange Commission ("SEC"), or the National Labor Relations Board ("NLRB"). Employee is prevented, however, to the maximum extent permitted by law, from obtaining any monetary or other personal relief for any of the claims that Employee has released in this Paragraph 4 and its subparts with regard to any charge or claim that Employee may file or which may be filed or otherwise brought on Employee's behalf. Nothing in this Agreement is intended to or shall be interpreted: (i) to restrict or otherwise interfere with Employee's obligation to testify truthfully in any forum; or (ii) to restrict or otherwise interfere with Employee's right and/or obligation to contact, cooperate with, provide information to, or participate in any investigation by any government agency or commission (including but not limited to the EEOC, SEC, or NLRB). Nothing in this Agreement may be construed to interfere with, restrain, or coerce employees in the exercise of their rights under the NLRA.

5. No Voluntary Participation in Claims Against Released Parties. Employee represents that, as of the date of this Agreement, neither Employee nor, to Employee's knowledge, any person or entity on Employee's behalf, has filed any lawsuits, charges, complaints, petitions, claims, or other accusatory pleadings against Company or any of the other Released Parties in any court or with any governmental agency other than the Complaint. Employee further agrees that Employee will not voluntarily participate in any other individual's litigation, grievance, or administrative claim against any of the Released Parties, nor encourage any other individual to pursue any litigation, grievance, or administrative claim against any of the Released Parties. To the extent permitted by law, Employee further covenants that she will bring no further claims against Company pursuant to PAGA either on an individual or representative basis on behalf of other allegedly aggrieved employees.

6. Section 1542 of the California Civil Code. This Agreement is intended to be effective as a general release of and bar to all claims as stated in Section 4. The Releasors specifically waive the protections of California Civil Code Section 1542, which states: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." Employee acknowledges that Employee may later discover claims or facts in addition to or different from those which Employee now knows or believes to exist with regard to the subject matter of this Agreement, and which if known or suspected at the time of executing this Agreement may have materially affected its terms. Nevertheless, the Releasors waive any and all claims that might arise as a result of such different or additional claims or facts.

7. Stipulation of Dismissal. Employee agrees to sign and file a Request for Dismissal of the Complaint, with prejudice as to Employee's individual claims and without prejudice as to the representative PAGA claims, within ten (10) days of bank clearance of the Settlement Payment. The Court's dismissal of the Complaint in its entirety is a condition on Employee's entitlement to the Settlement Payment under this Agreement. Should the Court fail or refuse to grant the request for dismissal, this Agreement is null and void and Employee agrees to return the Settlement Payment, in its entirety, to the Company. Employee represents that Employee has not filed with any court, administrative agency, or arbitral forum any action or claim against Company other than the Complaint. Plaintiff shall submit a redacted copy of this Agreement (i.e. with the three monetary amounts in paragraph 2 above blacklined) to: (1) the Court in connection with the Request for Dismissal and (2) to the California Labor and Workforce Development Agency ("LWDA") via the LWDA's online portal.

8. Confidentiality.

8.1 Employee agrees not to disclose to others the existence or terms of this Agreement, except that Employee may disclose this Agreement to the Employee's spouse, attorney, and tax advisor, if these individuals agree not to disclose to others the existence or terms of this Agreement, to the extent allowed under the law.

8.2 Permitted Disclosures. Nothing in this Agreement shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. Employee shall promptly provide written notice of any such order to the Company at LAQUER, URBAN, CLIFFORD & HODGE LLP, 200 South Los Robles Avenue, Suite 500, Pasadena, California 91101, attention Marija Kristich Decker. Nothing in this Agreement prevents or restricts the disclosure of factual information relating to claims filed in a civil or administrative action regarding sexual assault or battery, harassment, or discrimination based on a legally protected characteristic, failure to prevent workplace harassment or discrimination, or retaliation against a person for reporting or opposing unlawful harassment or discrimination. Furthermore, nothing in this Agreement prohibits or restricts Employee's testimony in an administrative, legislative, or judicial proceeding, as required by court order, subpoena, or written request from an administrative agency or the legislature, regarding alleged criminal conduct or alleged sexual harassment. Further, this Agreement in no way prohibits or is intended to restrict any protected rights under Section 7 of the NLRA or otherwise prohibit disclosing information as permitted by law.

