

EXHIBIT 1

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SALVADOR AQUINO, SUSAN FORD, MONICALAYLE GARCIA, BARBARA KRAUS, MARTHA LOPEZ, FRANCISCO MARTINEZ, MEGAN SARGENT, individually and as a representative of a Putative Class of Participants and Beneficiaries, on behalf of the 99 CENTS ONLY STORES 401(K) PLAN,

Plaintiffs,

v.

99 CENTS ONLY STORES LLC; THE RETIREMENT COMMITTEE OF THE 99 CENTS ONLY 401(K) PLAN; and DOES 1 through 20,

Defendants.

CIVIL ACTION NO.:

2:22-cv-01966- SPG

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is entered into between and among the Class Representatives, all Class Members, and the Defendants.

WHEREAS, on March 25, 2022, Plaintiffs filed a Class Action Complaint in the United States District Court for the Central District of California, entitled *Aquino, et al. v. 99 Cents Only Stores., et al.*, Case No. 2:22-cv-01966 (the “Action”), asserting certain claims for breach of fiduciary duty under Section 404 of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1104(a), and related claims for co-fiduciary liability under ERISA.

WHEREAS, on June 27, 2022, Plaintiffs filed a First Amended Class Action Complaint (“Complaint”).

WHEREAS, on July 11, 2022, Defendants filed a Notice of Motion and Motion to Dismiss Plaintiffs' First Amended Class Action Complaint, in Part.

WHEREAS, on November 7, 2022, the Parties engaged in a mediation session via videoconference with mediator, Jed D. Melnick, Esq. (JAMS), which resulted in a resolution of the Action being reached between the Parties.

NOW, THEREFORE, without any admission or concession on the part of the Class Representatives of any lack of merit of the action whatsoever, and without any admission or concession on the part of Defendants as to the merits of the Action, it is hereby STIPULATED AND AGREED, by and among the Settling Parties to this Settlement Agreement, through their respective attorneys, subject to approval of the Court pursuant to the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties hereto from the Settlement Agreement, that all Released Claims as against the Released Parties shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions:

1. ARTICLE 1 – DEFINITIONS

As used in this Settlement Agreement and the Exhibits hereto, unless otherwise defined, the following terms have the meanings specified below:

1.1. "Active Account" means an individual investment account in the Plan with a balance greater than \$0 as of the date of the Preliminary Approval Order.

1.2. "Administrative Expenses" means expenses incurred in the administration of this Settlement Agreement, including (a) all fees, expenses, and costs associated with providing the production, dissemination, and publication of the Notice to the Class Members; (b) all reasonable expenses and costs incurred by the Settlement Administrator in administering and effectuating this Settlement, including the costs of obtaining the Class Members' contact and account information and distributing the Settlement Amount, which costs are necessitated by

performance and implementation of this Agreement and any court orders relating thereto; (c) all reasonable fees charged by the Settlement Administrator; (d) and all taxes on the income of the Escrow Account (“Taxes”) and expenses and costs incurred in connection with the taxation of the Escrow Account (including expenses of tax attorneys and accountants) (“Tax Related Costs”). Administrative Expenses shall be paid from the Gross Settlement Amount.

1.3. “Alternate Payee” means a Person other than a participant or Beneficiary in the Plan who is entitled to a benefit under the Plan as a result of a QDRO, as determined by the Plan Administrator on or before the date of the Preliminary Approval Order, where the QDRO relates to a Participant’s or Former Participant’s balance in the Plan during the Class Period.

1.4. “Attorneys’ Fees and Costs” shall mean any and all attorneys’ fees, costs (including fees and costs charged or incurred by retained experts or consultants), and expenses of Class Counsel for their past, present, and future work, efforts, and expenditures in connection with the Action and Settlement. The amount of attorneys’ fees for Class Counsel shall not exceed 33 1/3% of the Gross Settlement Amount (a maximum amount of \$250,000.00), which shall be recovered from the Gross Settlement Amount. Class Counsel also will seek reimbursement for all litigation costs and expenses advanced and carried by Class Counsel for the duration of this Class Action through judgment, including the pre-litigation investigation period, not to exceed \$82,000.00, which also shall be recovered from the Gross Settlement Amount.

1.5. “Authorized Administrator” shall have the meaning set forth in Section 5.3 of this Settlement Agreement.

1.6 “Authorized Former Participant” shall mean a Former Participant who has submitted a Former Participant Claim Form by the Claims Deadline set by the Court in the Preliminary Approval Order, and whose Former Participant Claim Form is accepted by the

Settlement Administrator and determined by the Settlement Administrator to be completed and satisfactory.

1.7 “Beneficiary” means any individual, trust, estate, or other recipient entitled to receive death benefits payable under the Plan, on either a primary or contingent basis, other than an Alternate Payee, as determined by the Plan Administrator on or before the date of the Preliminary Approval Order. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, child or other individual or trust designated by the Participant or Former Participant, or determined under the terms of the Plan to be entitled to a benefit.

1.8. “CAFA” means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715.

1.9. “CAFA Notice” means notice of this proposed Settlement to the appropriate federal and state officials pursuant CAFA, to be issued by Defendants, substantially in the form set forth in Exhibit E hereto.

1.10. “Case Contribution Awards” means the monetary amount awarded by the Court to each Class Representative in recognition of the Class Representative’s assistance in the prosecution of this Class Action, for which Class Counsel may seek an amount not exceeding \$10,000 per Class Representative payable from the Gross Settlement Amount. Any such Case Contribution Award shall be subject to the approval of the Court.

1.11. “Class Action” means *Aquino, et al. v. 99 Cents Only Stores., et al.*, Case No. :22-cv-01966 in the United States District Court for the Central District of California.

1.12. “Class Counsel” means Christina Humphrey Law, P.C. and Tower Legal Group, P.C.

1.13. “Class Members” means all individuals in the “Settlement Class” (defined below), including the “Class Representatives” (also defined below).

1.14. “Class Period” means the period from March 25, 2016, through the entry date of the Preliminary Approval Order.

1.15. “Class Representatives” means Salvador Aquino, Susan Ford, Monica Layle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent.

1.16. “Complaint” means the First Amended Complaint filed on June 27, 2022.

1.17. “Court” means the United States District Court for the Central District of California.

1.18. “Defendants” means 99 Cents Only Stores LLC; The Retirement Committee of the 99 Cents Only 401(K) Plan.

1.19. “Defendants’ Counsel” means Steptoe & Johnson LLP.

1.20. “Effective Date” shall mean (a) the date upon which the applicable period to appeal the Final Approval Order and Judgment has expired, if no appeal is taken during the period (thirty-five (35) calendar days after its entry of Order by the Court); or (b) if during the appeals period, an appeal is taken from such Final Approval Order and Judgment, the date upon which all appeals, including further petitions for review, rehearing, or certiorari, and any proceedings resulting therefrom, have been finally disposed of, or the date upon which the applicable period to initiate all further petitions or proceedings has expired. If an appeal is taken, the Parties shall agree in writing when the Effective Date has occurred, and any dispute shall be resolved by the Court. It is expressly agreed by the Parties and their counsel that no Party intends this Section 1.20 or any other part of this Agreement to establish or acknowledge that anyone is entitled to or has the right to appeal from the Final Approval Order and Judgment.

1.21. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq.

1.22. “Escrow Account” shall mean an account at an established Financial Institution agreed upon by the Parties that is established for the deposit of the Settlement Amount and amounts relating to it, such as interest earned on investment of the Settlement Amount.

1.23. “Escrow Agent” shall mean the entity approved by the Parties to act as escrow agent for any portion of the Settlement Amount deposited in or accruing in the Escrow Account pursuant to this Agreement.

1.24. “Fairness Hearing” means the hearing scheduled by the Court to consider (a) any objections by Class Members to the Settlement; (b) Class Counsel’s petition for Attorneys’ Fees and Costs and Class Representatives’ Case Contribution Awards; and (c) whether to finally approve the Settlement under Fed. R. Civ. P. 23(e). The Fairness Hearing may be conducted remotely.

1.25. “Final Order” or “Final Approval Order and Judgment” shall mean a final order entered by the Court after the Fairness Hearing, substantially the same in all material respects to that attached hereto as Exhibit “D” (subject to the Court’s discretion in awarding Attorney’s Fees and Expenses and Case Contribution Awards, as stated in Article 6 and Section 12.3), granting its approval of the Settlement. The Parties may agree to additions or modifications to the form of the Final Approval Order and Judgment as they agree are appropriate at the time that it is submitted to the Court for final approval of the Settlement.

1.26. “Former Participant” means a member of the Settlement Class who does not have an Active Account as of the date of the Preliminary Approval Order.

1.26.1 “Former Participant Claim Form” shall mean the form to be provided to Former Participants and returned to the Settlement Administrator by Former Participants and Beneficiaries.

1.27. “Gross Settlement Amount” means the sum of seven hundred fifty thousand dollars (\$750,000), contributed to the Qualified Settlement Fund in accordance with Article 5.

Defendants shall cause this amount to be paid directly by their fiduciary liability insurer. The Gross Settlement Amount shall be the full and sole monetary payment to the Settlement Class, Plaintiffs, and Class Counsel made by or on behalf of Defendants in connection with the Settlement effectuated through this Settlement Agreement. Neither Defendants nor their insurer(s) will make any additional payment in connection with the Settlement of the Class Action.

1.28. “Independent Fiduciary” means the person or entity selected by 99 Cents Only Stores, Inc. to serve as an independent fiduciary to the Plan with respect to the Agreement as defined in Section 2.1.

1.29. “Independent Fiduciary Fees and Costs” shall mean fees, costs, and expenses of the Independent Fiduciary not to exceed \$25,000. The Independent Fiduciary Fees and Costs shall be paid from the Settlement Fund after such funds are deposited with the Escrow Agent and upon receipt of an invoice from the Independent Fiduciary.

1.30. “Mediator” means Jed D. Melnick, Esq.

1.31. “Net Settlement Amount” means the Gross Settlement Amount minus (a) all Attorneys’ Fees and Costs paid to Class Counsel as authorized by the Court; (b) all Case Contribution Awards as authorized by the Court; (c) all Independent Fiduciary Fees and Costs not to exceed \$25,000; (d) all Administrative Expenses as authorized by the Court; and (e) a contingency reserve not to exceed an amount to be mutually agreed upon by the Settling Parties that is set aside by the Settlement Administrator for (1) Administrative Expenses incurred before the Effective Date but not yet paid, (2) Administrative Expenses estimated to be incurred after the Effective Date, and (3) an amount estimated for adjustments of data or calculation errors.

1.32. “Notice” shall mean the notice, identical in all material aspects to that attached hereto as Exhibit A and A-1 to be provided directly to Settlement Class Members pursuant to Section 2.4 and made available on the Settlement Website.

1.33. “Participant” shall mean any Class Member who maintained a positive balance in the Plan at any time between March 25, 2016, and the date of the Preliminary Approval Order, and has an Active Account.

1.34. “Parties” in the plural shall mean Plaintiffs and Defendants and “Party” in the singular shall mean one of the Parties.

1.35. “Person” means an individual, partnership, corporation, governmental entity or any other form of entity or organization.

1.36. “Plaintiffs” means the Class Representatives and each member of the Settlement Class.

1.37. “Plan” means the 99 Cents Only Stores 401(K) Plan, and each of its predecessor plans or successor plans, individually and collectively, and any trust created under such plans.

1.38. “Plan Administrator” shall mean “The Retirement Committee of the 99 Cents Only 401(K) Plan.”

1.39. “Plan of Allocation” means the method of allocating settlement funds to Class Members. A proposed form of the Plan of Allocation is attached hereto as Exhibit B.

1.40. “Plan Recordkeeper” means the entity that maintains electronic records of the Plan’s participants and their individual accounts.

1.41. “Preliminary Approval Order” means the order of the Court in substantially the form attached hereto as Exhibit C, whereby the Court preliminarily approves this Settlement.

1.42. “QDRO” means a Qualified Domestic Relations Order within the meaning of ERISA § 206(d)(3)(B), 29 U.S.C. § 1056(d)(3)(B), as determined by the Plan Administrator on or before the date of the Preliminary Approval Order.

1.43. “Qualified Settlement Fund” means the interest-bearing settlement fund account to be established and maintained by the Escrow Agent in accordance with Article 5 herein and referred to as the Qualified Settlement Fund (within the meaning of Treas. Reg. § 1.468B-1).

1.44. “Released Claims” shall be any and all actual or potential claims (including any Unknown Claims), actions, causes of action, demands, obligations, or liabilities (including claims for attorney’s fees, expenses, or costs), for monetary, injunctive, and any other relief against the Released Parties through the date the Court enters the Final Approval Order and Judgment arising out of or in any way related to: (a) the conduct alleged in the Complaint, including conduct that was alleged in, or could have been alleged in, the Complaint by any Class Member, whether or not the conduct was actually included as counts in the Complaint; (b) the selection, retention, and monitoring of the Plan’s actual or potential investment options and service providers; (c) the performance, fees, and other characteristics of the Plan’s investment options and service providers; (d) the Plan’s fees and expenses, including without limitation, its recordkeeping and other service provider fees; and (e) the nomination, appointment, retention, monitoring, and removal of the Plan’s fiduciaries.

1.44.1. “Released Claims” does not include claims to enforce the covenants or obligations set forth in this Agreement.

1.44.2. “Released Claims” does not include any claims that the Class Representatives or the Settlement Class have to the value of their respective vested account balances under the terms of the Plan and according to the Plan’s records as of the date the Settlement becomes Final.

1.45. “Released Parties” means (a) Defendants, (b) Defendants’ insurers, co-insurers, and reinsurers, (c) Defendants’ direct and indirect, past, present or future parents, subsidiaries, affiliates, divisions, joint ventures, predecessors, Successors-in Interest, and each person that controls, is controlled by, or is under common control with them, (d) Defendants’ past, present and future members and Representatives; (e) any Person that at any time served as a named or functional fiduciary of the Plan, or as a trustee, administrator, recordkeeper, consultant or other service provider to the Plan (with the exception of the Independent Fiduciary); and (f) heirs, dependents, descendants, spouses, marital communities, executors, conservators, administrators, assigns, attorneys and personal representatives of any Persons identified in (d) or (e) of this Section 1.45.

1.46. “Representatives” shall mean representatives, directors, officers, employees, agents, attorneys, accountants, auditors, advisors and consultants.

1.47. “Review Proceeding” shall have the meaning set forth in Section 1.24.

1.48. “Settlement” means the settlement to be consummated under this Settlement Agreement and its exhibits, including any modifications or amendments adopted pursuant to Section 13.11.

1.49. “Settlement Administrator” means ILYM Group, Inc., the entity selected and retained by Class Counsel to administer the Settlement and Plan of Allocation.

1.50. “Settlement Agreement” means this agreement embodying the terms of the Settlement, including any modifications or amendments hereto.

1.51. “Settlement Agreement Execution Date” means the date on which the final signature is applied to this Settlement Agreement.

1.52. “Settlement Allocation Score” shall have the meaning described in Section 1.5.1 of the Plan of Allocation.

1.53. “Settlement Class” means all persons who participated in the Plan at any time during the Class Period, including any Beneficiary of a deceased Person who participated in the Plan at any time during the Class Period, and any Alternate Payee of a Person subject to a QDRO who participated in the Plan at any time during the Class Period. Excluded from the Settlement Class are Defendants and their Beneficiaries.

1.54. “Settling Parties” means the Defendants and the Class Representatives, on behalf of themselves, the Plan, and each of the Class Members.

1.55. “Successors-In-Interest” shall mean a Person or Party’s estate, legal representatives, heirs, successors or assigns, including successors or assigns that result from corporate mergers or other structural changes.

1.56. “99 Cents” means 99 Cents Only Stores LLC.

1.57. “Transferor” means 99 Cents, as the “transferor” within the meaning of Treas. Reg. § 1.468B-1(d)(1).

1.58. “Unknown Claims” means claims that could have been raised in the Action on behalf of the Plan and that Plaintiffs and any member of the Settlement Class do not know or suspect to exist, which, if known by him, her or it, might affect his, her, or its agreement to release the Released Parties or the Released Claims or might affect his, her, or its decision to agree, to object, or not to object to the Settlement. Upon the date of the Court’s entry of the Final Approval Order and Judgment, Plaintiffs and all Class Members shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

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.

Upon the date of the Court's entry of the Final Approval Order and Judgment, Plaintiffs and all Class Members shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code as it applies to Unknown Claims defined above. Plaintiffs and the Settlement Class acknowledge that they may later discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever settle and release all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and all Class Members shall be deemed by operation of the Final Approval Order and Judgment to have acknowledged that the foregoing waiver was bargained for and is a key element of the Settlement of which their release and waiver of Unknown Claims is a part.

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2. ARTICLE 2 – REVIEW AND APPROVAL BY INDEPENDENT FIDUCIARY, PRELIMINARY SETTLEMENT APPROVAL, AND SETTLEMENT ADMINISTRATION DUTIES

2.1. **Independent Fiduciary.** The Independent Fiduciary shall have the following responsibilities, including whether to approve and authorize the settlement of Released Claims and grant a release from the Released Claims to the Released Parties on behalf of the Plan.

2.1.1. The Independent Fiduciary shall comply with all relevant conditions set forth in Prohibited Transaction Class Exemption 2003-39, “Release of Claims and Extensions of Credit in Connection with Litigation,” issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632, as amended (“PTE 2003-39”), in making its determination.

2.1.2. The Independent Fiduciary shall notify Defendants directly of its determination, in writing (with copies to Class Counsel and Defendants’ Counsel), which notification shall be delivered no later than thirty (30) calendar days before the Fairness Hearing.

2.1.3. All fees and expenses associated with the Independent Fiduciary’s determination and performance of its other obligations in connection with the Settlement, no greater than \$25,000, shall be deducted from the Gross Settlement Amount.

2.1.4. Defendants, Defendants’ Counsel, and Class Counsel shall respond to reasonable requests by the Independent Fiduciary for information so that the Independent Fiduciary can review and evaluate the Settlement Agreement.

2.1.5. If Defendants conclude that the Independent Fiduciary’s determination does not comply with PTE 2003-39 or is otherwise deficient, Defendants shall so inform

the Independent Fiduciary within fifteen (15) calendar days of receipt of the determination.

2.1.6. A copy of the Independent Fiduciary determination letter and report shall be provided to Class Counsel who may file it with the Court in support of Final approval of the Settlement.

2.2 **Preliminary Approval.** As soon as reasonably possible upon the full execution of this Settlement Agreement by the Settling Parties, the Class Representatives, through Class Counsel, shall file with the Court motions seeking preliminary approval of this Settlement Agreement and for entry of the Preliminary Approval Order in substantially the form attached hereto as Exhibit C. Defendants will not object to these motions. The Preliminary Approval Order to be presented to the Court shall, among other things:

2.2.1. Grant the motion to certify the Settlement Class for settlement purposes only under Fed. R. Civ. P. 23(b)(1);

2.2.2. Approve the text of the Notice attached as Exhibit A and the Former Participant Claim Form attached as Exhibit A-1 for mailing and sending by electronic means to Class Members;

2.2.3. Determine that under Fed. R. Civ. P. 23(c)(2), the Notices constitute the best notice practicable under the circumstances, provide due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and comply fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable law;

2.2.4. Cause the Settlement Administrator to send by first-class mail and electronic means the Notice to each Class Member identified by the Settlement Administrator based upon the data provided by the Plan's Recordkeeper;

2.2.5. Class Members shall be permitted to object to the Settlement, including any request for award of attorneys' fees and expenses by Class Counsel and any request for Case Contribution Fees for the Class Representatives. Requirements for filing an objection shall be set forth in the Preliminary Approval Order and in the Notice.

2.2.6. Set the date for the Fairness hearing, in order to determine whether (a) the Court should approve the Settlement as fair, reasonable, and adequate; (b) the Court should enter the Final Order; and (c) the Court should approve the application for Attorneys' Fees and Costs, Class Representatives' Case Contribution Awards, Independent Fiduciary Expenses, Administrative Expenses incurred to date, and a reserve for anticipated future Administrative Expenses; and (d) approve the form of the CAFA Notice attached as Exhibit E and order that upon mailing of the CAFA Notices, Defendants shall have fulfilled their obligations under CAFA.

2.3. **Settlement Administration.** The Settlement Administrator shall administer the Settlement subject to supervision by Class Counsel and the Court as circumstances may require.

Defendants and Defendants' Counsel shall use reasonable efforts to respond timely to written requests, including by e-mail, from the Settlement Administrator for readily accessible data that is reasonably necessary to determine the feasibility of administering the Plan of Allocation or to implement the Plan of Allocation. The actual and reasonable expenses of any third party, including the Plan's Recordkeeper, that are necessary to perform such work shall be Administrative Expenses to be deducted from the Gross Settlement Amount.