9. Non-Defamation. Employee agrees and covenants not to make any remarks that are maliciously untrue and made with knowledge of their falsity with reckless disregard for their truth or falsity (i.e., defamatory) to the media, general public, or any other person or entity about the Company or any of the Released Parties. Furthermore, Employee is banned from shopping, entering, or coming onto the premises of Catalina's Supermarket. Failure to abide by the ban will be deemed trespassing and a violation of this Agreement. Employee is on notice that she will be treated as a trespasser and will be escorted off the premises by store management and /or law enforcement will be called.

10. Return of Property. Employee represents that Employee has returned all the Company's property.

11. Neutral Reference. In response to a request for reference, and consistent with Company policy, the Company will only provide Employee's job title and dates of employment.

12. Successors and Assigns. This Agreement is binding on Employee's heirs, family members, executors, agents, and assigns.

13. Governing Law, Jurisdiction, and Venue. This Agreement and all matters arising out of or relating to this Agreement and Employee's employment by the Company, whether sounding in contract, tort, or statute, for all purposes shall be governed by and construed in accordance with the laws of the state of California without regard to any conflict of laws principles that would require the laws of any other jurisdiction to apply.

14. Attorneys' Fees and Costs. The Parties agree that each party shall pay for their own attorney's fees and expenses related to all claims and issues in this matter. In the event of any dispute, controversy, claim, or action arising out of or related to this

Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection with the dispute, controversy, claim, or action.

15. Entire Agreement. Unless specifically provided herein, this Agreement contains all of the understandings and representations between the Company and Employee relating to the subject matter in this Agreement and supersedes all prior and contemporaneous understandings, discussions, agreements, representations, and warranties, both written and oral, regarding such subject matter; provided, however, that nothing in this Agreement modifies, supersedes, voids, or otherwise alters any arbitration, confidentiality, nondisclosure, or related agreements signed by Employee during Employee's employment with Company, which remain in full force and effect. In the event of any inconsistency between this Agreement and any other agreement between Employee and Company, the statements in this Agreement shall control.

16. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, or enforceable only if modified, such finding shall not affect the validity of the remainder of this Agreement, which shall remain in full force and effect and continue to be binding on the Parties.

17. Interpretation. Captions and headings of the sections and paragraphs of this Agreement are intended solely for convenience, and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph. This Agreement shall not be construed against either Party as the author or drafter of the Agreement.

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18. Counterparts. The Parties may execute this Agreement in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

19. Acknowledgment of Full Understanding. EMPLOYEE ACKNOWLEDGES AND AGREES THAT EMPLOYEE HAS FULLY READ, UNDERSTANDS, AND VOLUNTARILY ENTERS INTO THIS AGREEMENT. EMPLOYEE ACKNOWLEDGES AND AGREES THAT EMPLOYEE HAS HAD AN OPPORTUNITY TO ASK QUESTIONS AND CONSULT WITH AN ATTORNEY OF EMPLOYEE'S CHOICE BEFORE SIGNING THIS AGREEMENT. EMPLOYEE FURTHER ACKNOWLEDGES THAT EMPLOYEE'S SIGNATURE BELOW IS AN AGREEMENT TO RELEASE THE COMPANY FROM ANY AND ALL CLAIMS THAT CAN BE RELEASED AS A MATTER OF LAW.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date above.

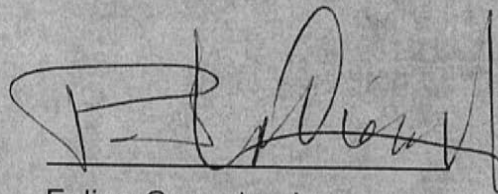
Catalina's Supermarket

Dated: February 12, 2024

Signature: _____

Name: Felipe Corrado, Jr.

Title: Chief Executive Officer



Jacqueline Martinez

Dated: February ___, 2024

Signature: _____

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Catalina's Supermarket

Dated: February __, 2024

Signature: _____

Name: Felipe Corrado, Jr.

Title: Chief Executive Officer

Jacqueline Martinez

Dated: February __, 2024

02 / 07 / 2024

Signature: _____



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_____ (For messenger) my business address is:

Marija Kristich Decker, Esq.
LAQUER, URBAN, CLIFFORD & HODGE LLP
200 South Los Robles Avenue, Suite 500
Pasadena, CA 91101

____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

 X (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2024, at Westlake Village, California.



EVAN GAINES