2.4. **Class Data and Distribution of Notice and Former Participant Claim Form.** Defendants shall use reasonable efforts to cause the Plan's Recordkeeper to provide to the Settlement Administrator, within fifteen (15) calendar days of the entry of the Preliminary Approval Order, the participant data specified in Section 8.2 of this Agreement ("Class Member List") sufficient to effectuate the Notice, implement the Plan of Allocation, and distribute the

Settlement Fund. Within fifteen (15) calendar days of the entry of the Final Approval Order and Judgment, Defendants shall also use reasonable efforts to cause the current Plan Recordkeeper to provide an updated list of Participants prior to the distribution, in order to identify any such participants who have taken a full distribution from their Plan account and no longer have a Plan account with a positive balance.

Within fifteen (15) calendar days of receipt of the Class Member List, the Settlement Administrator shall cause to be sent to each Class Member (electronically and through First Class Mail) identified by the Settlement Administrator (1) a Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit A or a form subsequently agreed to by the Settling Parties and approved by the Court; and when applicable, (b) the Former Participant Claim Form in the form and manner to be approved by the Court, which shall be in the substantially the form attached hereto as Exhibit A-1. The Settlement Administrator shall update mailing addresses through the National Change of Address database before mailing (with all returned mail skip-traced and promptly re-mailed). The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Notice is returned and re-send such documents one additional time if an updated location is identified. The Settlement Administrator shall re-mail the Notice and Former Participant Claim Form to any Class Member whose Notice is returned within forty-five (45) days from the date of it originally being sent.

The Former Participant Claim Form must be returned to the Settlement Administrator within forty-five (45) calendar days of entry of the Preliminary Approval Order by all Former Participants, and Beneficiaries or Alternate Payees who do not have Active Accounts, who wish to receive the benefits of this Settlement. For each such Former Participant, Beneficiary, and/or Alternate Payee that has not returned the Former Participant Claim Form within twenty (20) days of the date of initial mailing, the Settlement Administrator will send within five (5) business days a post card by electronic mail (if available) or first class mail, postage pre-paid, to such

Class Member notifying them again of the deadline by which to submit the Former Participant Claim Form, unless the previous mailings and communications to the Class Member have been returned as undeliverable and the Settlement Administrator is unable to identify a valid electronic mail or physical mailing address through the electronic mail or physical mailing address through the exercise of reasonable and good faith efforts.

2.5 **Settlement Website.** On the same date the Notice is initially sent to the Class Members, the Settlement Administrator shall establish a website containing the Notice and this Agreement and its exhibits, the First Amended Complaint, the Motions for Preliminary and Final Approval (when filed); and any approval or other Court orders related to the Settlement, and any amendments or revisions to these documents, any other documents or information mutually agreed upon by the Settling Parties, and the date of the Fairness Hearing (and any changes thereto). The Parties will mutually agree to the name or URL address of the Settlement Website.

2.6 **Toll-Free Telephone Number and Email.** On the same date the Notice is initially sent to the Class Members, the Settlement Administrator shall establish a toll-free telephone number and email address to which Class Members can direct questions about the Settlement. The Settlement Administrator shall develop a question and answer type script, with input and approval from Class and Defendants' Counsel, for the use of persons who answer calls to this line.

2.7. **CAFA Notice.** No later than ten (10) calendar days after the filing of the motion for preliminary approval of the Settlement, Defendants will prepare and serve the CAFA Notice in substantially the form attached as Exhibit E hereto on the Attorney General of the United States, the Secretary of the Department of Labor, and the attorneys general of all states in which Class Members reside, as specified by 28 U.S.C. § 1715.

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3. ARTICLE 3 – FINAL SETTLEMENT APPROVAL

3.1. No later than Thirty-five (35) calendar days before the Fairness Hearing, Class Counsel shall submit to the Court a motion for entry of the Final Approval Order and Judgment (Exhibit D) in the form approved by Class Counsel and Defendants' Counsel, which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Approval Order and Judgment in accordance with this Settlement Agreement. The Final Approval Order and Judgment as proposed by the Settling Parties shall provide for the following, among other things, as is necessary to carry out the Settlement consistent with applicable law and governing Plan documents:

3.1.1. Approval of the Settlement of the Released Claims covered by this Settlement Agreement adjudging the terms of the Settlement Agreement to be fair, reasonable, and adequate to the Plan and the Class Members and directing the Settling Parties to take the necessary steps to effectuate the terms of the Settlement Agreement;

3.1.2. A determination under Fed. R. Civ. P. 23(c)(2) that the Notice constitutes the best notice practicable under the circumstances and that due and sufficient notice of the Fairness Hearing and the rights of all Class Members has been provided;

3.1.3. Dismissal with prejudice of the Class Action and all Released Claims asserted therein whether asserted by Class Representatives on their own behalf or on behalf of the Class Members, or on behalf of the Plan, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement;

3.1.4. That the Plan and each Class Member (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) shall be (a) conclusively deemed to have, and by operation of the Final Approval Order and

Judgment shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged the Released Parties from all Released Claims; and (b) barred and enjoined from suing the Released Parties in any action or proceeding alleging any of the Released Claims.

3.1.5. That each Class Member shall release the Released Parties, Defendants' Counsel, and Class Counsel for any claims, liabilities, and attorneys' fees and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount and for all tax liability and associated penalties and interest as well as related attorneys' fees and expenses;

3.1.6. That the provisions of Sections 3.1.4 and 3.1.5 shall apply even if any Class Member may thereafter discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Class Action and the Released Claims, whether or not such Class Members receive a monetary benefit from the Settlement, whether or not such Class Members actually received the Notice, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed;

3.1.7. That all applicable CAFA requirements have been satisfied;

3.1.8. That the Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Class Member in accordance with the Plan of Allocation approved by the Court;

3.1.9. That, with respect to any matters that arise concerning the implementation of distributions to Class Members who are current participants in the Plan (after

allocation decisions have been made by the Settlement Administrator in its sole discretion), all questions not resolved by the Settlement Agreement shall be resolved by the Plan Administrator or other fiduciaries of the Plan, in accordance with applicable law and the governing terms of the Plan; and

3.1.10. That within twenty-one (21) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall prepare and provide to Class Counsel and Defendants' Counsel a list of each Person who received a settlement payment or contribution from the Qualified Settlement Fund and the amount of such payment or contribution.

3.2. The Final Approval Order and Judgment entered by the Court approving the Settlement Agreement shall provide that upon its entry, all Settling Parties, the Settlement Class and the Plan shall be bound by the Settlement Agreement and the Final Order.

4. ARTICLE 4 – ESTABLISHMENT OF QUALIFIED SETTLEMENT FUND

4.1. No later than ten (10) calendar days after the Preliminary Approval Order is issued, the Settlement Administrator shall establish the Qualified Settlement Fund with the Escrow Agent. The Settling Parties agree that the Qualified Settlement Fund is intended to be, and will be, an interest-bearing “qualified settlement fund” within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Section 4.1. If applicable, the Settlement Administrator (as the “administrator” pursuant to Section 4.2) and the Transferor shall fully cooperate in filing the “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)(2)) to treat the Qualified Settlement Fund as coming into existence as a “qualified settlement fund” within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1 as of the earliest permitted date. Such elections shall be made in compliance with the procedures

and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to prepare and deliver, in a timely and proper manner, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to be timely made.

4.2. The “administrator” within the meaning of Treas. Reg. § 1.468B-2(k)(3) shall be the Settlement Administrator. The Settlement Administrator shall timely and properly cause to be filed on behalf of the Qualified Settlement Fund all informational and other tax returns required to be filed in accordance with Treas. Reg. §§ 1.468B-2(k) and -2(l) with respect to the Gross Settlement Amount (including without limitation applying for a taxpayer identification number for the Qualified Settlement Fund pursuant to Internal Revenue Service Form SS-4 and in accordance with Treas. Reg. § 1.468B-2(k)(4)). Such returns as well as any election described in Section 4.1 shall be consistent with this Article 4 and, in all events, shall reflect that all taxes (including any estimated taxes, interest, or penalties) on the income earned by the Qualified Settlement Fund shall be deducted and paid from the Gross Settlement Amount as provided in Section 4.3.

4.3. Taxes and tax expenses are Administrative Expenses to be deducted and paid from the Gross Settlement Amount, including but not limited to: (a) all taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Qualified Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendants with respect to any income earned by the Qualified Settlement Fund for any period during which the Qualified Settlement Fund does not qualify as a “qualified settlement fund” within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1; and (b) all tax expenses and costs incurred in connection with the operation and implementation of this Article 4 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Article 4). Such taxes and tax expenses shall be Administrative Expenses and shall be paid timely by the

Settlement Administrator out of the Gross Settlement Amount without prior order from the Court. The Settlement Administrator shall ensure compliance with withholding and reporting requirements in accordance with Treas. Reg. § 1.468B-2(l) and shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any Class Member any funds necessary to pay such amounts, including the establishment of adequate reserves for any taxes and tax expenses; neither the Released Parties, Defendants' Counsel, nor Class Counsel are responsible nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Settlement Administrator, Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Article 4.

4.4. Within twenty-one (21) calendar days after the later of (a) the date the Preliminary Approval Order is entered, or (b) the date the Qualified Settlement Fund is established and the Settlement Administrator has furnished to Defendants and/or Defendants' Counsel in writing the Qualified Settlement Fund name, IRS W-9 Form, and all necessary wiring instructions, then the Transferor shall cause its insurer(s) to deposit seven hundred fifty thousand dollars (\$750,000) into the Qualified Settlement Fund.

4.5. All funds held in the Escrow Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until the funds are distributed in accordance with this Agreement.

4.6. The Settlement Administrator shall, at the written direction of Class Counsel, cause the Escrow Agent to invest the Qualified Settlement Fund in short-term United States Agency or Treasury Securities or other instruments backed by the Full Faith and Credit of the United States Government or an agency thereof, or fully insured by the United States Government or an agency thereof, and shall cause the Escrow Agent to reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.

4.7. The Settlement Administrator shall not disburse the Gross Settlement Amount or any portion thereof from the Qualified Settlement Fund except as provided in this Settlement Agreement, in an order of the Court, or in a subsequent written stipulation between Class Counsel and Defendants' Counsel. Subject to the orders of the Court, the Settlement Administrator is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement, which include:

- (a) Compensation to Class Members determined in accordance with Plan of Allocation (set forth in Exhibit B);
- (b) Any Case Contribution Awards approved by the Court;
- (c) All Attorneys' Fees and Expenses approved by the Court;
- (d) Independent Fiduciary Fees and Costs;
- (e) Administration Costs;
- (f) Taxes and Tax-Related Costs.

4.8. The Settlement Administrator shall be responsible for making provision for the payment from the Qualified Settlement Fund of all taxes and tax expenses, if any, owed with respect to the Qualified Settlement Fund, and for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it. The Released Parties, Defendants' Counsel, and/or Class Counsel have no responsibility or any liability for any taxes or tax expenses owed by, or any tax reporting or withholding obligations, if any, of the Qualified Settlement Fund.

4.9. No later than February 15 of the year following the calendar year in which Defendants' insurer makes any transfer of the Gross Settlement Amount, or any other amount, to the Qualified Settlement Fund on behalf of the Transferor pursuant to the terms of this Article 4,

the Transferor shall timely furnish a statement to the Settlement Administrator that complies with Treas. Reg. § 1.468B-3(e)(2), which may be a combined statement under Treas. Reg. § 1.468B-3(e)(2)(ii), and shall attach a copy of the statement to its federal income tax return filed for the taxable year in which Defendants' insurer makes a transfer on its behalf to the Qualified Settlement Fund.

5. ARTICLE 5 - PAYMENTS FROM THE QUALIFIED SETTLEMENT FUND

5.1. **Disbursements from Qualified Settlement Fund prior to Effective Date.** Class Counsel, subject to the approval of Defendants, which approval shall not be unreasonably withheld, shall direct the Escrow Agent to disburse money from the Qualified Settlement Fund as follows:

5.1.1. Notice Expenses. After entry of the Preliminary Approval Order, the Escrow Agent shall be directed in writing to disburse from the Qualified Settlement Fund an amount sufficient for the payment of costs of the Notice. Class Counsel will select a Settlement Administrator to assist with Class Notice and administration of the Settlement. The Settlement Administrator shall enter into a confidentiality agreement and information security agreement to adequately protect information provided to the Settlement Administrator relating to the Settlement. Any costs, expenses, or fees incurred in connection with the administration of this Settlement shall be paid out of the Qualified Settlement Fund. Neither Class Counsel, Defendants, nor Defendants' Counsel are responsible for the Settlement Administrator's work, nor may they be held liable for any act or omission by the Settlement Administrator.

5.1.2. Accounting of Administrative Costs. Beginning thirty (30) calendar days after the entry of the Preliminary Approval Order, and on every thirtieth day (30th) calendar day thereafter, the Settlement Administrator shall provide the Parties with a detailed accounting of any Administration Costs expended to date and an invoice for the

amount of such Administration Costs. Any disputes as to whether amounts billed by the Settlement Administrator are reasonable and necessary under this Agreement shall be resolved by the Court.

5.1.3. For taxes and expenses of the Qualified Settlement Fund as provided in Section 4.3.

5.1.4. For fees and expenses of the Independent Fiduciary up to a cap of \$25,000. The Escrow Agent shall be directed to disburse money from the Qualified Settlement Fund to pay the reasonable fees and expenses of the Independent Fiduciary (which shall include any attorneys' fees of the Independent Fiduciary, subject to the cap of \$25,000) retained pursuant to Article 2.1. To the extent Defendants and/or their insurer(s) pay any costs, fees or expenses to the Independent Fiduciary before proceeds from the Qualified Settlement Fund are available for distribution, the Escrow Agent shall be directed to reimburse Defendants and/or their insurer(s) for such amounts.

5.1.5. For costs and expenses of the Settlement Administrator in implementing the Plan of Allocation and otherwise administering the Settlement.

5.1.6. For costs and expenses incurred by the Recordkeeper (or Authorized Administrator) in implementing this Settlement. To the extent Defendants are responsible for paying these costs, they will have the right to recover any sums paid from the Qualified Settlement Fund.

5.2. Disbursements from Qualified Settlement Fund after Effective Date.

Following the Effective Date, Class Counsel shall direct the Escrow Agent to disburse money from the Qualified Settlement Fund as follows:

5.2.1. For Attorneys' Fees and Costs, as approved by the Court, and no later than fifteen (15) business days following the Effective Date.

5.2.2. For Class Representatives' Case Contribution Awards, as approved by the Court, and no later than fifteen (15) business days following the Effective Date.

5.2.3. For costs and expenses of the Settlement Administrator in implementing the Plan of Allocation and otherwise administering the Settlement that were not previously paid.

5.2.4. For costs and expenses incurred by the Recordkeeper (or Authorized Administrator) in implementing this Settlement that were not previously paid. To the extent that Defendants are responsible for paying these costs, they will have the right to recover any sums paid from the Qualified Settlement Fund.

5.2.5. The Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Pending final distribution of the Net Settlement Amount in accordance with the Plan of Allocation, the Escrow Agent will maintain the Qualified Settlement Fund. The Net Settlement Amount distributed pursuant to the Plan of Allocation shall constitute "restorative payments" within the meaning of Revenue Ruling 2002-45 for all purposes.

5.3. **Implementation of the Plan of Allocation.** Class Counsel shall propose to the Court a Plan of Allocation, in substantial conformity to the one attached hereto as Exhibit B, which shall provide for the calculation, allocation, and distribution of the Net Settlement Amount. Upon the Effective Date, and after the amounts payable pursuant to Sections 5.1 and 5.2 have been disbursed, or, in the case of future estimated expenses set aside and withheld, Class Counsel shall direct the Escrow Agent to disburse the Net Settlement Amount as provided by this Settlement Agreement and the Plan of Allocation. The Recordkeeper or any other entity with appropriate authority under the Plan (an "Authorized Administrator") shall allocate to the Plan accounts of Class Members who are not Former Participants any Net Settlement Amount as calculated by the Settlement Administrator according to the Plan of Allocation, documentation of

which Class Counsel shall direct the Settlement Administrator to provide to the Authorized Administrator pursuant to the Plan of Allocation no later than the distribution of the Net Settlement Amount. The Settlement Administrator shall promptly notify Class Counsel as to the date(s) and amounts(s) of said allocation(s) made to Class Members who are not Former Participants. The Settlement Administrator shall be responsible for distributing the Net Settlement Amount allocated to the Former Participants as provided by the Plan of Allocation, as well as complying with all tax laws, rules, and regulations and withholding obligations with respect to Former Participants. Defendants shall have no liability related to the structure or taxability of such payments. Nothing herein shall constitute approval or disapproval of the Plan of Allocation by Defendants, and Defendants shall have no responsibility or liability for the Plan of Allocation and shall take no position for or against the Plan of Allocation.

5.4. **Final List of Class Members.** Prior to the disbursement of the Net Settlement Amount to the Plan, the Settlement Administrator shall provide to Defendants' Counsel and Class Counsel a final list of Class Members containing the information listed in Section 8.2, in electronic format, to whom the Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Such list shall be final, and only persons on the list or their Beneficiaries or Alternate Payees shall be eligible to receive any recovery from this Settlement.

5.5. **Uncashed Checks and Reissuance of Checks.** Class Members who receive a check from the Settlement Administrator under the Plan of Allocation must cash their checks within one hundred and eighty (180) calendar days of issuance. Checks will remain negotiable for one hundred eighty (180) calendar days and this limitation shall be printed on the face of the check. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Class Member involved and will then perform a single re-mailing. Funds in the

amount of all settlement checks remaining uncashed for more than 200 calendar days after issuance shall be distributed by cy pres to the Pension Right Center. The voidance of checks shall have no effect on the Class Members' release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect.

5.6. **Payments Not Otherwise Payable.** No sooner than three hundred ninety-five (395) calendar days following the Settlement Effective Date, any Net Settlement Amount remaining in the Qualified Settlement Fund after payments, including costs and taxes, shall be paid to the cy pres, the Pension Rights Center.

5.7. **Responsibility for Taxes Upon Distribution.** Each Class Member who receives a payment under this Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold Defendants, Defendants' Counsel, the Released Parties, Class Counsel, and the Settlement Administrator harmless from (a) any tax liability, including without limitation penalties and interest, related in any way to payments or credits under this Agreement, and (b) the costs (including, without limitation, fees, costs, and expenses of attorneys, tax advisers, and experts) of any proceedings (including, without limitation, any investigation, response, and/or suit), related to such tax liability.

6. **ARTICLE 6 – ATTORNEYS' FEES AND EXPENSES**

6.1. Application for Attorneys' Fees and Expenses and Class Representatives' Case Contribution Awards. Class Counsel intends to seek to recover their attorneys' fees not to exceed \$250,000.00, and litigation costs and expenses advanced and carried by Class Counsel for the duration of the Class Action, not to exceed \$82,000.00, which shall be recovered from the Gross Settlement Amount. Class Counsel also intends to seek Class Representatives' Case Contribution Awards, in an amount not to exceed \$10,000 each for Class Representatives Salvador Aquino,

Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent, which shall be recovered from the Gross Settlement Amount.

6.2. Class Counsel will file a motion for an award of Attorneys' Fees and Costs at least thirty-five (35) calendar days before the deadline set in the Preliminary Approval Order for objections to the proposed Settlement, which may be supplemented thereafter.

7. ARTICLE 7 – RELEASE AND COVENANT NOT TO SUE

7.1. As of the Effective Date, the Plan (by and through the Independent Fiduciary pursuant to Section 2.1) and the Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns), on their own behalf and on behalf of the Plan, shall fully, finally, and forever settle, release, relinquish, waive, and discharge all Released Parties from the Released Claims, whether or not such Class Members have received or will receive a monetary benefit from the Settlement, whether or not such Class Members have actually received the Notice, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.

7.2. As of the Effective Date, the Class Representatives and the Class Members covenant and agree on behalf of themselves and on behalf of the Plan that they, acting individually or together, or in combination with others, shall not commence or seek to institute, maintain, prosecute, or assert against any Released Party any action or proceeding (including but not limited to an IRS determination letter proceeding, a Department of Labor proceeding, an arbitration or a proceeding before any state insurance or other department or commission), any cause of action, demand, or claim on the basis of, connected with, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of this Settlement Agreement in accordance with the procedures set forth in this Settlement Agreement.

7.3. **Dismissal With Prejudice.** The Class Action and all Released Claims shall be dismissed with prejudice.

7.4. **No Impact on Prior Releases.** The Released Claims in the Class Action shall not invalidate or impair any prior release of claims by any Class Members against any of the Released Parties, whether set forth in a Separation Agreement or otherwise.

8. **ARTICLE 8 – COVENANTS**

The Settling Parties covenant and agree as follows:

8.1. **Taxation.** Plaintiffs acknowledge that the Released Parties have no responsibility for any taxes due on funds deposited in or distributed from the Qualified Settlement Fund or that the Plaintiffs or Class Counsel receive from the Gross Settlement Amount. Plaintiffs further acknowledge that any such tax payments, and any professional, administrative, or other expenses associated with such tax payments, shall be paid out of the Qualified Settlement Fund. Nothing herein shall constitute an admission or representation that any such taxes will or will not be due.

8.2. **Cooperation.** Defendants shall cooperate with Class Counsel by using reasonable efforts to provide, to the extent reasonably accessible, information to identify Class Members and to implement the Plan of Allocation.

Defendants or Defendants' Counsel shall work with the Recordkeeper to provide to the Settlement Administrator and/or Class Counsel data regarding class members ("Class Member List") (including names, dates of birth, the final four digits of social security numbers, employee identification numbers, dates of employment, last known primary address, contact information, Beneficiary and Alternate Payee information (as applicable), and end-of-quarter account balances throughout the Class Period), for purposes of effecting the administration of the Plan of Allocation. Neither Plaintiffs, Class Counsel, Defendants, or Defendants' Counsel will be

responsible or liable in any way for ensuring the completeness or accuracy of the information provided by the Recordkeeper pursuant to this section.

The Settlement Administrator shall use the information provided by Defendants, Defendants' Counsel, and/or the Recordkeeper pursuant to Section 8.2 to compile a preliminary list of Class Members for purposes of sending the Class Notice and calculating payments pursuant to the Plan of Allocation.

Class Counsel and their agents will use any information provided by Defendants, Defendants' Counsel, and/or the Recordkeeper pursuant to Section 8.2 solely for the purpose of providing notice and administering this Settlement and for no other purpose, and will take all reasonable and necessary steps as required by law to maintain the security and confidentiality of this information.

8.3. The Settling Parties shall reasonably cooperate with each other to effectuate this Settlement, including with respect to the Plan of Allocation, and shall not do anything or take any position inconsistent with obtaining a prompt Final Order approving the Settlement unless expressly permitted by this Settlement Agreement. The Settling Parties shall suspend any and all efforts to prosecute and to defend the Class Action pending entry of the Final Order or, if earlier, termination of the Settlement Agreement.

9. ARTICLE 9 – REPRESENTATION AND WARRANTIES

9.1. Settling Parties' Representations and Warranties. The Settling Parties, and each of them, represent and warrant as follows, and each Settling Party acknowledges that each other Settling Party is relying on these representations and warranties in entering into this Settlement Agreement:

9.1.1. That they have diligently prepared the case pursuant to the Court's orders; that they are voluntarily entering into this Settlement Agreement as a result of arm's

length negotiations under the auspices of the Mediator; that in executing this Settlement Agreement they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any Settling Party or by any Person representing any Settling Party to this Settlement Agreement. Each Settling Party assumes the risk of mistake as to facts or law. Each Settling Party further recognizes that additional evidence may have come to light, but that they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement.

9.1.2. That they have carefully read the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each Person executing this Settlement Agreement on behalf of each of the Settling Parties. The Settling Parties, and each of them, further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to the Settlement, this Settlement Agreement, and all of the matters pertaining thereto, as he, she, or it deems necessary.

9.2 **Signatories' Representations and Warranties.** Each Person executing this Settlement Agreement on behalf of any other Person does hereby personally represent and warrant to the other Settling Parties that he or she has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal whom such individual represents or purports to represent.

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10. ARTICLE 10 – NO ADMISSION OF LIABILITY

10.1. The Settling Parties understand and agree that this Settlement Agreement embodies a compromise settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding, admission or suggestion of any wrongdoing or liability by any Defendants, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding.

10.2. This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Defendants specifically deny any such liability or wrongdoing and state that they are entering into this Settlement Agreement to eliminate the burden and expense of further litigation. Further, the Class Representatives, while believing that the claims brought in the Class Action have merit, have concluded that the terms of this Settlement Agreement are fair, reasonable, and adequate to the Plan, themselves and members of the Settlement Class given, among other things, the inherent risks, difficulties and delays in complex ERISA litigation such as the Class Action. Neither the fact nor the terms of this Settlement Agreement shall be used or offered or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce this Settlement Agreement or arising out of or relating to the Final Order.

11. ARTICLE 11 – CONDITIONS TO FINALITY OF SETTLEMENT

This Settlement shall be contingent upon each of the following conditions in this Article 11 being satisfied. The Settling Parties agree that if any of these conditions is not satisfied, then this Settlement Agreement is terminated (subject to Defendants' right to waive the condition set forth in Section 11.4) and the Class Action will, for all purposes with respect to the Settling Parties, revert to its status as of the Settlement Agreement Execution Date. In such event, Defendants will not be deemed to have consented to the class certification order referenced in

Section 11.1, the agreements and stipulations in this Settlement Agreement concerning class definition or class certification shall not be used as evidence or argument to support a motion for class certification, and Defendants will retain all rights with respect to challenging class certification.

11.1. **Court Approval and Class Certification for Settlement Purposes.** The Court shall have certified the Settlement Class for settlement purposes only (and Defendants will not object to this certification for settlement purposes only), the Settlement shall have been approved by the Court, the Court shall have entered the Final Approval Order and Judgment substantially in the form attached as Exhibit D hereto, and the Effective Date shall have occurred.

11.2. **Finality of Settlement.** The Settlement shall have become final as of the Effective Date.

11.3. **Resolution of CAFA Objections (If Any).** In the event that any of the government officials who received a CAFA Notice object to and request modifications to the Settlement, Class Representatives and Class Counsel agree to cooperate and work with Defendants and Defendants' Counsel to overcome such objection(s) and requested modifications. In the event such objection(s) or requested modifications are not overcome, Defendants shall have the right to terminate the Settlement Agreement pursuant to Article 12.

11.4. **Settlement Authorized by Independent Fiduciary.** At least thirty (30) days before the Fairness Hearing, the Independent Fiduciary shall have approved and authorized in writing the Settlement and given a release to all the Released Parties in its capacity as fiduciary of the Plan for and on behalf of the Plan in accordance with PTE 2003-39. If the Independent Fiduciary disapproves or otherwise does not authorize the Settlement or refuses to execute the release on behalf of the Plan, then the Settling Parties may mutually agree to modify the terms of this Settlement Agreement as necessary to facilitate an approval by the Independent Fiduciary and/or the Independent Fiduciary's release on behalf of the Plan. Otherwise, Defendants shall

have the option to waive this condition, in which case such option is to be exercised in writing within seven (7) days after the Settling Parties' receipt of the Independent Fiduciary's written determination, unless otherwise agreed by the Settling Parties.

12. ARTICLE 12 – TERMINATION, CONDITIONS OF SETTLEMENT, AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

12.1. The Settlement Agreement shall automatically terminate, and thereby become null and void with no further force or effect if:

12.1.1. Under Section 2.1, (a) either the Independent Fiduciary does not approve the Settlement Agreement or disapproves the Settlement Agreement for any reason whatsoever, or Defendants reasonably conclude that the Independent Fiduciary's approval does not include the determinations required by the PTE 2003-39; and (b) the Settling Parties do not mutually agree to modify the terms of this Settlement Agreement to facilitate an approval by the Independent Fiduciary or the Independent Fiduciary's determinations required by PTE 2003-39; and (c) Defendants do not exercise their option to waive this condition as provided in Section 11.4;

12.1.2. Under Section 2.1, (a) the Independent Fiduciary refuses to release the Released Parties from the Released Claims on behalf of the Plan; and (b) the Settlement Parties do not mutually agree to modify the terms of this Settlement Agreement to facilitate the Independent Fiduciary's release of the Released Parties from the Released Claims on behalf of the Plan; and (c) Defendants do not exercise their option to waive this condition as provided in Section 11.4.

12.1.3. The Preliminary Approval Order or the Final Approval Order and Judgment is not entered by the Court in substantially the form submitted by the Settling Parties or in a form which is otherwise agreed to by the Settling Parties;

12.1.4. The Settlement Class is not certified as defined herein or in a form which is otherwise agreed to by the Settling Parties;

12.1.5. This Settlement Agreement is disapproved by the Court or fails to become effective and the Settling Parties do not mutually agree to modify the Settlement Agreement in order to obtain the Court's approval or otherwise effectuate the Settlement; or

12.1.6. The Preliminary Approval Order or Final Approval Order and Judgment is finally reversed on appeal, or is modified on appeal, and the Settling Parties do not mutually agree to any such modifications.

12.2. If the Settlement Agreement is terminated, deemed null and void, or has no further force or effect, the Class Action and the Released Claims asserted by the Class Representatives shall for all purposes with respect to the Settling Parties revert to their status as though the Settling Parties never executed the Settlement Agreement. All funds deposited in the Qualified Settlement Fund, and any interest earned thereon, shall be returned to Defendants' insurer within thirty (30) calendar days after the Settlement Agreement is finally terminated or deemed null and void.

12.3. It shall not be deemed a failure to approve the Settlement Agreement if the Court denies, in whole or in part, Class Counsel's request for Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards. To the extent the Court does not approve the requested amount of Attorneys' Fees and Costs or Case Contribution Awards, said amount will remain in the Qualified Settlement Fund for distribution to Class Members.

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13. ARTICLE 13 – GENERAL PROVISIONS

13.1. The Settling Parties agree to cooperate fully with each other in seeking Court approvals of the Preliminary Approval Order and the Final Approval Order and Judgment, and to do all things as may reasonably be required to effectuate preliminary and final approval and the implementation of this Settlement Agreement according to its terms. The Settling Parties agree to provide each other with copies of any filings necessary to effectuate this Settlement reasonably in advance of filing.

13.2. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder are not, and shall not be construed as, deemed to be, or offered or received as evidence of an admission by or on the part of any Defendant or Released Party of any wrongdoing, fault, or liability whatsoever by any Defendant or Released Party, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Class Action or any other proceeding.

13.3. Defendants and Released Parties admit no wrongdoing, fault, or liability with respect to any of the allegations or claims in the Class Action. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder, shall not constitute admissions of any liability of any kind, whether legal or factual. Subject to Federal Rule of Evidence 408, the Settlement and the negotiations related to it are not admissible as substantive evidence, for purposes of impeachment, or for any other purpose.

13.4. Neither the Settling Parties, Class Counsel, nor Defendants' Counsel shall have any responsibility for or liability whatsoever with respect to (a) any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Gross Settlement Amount or otherwise; (b) the determination of the Independent Fiduciary; (c) the management, investment, or distribution of the Qualified Settlement Fund; (d) the Plan of Allocation as approved by the Court; (e) the

determination, administration, calculation, or payment of any claims asserted against the Qualified Settlement Fund; (f) any losses suffered by, or fluctuations in the value of, the Qualified Settlement Fund; or (g) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Qualified Settlement Fund or tax reporting, or the filing of any returns. Further, neither Defendants nor Defendants' Counsel shall have any responsibility for, or liability whatsoever with respect to, any act, omission, or determination of Class Counsel in connection with the administration of the Gross Settlement Amount or otherwise.

13.5. Defendants, Defendants' Counsel, and the Released Parties shall not have any responsibility for or liability whatsoever with respect to the Plan of Allocation, including, but not limited to, the determination of the Plan of Allocation or the reasonableness of the Plan of Allocation.

13.6. The Settling Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants, Defendants' Counsel, Class Counsel, and Class Representatives will provide no tax advice to the Class Members and make no representation regarding the tax consequences of any of the settlement payments described in the Settlement Agreement. To the extent that any portion of any settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be treated as wages by the Settling Parties.

13.7. Only Class Counsel shall have standing to seek enforcement of this Settlement Agreement on behalf of Plaintiffs and Class Members. Any individual concerned about Defendants' compliance with this Settlement Agreement may so notify Class Counsel and direct any requests for enforcement to them. Class Counsel shall have the full and sole discretion to

take whatever action they deem appropriate, or to refrain from taking any action, in response to such request. Any action by Class Counsel to monitor or enforce the Settlement Agreement shall be done without additional fee or reimbursement of expenses beyond the Attorneys' Fees and Costs determined by the Court.

13.8. This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law and, to the extent that federal law does not govern, California law.

13.9. The Settling Parties agree that the Court has personal jurisdiction over the Settlement Class and Defendants and shall maintain personal and subject-matter jurisdiction for purposes of resolving any disputes between the Settling Parties concerning compliance with this Settlement Agreement. Any motion or action to enforce this Settlement Agreement—including by way of injunction—may be filed in the U.S. District Court for the Central District of California or asserted by way of an affirmative defense or counterclaim in response to any action asserting a violation of the Settlement Agreement.

13.10. Each party to this Settlement Agreement hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Settlement Agreement and that this Settlement Agreement has been explained to that party by his, her, or its counsel.

13.11. Before entry of the Preliminary Approval Order and approval of the Independent Fiduciary, this Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Settling Parties. Following approval by the Independent Fiduciary, this Settlement Agreement may be modified or amended only if such modification or amendment is set forth in a written agreement signed by or on behalf of all Settling Parties and only if the Independent Fiduciary approves such modification or amendment in writing. Following entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only

by written agreement signed on behalf of all Settling Parties, and only if the modification or amendment is approved by the Independent Fiduciary in writing and approved by the Court.

13.12. The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

13.13. Each of the Settling Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement.

13.14. All of the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be: Exhibit A – Notice of Class Action Settlement and Fairness Hearing; Exhibit A-1 – Former Participant Claim Form; Exhibit B – Plan of Allocation; Exhibit C – Preliminary Approval Order; Exhibit D – Final Approval Order and Judgment; Exhibit E – Form of CAFA Notice.

13.15. No provision of the Settlement Agreement or of the exhibits attached hereto shall be construed against or interpreted to the disadvantage of any party to the Settlement Agreement because that party is deemed to have prepared, structured, drafted, or requested the provision.

13.16. **Principles of Interpretation.** The following principles of interpretation apply to this Settlement Agreement:

13.16.1. Headings. Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the Articles or Sections they caption.

13.16.2. Singular and Plural. Definitions apply to the singular and plural forms of each term defined.

13.16.3. Gender. Definitions apply to the masculine, feminine, and neuter genders of each term defined.

13.16.4. References to a Person. References to a Person are also to the Person's permitted successors and assigns, except as otherwise provided herein.

13.16.5. Terms of Inclusion. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

13.17. **Survival**. All of the covenants, representations, and warranties, express or implied, oral or written, concerning the subject matter of this Settlement Agreement are contained in this Settlement Agreement. No Party is relying on any oral representations or oral agreements. All such covenants, representations, and warranties set forth in this Settlement Agreement shall be deemed continuing and shall survive the Effective Date

13.18. **Notices**. Any notice, demand, or other communication under this Settlement Agreement (other than the Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier or via e-mail:

IF TO CLASS REPRESENTATIVES:

Christina A. Humphrey
Robert N. Fisher
CHRISTINA HUMPHREY LAW, P.C.
1117 State Street
Santa Barbara, CA 93101

Telephone: (805) 618-2924
Facsimile: (805) 618-2939
christina@chumphreylaw.com
rob@chumphreylaw.com

James A. Clark
Renee P. Ortega
TOWER LEGAL GROUP, P.C.
11335 Gold Express Drive, Ste. 105
Gold River, CA 95670
Telephone: (916) 361-6009
Facsimile: (916) 361-6019
james.clark@towerlegalgroup.com
renee.parras@towerlegalgroup.com

IF TO DEFENDANTS:

Robyn C. Crowther
Tahir L. Boykins
STEPTOE & JOHNSON LLP
633 West Fifth Street, Suite 1900
Los Angeles, CA 90071
Telephone: (213) 439-9432
Fax: (213) 439-9599
rcrowther@steptoe.com
tboykins@steptoe.com

Paul J. Ondrasik
Eric G. Serron
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Telephone: (202) 429-3000
Fax: (202) 429-3902
pondrasik@steptoe.com
eserron@steptoe.com

Any Settling Party may change the address at which it is to receive notice by written notice delivered to the other Settling Parties in the manner described above.

13.19. **Entire Agreement.** This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling Parties and no representations, warranties, or

inducements have been made to any party concerning the Settlement other than those contained in this Settlement Agreement and the exhibits thereto. It specifically supersedes any settlement terms or settlement agreements relating to the Defendants that were previously agreed upon orally or in writing by any of the Settling Parties.

13.20. **Counterparts.** The Settlement Agreement may be executed by exchange of executed signature pages, and any signature transmitted by facsimile or e-mail attachment of scanned signature pages for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. The Settlement Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute the same instrument.

13.21. **Binding Effect.** This Settlement Agreement binds and inures to the benefit of the Settling Parties hereto, their assigns, heirs, administrators, executors, and successors.

13.22. **Destruction/Return of Confidential Information.** Within thirty (30) days after the Final Order, Class Representatives and Class Counsel shall fully comply with the Stipulated Protective Order Regarding Confidentiality agreed to by the Settling Parties. Further, the Settling Parties agree that the preliminary and final lists of Class Members are deemed Confidential pursuant to the Stipulated Protective Order Regarding Confidentiality, and that the Settling Parties shall have the right to continue to designate documents provided to any party in connection with this Settlement Agreement as Confidential pursuant to the Stipulated Protective Order Regarding Confidentiality.

13.23. **No Conflict of Interest with Cy Pres, Pension Rights Center.** None of the Parties or Counsel below have any financial interest in, employment relationship with, or board service for the Pension Rights Center.

IN WITNESS WHEREOF, the Settling Parties have executed this Settlement Agreement

on the dates set forth below.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

CLASS REPRESENTATIVES

DATED: 4/16/2023

DocuSigned by:
Salvador Aquino
F2F6BCE34481496...

Salvador Aquino, Class Representative

DATED:

Susan Ford, Class Representative

DATED:

Monicalayle Garcia, Class Representative

DATED:

Barbara Kraus, Class Representative

DATED:

Martha Lopez, Class Representative

on the dates set forth below.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

CLASS REPRESENTATIVES

DATED:

Salvador Aquino, Class Representative

DATED: 4/12/2023

DocuSigned by:
Susan Ford

B19A93AA921B400...
Susan Ford, Class Representative

DATED:

Monicalayle Garcia, Class Representative

DATED:

Barbara Kraus, Class Representative

DATED:

Martha Lopez, Class Representative

on the dates set forth below.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

CLASS REPRESENTATIVES

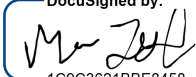
DATED:

Salvador Aquino, Class Representative

DATED:

Susan Ford, Class Representative

DATED: 4/15/2023

DocuSigned by:


4C9C3624BBE9468...
Monicalayle Garcia, Class Representative

DATED:

Barbara Kraus, Class Representative

DATED:

Martha Lopez, Class Representative

on the dates set forth below.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

CLASS REPRESENTATIVES

DATED:

Salvador Aquino, Class Representative

DATED:

Susan Ford, Class Representative

DATED:

Monicalayle Garcia, Class Representative

DATED: 4/12/2023

DocuSigned by:
Barbara Kraus
870F66C64AB34FE...

Barbara Kraus, Class Representative

DATED:

Martha Lopez, Class Representative

on the dates set forth below.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

CLASS REPRESENTATIVES

DATED:

Salvador Aquino, Class Representative

DATED:

Susan Ford, Class Representative

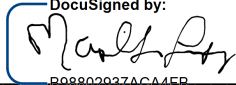
DATED:

Monicalayle Garcia, Class Representative

DATED:

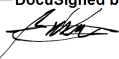
Barbara Kraus, Class Representative

DATED: 4/12/2023

DocuSigned by:

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Martha Lopez, Class Representative

DATED: 4/12/2023

DocuSigned by:

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Francisco Martinez, Class Representative

DATED:

Megan Sargent, Class Representative

99 CENTS ONLY STORES, LLC

DATED:

Name:

THE RETIREMENT COMMITTEE OF THE 99 CENTS ONLY 401 (K) PLAN

DATED:

Name:

PLAINTIFFS' COUNSEL:

DATED: 4/17/2023

DocuSigned by:

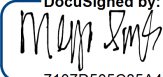
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Christina A. Humphrey
Robert N. Fisher
CHRISTINA HUMPHREY LAW, P.C.
1117 State Street
Santa Barbara, CA 93101
Telephone: (805) 618-2924
Facsimile: (805) 618-2939
christina@chumphreylaw.com
rob@chumphreylaw.com

DATED:

Francisco Martinez, Class Representative

DATED: 4/13/2023

DocuSigned by:

7167D505C05A444...

Megan Sargent, Class Representative

99 CENTS ONLY STORES, LLC

DATED:

Name:

THE RETIREMENT COMMITTEE OF THE 99 CENTS ONLY 401 (K) PLAN

DATED:

Name:

PLAINTIFFS' COUNSEL:

DATED:

Christina A. Humphrey
Robert N. Fisher
CHRISTINA HUMPHREY LAW, P.C.
1117 State Street
Santa Barbara, CA 93101
Telephone: (805) 618-2924
Facsimile: (805) 618-2939
christina@chumphreylaw.com
rob@chumphreylaw.com

DATED:

Francisco Martinez, Class Representative

DATED:

Megan Sargent, Class Representative

99 CENTS ONLY STORES, LLC

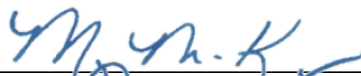
DATED: 4/12/23



Name: Mary M. Kasper, Chief Legal Officer, General Counsel and Secretary

THE RETIREMENT COMMITTEE OF THE 99 CENTS ONLY 401 (K) PLAN

DATED: 4/12/23



Name: Mary M. Kasper, Chief Legal Officer, General Counsel and Secretary

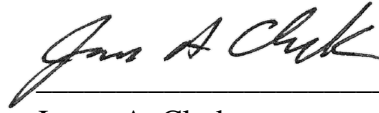
PLAINTIFFS' COUNSEL:

DATED:

Christina A. Humphrey
Robert N. Fisher
CHRISTINA HUMPHREY LAW, P.C.
1117 State Street
Santa Barbara, CA 93101
Telephone: (805) 618-2924
Facsimile: (805) 618-2939
christina@chumphreylaw.com
rob@chumphreylaw.com

PLAINTIFFS' COUNSEL:

DATED: April 17, 2023



James A. Clark
TOWER LEGAL GROUP, P.C.
11335 Gold Express Drive, Ste. 105
Gold River, CA 95670
Telephone: (916) 361-6009
Facsimile: (916) 361-6019
james.clark@towerlegalgroup.com

DEFENDANTS' COUNSEL:

DATED:

Paul J. Ondrasik, Jr.
Eric G. Serron
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Telephone: (202) 429-3000
Fax: (202) 429-3902
pondrasik@steptoe.com
eserron@steptoe.com

PLAINTIFFS' COUNSEL:

DATED:

James A. Clark
TOWER LEGAL GROUP, P.C.
11335 Gold Express Drive, Ste. 105
Gold River, CA 95670
Telephone: (916) 361-6009
Facsimile: (916) 361-6019
james.clark@towerlegalgroup.com

DEFENDANTS' COUNSEL:

DATED: 4/19/2023



Paul J. Ondrasik, Jr.
Eric G. Serron
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Telephone: (202) 429-3000
Fax: (202) 429-3902
pondrasik@steptoe.com
eserron@steptoe.com

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

If you were or are a participant in the 99 Cents Only Stores 401(K) Plan, your legal rights will be affected by this class action settlement.

The case is called *Aquino, et al., v. 99 Cents Only Stores, et al.*, Case No 2:22-cv-01966 (C.D. Ca.). A Court authorized this Notice. This is not a solicitation from a lawyer.

This Notice advises you of the settlement (“Settlement”) of a lawsuit against 99 Cents Only Stores LLC (“99 Cents”); and The Retirement Committee of the 99 Cents Only 401(K) Plan (“Committee”) (collectively, the “Defendants”). In the lawsuit, Plaintiffs Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent (collectively, “Plaintiffs”) allege that Defendants violated the Employee Retirement Income Security Act of 1974 (“ERISA”) by, among other things, failing to perform proper oversight of the 99 Cents Only Stores LLC 401(k) Plan (“Plan”). Defendants deny these allegations and deny that they engaged in any improper conduct. You should read this entire Notice carefully because your legal rights will be affected by whether you act or not.

Your rights and options, and the deadline for you to object if you are opposed to the Settlement, are explained in this Notice.

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BASIC INFORMATION

1. Why did I get this Notice?

You have been identified as a Participant, Former Participant, Beneficiary or Alternate Payee of a Participant, of the Plan at any time on or after during the period from March 25, 2016, through [the date of Preliminary Approval Order], (the “Class Period”).

You are receiving this Notice because you have a right to know about the proposed Settlement of a class action lawsuit in which you are a Class Member before the Court decides whether to approve the Settlement.

This Notice summarizes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The lawsuit is pending in the United States District Court for the Central District of California (the “Court”). It is known as *Aquino, et al., v. 99 Cents Only Stores, et al.*, Case No 2:22-cv-01966 (C.D. Ca.), and is brought against Defendants.

2. What is this Lawsuit about?

On March 25, 2022, this Action was brought by Plaintiffs, against 99 Cents and the Committee, alleging that they violated ERISA by, among other things, failing to perform proper oversight of the Plan. Since the filing of the action, the parties engaged in litigation, including exchanging documentation and engaging in discovery, briefing motions to dismiss and preparing for trial. On November 7, 2022, the Parties mediated the action and ultimately were able to reach the terms of the Settlement explained in this Notice. Defendants have denied and continue to deny any wrongdoing or liability and would continue to vigorously defend the lawsuit if the proposed Settlement is not approved.

3. What is a class action lawsuit?

In a class action lawsuit, one or more people called “class representatives” sue on their own behalf and on behalf of other people who they allege may have similar claims. One court resolves all the issues for all class members in a single lawsuit. Plaintiffs, Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent are the class representatives in this lawsuit, and are sometimes referred to in this Notice as the “Class Representatives” or as the “Plaintiffs.”

4. Why is there a Settlement?

The Parties have agreed to the Settlement after extensive negotiations. By agreeing to a settlement, the Parties avoid the costs and risks of further litigation, and Plaintiffs and the other members of the Class will get compensation. Class Counsel has conducted an extensive review of the evidence in the case and the potential risks and benefits of continued litigation. Plaintiffs

and Class Counsel agree that the Settlement is in the best interest of the Class. The Court has not made any finding that Defendants have done anything wrong or violated any law or regulation.

5. How do I get more information about the Settlement?

This notice summarizes the proposed settlement. For the precise terms and conditions of the Settlement, please see the Amended Settlement Agreement (“Agreement”) available at www.com, by contacting Class Counsel (see answer to question 12 for contact information) or the Settlement Administrator (see answer to question 6 for contact information), by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Central District of California -Western Division, First Street U.S. Courthouse, 350 W 1st Street, Suite 4311 Los Angeles, CA 90012-4565, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

6. Who will administer the Settlement?

The Settlement Administrator, ILYM Group, Inc., will administer the Settlement, including the processing of the Former Participant Claim Form, if applicable, that you may need to fill out and send in to receive any settlement payment. You may contact the Settlement Administrator by: (a) sending a letter to 99 Cents 401k Settlement Administrator, c/o ILYM Group, Inc., 14751 Plaza Drive, Suite J, Tustin, CA 92780; (b) sending an e-mail to info@ilymgroup.com; (c) visiting the Settlement website at www.com; or (d) calling toll-free at [888.250.6810](tel:888.250.6810).

THE SETTLEMENT BENEFITS – WHAT DOES THE SETTLEMENT PROVIDE

7. What does the Settlement provide?

Defendants have agreed to pay a total of \$750,000 to the Class Members with up to 33.33% of that amount to be paid to Class Counsel in attorneys’ fees to the extent approved by the Court, up to \$82,000 to be paid to reimburse Class Counsel’s expenses, including expert costs, and \$10,000 to be paid to each of the seven Class Representatives (\$70,000 total), to the extent approved by the Court. The amount that will be available for distribution to Class Members (known as the “Net Settlement Amount”) will be the Settlement Amount minus the amounts used for other Settlement purposes (Case Contribution Fees, Court-approved Attorneys’ Fees and Expenses to Class Counsel, Administration Expenses, and certain taxes and tax-related costs). To the extent the amount requested for Attorneys’ Fees and Expenses and Case Contribution Fees is not approved by the Court, then the money will be included in the amount distributed to Class Members.

8. How may I benefit from the Settlement?

You may benefit by receiving payment of a portion of the Net Settlement Amount. The amount paid to each Current Participant and Authorized Former Participant will be determined by a Plan of Allocation. As explained below, if you are a Current Participant, or Beneficiary or Alternate

Payees of a Plan participant and you have an active account in the Plan, you do not need to take any action to receive payment under the Settlement. If you are a Former Participant, or a Beneficiary or Alternate Payee of a Plan participant and you do not have an active account in the Plan, you can submit a Former Participant Claim Form by the deadline for submission in order to receive payment. Payments made to Current Participants, or to Beneficiaries or Alternate Payees of Plan participants who have active accounts in the Plan under the Settlement shall be made into these persons' individual investment accounts in the Plan. Payments made to Authorized Former Participants, or to Beneficiaries or Alternate Payees of Plan participants who do not have active accounts in the Plan under the Settlement may be made either by check or tax-qualified rollover to an individual retirement account or other eligible employer plan.

9. How do I submit a claim for a Settlement Payment?

If you are a Current Participant, or a Beneficiary or Alternate Payee of a Plan participant and you have an active account in the Plan, you do not need to submit a claim to be eligible for a payment under the Settlement. Your payment amount will automatically be calculated by the Settlement Administrator. If you are a Former Participant, or a Beneficiary or an Alternate Payee and you do not have an active account in the Plan, you must submit a Former Participant Claim Form by the deadline for submission in order to be eligible for a payment under the Settlement. "Former Participant" means a person who had an account in the Plan during the Class Period and who did not have account in the Plan with a balance greater than \$0 as of [date], 2023 [actual date of Preliminary Approval Order to be substituted in final notice].

If you are a Former Participant, or a Beneficiary or Alternate Payee of a Plan participant and you do not have an active account in the Plan and want to receive any monetary benefits from the Settlement, you must submit the Former Participant Claim Form by no later than [date], 2023 [actual date to be 45 days after date of anticipated initial mailing to be substituted in final notice]. You must mail the Former Participant Claim Form to the address shown on the Form or email it to the Settlement Administrator at emailaddress.com.

A Former Participant Claim Form will be deemed submitted when it is actually received by the Settlement Administrator at the address listed in the Form.

Even if you do not submit a Former Participant Claim Form, you will be bound by the Settlement. (See answers to question 14 below.)

10. What is the Plaintiff receiving from the Settlement?

In this case, there are seven Class Representatives Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent. Class Counsel intends to ask the Court to award each Class Representative a Case Contribution Fee of \$10,000 in recognition of the work and effort they expended on behalf of the Class.

THE SETTLEMENT BENEFITS – WHAT YOU GIVE UP

11. What do I give up by participating in the Settlement?

Each Member of the Class gives Defendants a “release.” A release means you give up your rights to sue Defendants or receive any benefits from any other lawsuit against Defendants if the lawsuit asserts claims or relates in any way to the practices at issue in this lawsuit.

For additional details about the scope of the release, consult the Agreement or contact Class Counsel. (See answer to question 5 for details.)

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in this case?

Yes. The Court has appointed the law firms of Christina Humphrey Law, P.C. and Tower Legal Group, P.C. as Lead Class Counsel. Each firm’s contact information is provided under question 16. If you want to be represented by a different lawyer in this case, you may hire one at your own expense.

13. How will the lawyers (Class Counsel) be paid?

Class Counsel will ask the Court for an award of attorneys’ fees of up to 33.33% of the Settlement Amount up to \$250,000, based upon the value of the Settlement, the time they have devoted to this engagement, and a separate \$82,000 in expenses they have advanced in prosecuting this matter.

OBJECTING TO THE SETTLEMENT

14. What does it mean to object?

Objecting is simply telling the Court that you do not like something about the Settlement. Objecting will not have any bearing on your right to receive the benefits of the Settlement if it is approved by the Court.

15. What is the procedure for objecting to the Settlement, including any objection to Class Counsel’s Motion for Attorneys’ Fees and Expenses or Case Contribution Fees?

You can ask the Court to deny approval of the Settlement and/or the Motion for Attorneys’ Fees and Expenses of Class Counsel or the Case Contribution Fees to be requested for the Class Representatives by filing an objection or making an appearance at the Final Fairness Hearing and stating your objection. You can’t ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The Court, however, can award less than the amount requested by Class Counsel for attorneys’ fees and expenses or the amount requested for case contribution fees and, if the Court does so, because of an objection or in its own discretion, although that ruling could affect the timing and

amount of settlement payments, any such objection to or reduction in Class Counsel’s attorneys’ fees and expenses or case contribution fees to be paid to the Class Representatives would not otherwise affect the finality of the Settlement.

Any objection to the proposed Settlement or Motion for Attorneys’ Fees and Expenses or Case Contribution Fees can be submitted in writing. If you file a written objection, you may, but are not required to, appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers should (a) clearly identify the case name and number *Aquino, et al., v. 99 Cents Only Stores, et al.*, Case No 2:22-cv-01966 (C.D. Ca.), (b) be submitted to the Court either by mailing them to the Clerk, United States District Court for the Central District of California -Western Division, First Street U.S. Courthouse, 350 W 1st Street, Suite 4311 Los Angeles, CA 90012-4565, or by filing them in person at any location of the United States District Court for the Central District of California, and (c) be filed or postmarked on or before [date] [actual date to be 35 days before Final Fairness Hearing]. Your objection should include (1) your full name, current address, and current telephone number, and, if represented by counsel, any of your counsel’s name and contact information; (2) whether the objection applies only to the objecting Class Member, to a specific subset of the Class, or to the entire Class; (3) a statement of the position(s) the objector wishes to assert; (4) copies of any other documents that the objector wishes to submit in support of his/her/its position; and (5) a list of any other objections to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years.

ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE SHALL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL NOT HAVE ANY RIGHT TO OBJECT TO THE FAIRNESS OR ADEQUACY OF THE SETTLEMENT.

<u>Clerk of the Court</u>	<u>Class Counsel</u>	<u>Defense Counsel</u>
United States District Court, Central District of California – Western Division First Street U.S. Courthouse 350 W 1st Street, Suite 4311 Los Angeles, CA 90012-4565	Christina A. Humphrey Robert N. Fisher CHRISTINA HUMPHREY LAW, P.C. 1117 State Street, Santa Barbara, CA 93101 (805) 618-2924 James A. Clark Renee P. Ortega TOWER LEGAL GROUP, P.C. 11335 Gold Express Drive, Ste. 105 Gold River, CA 95670	Robyn C. Crowther Tahir L. Boykins STEPTOE & JOHNSON LLP 633 West Fifth Street, Suite 1900 Los Angeles, CA 90071 Paul J. Ondrasik Eric G. Serron STEPTOE & JOHNSON LLP 1330 Connecticut Avenue, NW Washington, DC 20036

THE COURT'S FAIRNESS HEARING

16. When/where will the Court decide whether to approve the Settlement?

On [date and time] [To be Established by the Court], in Courtroom 5C of the United States District Court for the Central District of California -Western Division, First Street U.S. Courthouse, 350 W 1st Street, Suite 4311 Los Angeles, CA 90012-4565, the Court will hold a Fairness Hearing to determine whether the proposed Settlement is fair, reasonable, and adequate and whether it should be approved. The hearing may be continued from time to time by the Court without further notice, please check the settlement website at www.com for updates. Instructions on appearing remotely via zoom (or some other software) will be posted on the settlement website at www.com.

17. Do I have to attend the Fairness Hearing?

No; however, you are welcome to attend at your own expense. If you file an objection to the Settlement, you do not have to go to Court to talk about it. As long as your objection is filed by [date][35 days before Fairness Hearing] and you comply with the requirements in answer to question 16 above, the Court will consider it. You also may send your own lawyer to attend the Fairness Hearing or you can attend yourself and simply state your objection on the record without filing a written objection beforehand.

18. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the hearing.

IF YOU DO NOTHING

19. What happens if I do nothing at all?

If you are a Current Participant, or a Beneficiary or Alternate Payee of a Plan participant and you have an active account in the Plan, you do not need to take any action to be eligible to receive the Settlement benefits. If you are a Former Participant, or a Beneficiary or Alternate Payee of a participant in the Plan and you do not have an active account in the Plan, you must submit a Former Participant Claim Form by the submission deadline or you will not receive any of the settlement payments described above in answer to questions 7 and 8.

DATED: [Date], 2023 [actual Notice date to be no later than 30 days after entry of Preliminary Approval Order]

THIS NOTICE HAS BEEN SENT TO YOU BY ORDER OF THE UNITED STATES

DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Exhibit A1

Former Participant Claim Form

If you are a Former Participant in a defined contribution 401(k) retirement plan known as the 99 Cents Only Stores LLC 401(k) Plan (the “Plan”) on or after from March 25, 2016, through [insert the date for Preliminary Approval] (the “Class Period”), or a Beneficiary or Alternate Payee (in the case of a person subject to a Qualified Domestic Relations Order (“QDRO”)) of a Former Participant (all of whom will be treated as Former Participants), and would like to receive a payment from the *Aquino, et al., v. 99 Cents Only Stores, et al.* Settlement, you must complete the form below and mail it to 99 Cents 401k Settlement Administrator, c/o ILYM Group, Inc., postmarked **NO LATER THAN _____, 2023**. “Former Participant” means a person who had an account in the Plan during the Class Period and who did not have an account in the Plan with a balance greater than \$0 as of [date of preliminary approval order]. “Beneficiary” or “Alternate Payee” means, for the purposes of this Former Participant Claim Form, a Beneficiary or Alternate Payee of a participant in the Plan (who maintained a positive account balance in the Plan during the Class Period), that no longer has an active account in the Plan.

Participant Information

Name		
Address		
Address 2		
City	State	Zip
Participant’s Social Security Number	Phone (Preferred)	Phone (Alternate)
Participant’s Date of Birth		
Email Address		

(Continued on page 2)

Beneficiary or Alternate Payee Information (IF APPLICABLE)

Your Name		
Address		
Address 2		
City	State	Zip
Your Social Security Number	Phone (Preferred)	Phone (Alternate)
Your Date of Birth		
Email Address		

Payment Election (choose only one)

I WANT A CHECK MADE PAYABLE TO ME AND MAILED TO ME. Choosing this option entails the Settlement Administrator to withhold 20% or more of your total payment for Tax Withholdings. The Settlement Administrator will mail your check to the Name and Address listed above.

OR

I WANT A CHECK MADE PAYABLE TO MY RETIREMENT ACCOUNT AS A ROLLOVER DISTRIBUTION. PLEASE MAKE THE CHECK PAYABLE TO:

Account Name	
Account Number	
Contact or Trustee (if required)	
Address Line 1	
Address Line 2	
City, State, Zip	

NOTE: There is no promise or assurance that these funds are eligible for rollover or tax-preferred treatment. The decision to seek rollover treatment is yours alone. Any questions about taxation or rollover treatment must be directed to your tax advisor or accountant. No one associated with this case can provide you with assistance or advice of any kind in this regard or answer any tax questions.

(Continued on page 3)

Required Certification Regarding Qualified Domestic Relations Order (“QDRO”): I hereby certify and represent under penalty of perjury that no portion of the payment to be received hereunder is subject to a QDRO, or, that a true and accurate and current copy of any applicable QDRO is attached hereto along with name and address of any payee other than Class Member. Payment will be made in accordance with any QDRO supplied.

Signature (Required): _____ **Date:** _____

Deceased Class Members

Deceased Class Members are not eligible for rollover treatment. A Beneficiary of a deceased person who was a participant in the Plan at any time during the Class Period, including executors, heirs, assigns, estates, personal representatives or successors-in-interest, must provide the following information with this Claim Form to 99 Cents 401k Settlement Administrator, c/o ILYM Group, Inc.:

- Evidence that such person is authorized to receive distribution of the deceased Class Member’s settlement payment and the name and if applicable the percentage entitlement of each person entitled to receive distribution;
- Social Security Number of each person entitled to receive payment;
- Current mailing address of each person entitled to receive payment; and
- Person(s) to whom check(s) should be made payable, and amount(s) of check(s).

Exhibit B

PLAN OF ALLOCATION

- 1.1 Each capitalized term below has the definition provided in the Settlement Agreement.
- 1.2 After the Effective Date, the Settlement Administrator shall cause the Net Settlement Amount to be allocated and distributed to the Authorized Former Participants as set forth in Paragraph 1.7 below, and to the Plan for payments to the accounts of Participants as set forth in Paragraph 1.6 below, both in accordance with the Plan of Allocation set forth herein and as ordered by the Court.
- 1.3 To be eligible for a payment from the Net Settlement Amount, a person must be a Participant, an Authorized Former Participant, a Beneficiary, or an Alternate Payee. Participants, and Beneficiaries or Alternate Payees with Active Accounts, shall receive their settlement payments as additions to their Active Accounts, as provided for in Paragraph 1.6 below. Authorized Former Participants, and Beneficiaries or Alternate Payees who do not have Active Accounts, shall receive their settlement payments in the form of rollovers to an individual retirement account or other eligible employer plan or in the form of checks, as provided in Paragraph 1.7 below.
- 1.4 Beneficiaries will receive settlement payments, as described in this Plan of Allocation, in amounts corresponding to their entitlement as Beneficiaries of the Participant or of the Authorized Former Participant with respect to which the payment is made. This includes settlement payments to Beneficiaries based upon the Participant's or Authorized Former Participant's Plan account during the Class Period and/or by the Beneficiary's own Plan account during the Class Period, if an account was created in the Plan for the Beneficiary. Alternate Payees will receive settlement payments if and to the extent they are entitled to receive a portion of a Participant's or Authorized Former Participant's allocation under this Plan of Allocation pursuant to the terms of the applicable QDRO, including Alternate Payees for whom an account was created in the Plan. Beneficiaries and Alternate Payees with Active Accounts will receive payments by the method described in this Plan of Allocation for Participants. Beneficiaries and Alternate Payees who do not have Active Accounts will receive payments by the method described in this Plan of Allocation for Authorized Former Participants. The Settlement Administrator shall have sole and final discretion to determine the amounts to be paid to Beneficiaries and Alternate Payees in accordance with the Plan of Allocation set forth herein and as ordered by the Court.
- 1.5 **Calculation of Settlement Payments.** Payments to Authorized Former Participants, Participants, Beneficiaries, or Alternate Payees, shall be calculated by the Settlement Administrator pursuant to the Plan of Allocation as follows:
 - 1.5.1 The Settlement Administrator shall determine a "Settlement Allocation Score" for each Participant, Authorized Former Participant, Beneficiary, or Alternate Payee by (i) determining the year-end account balances of each Participant and Authorized Former Participant during the Class Period, or, if a Beneficiary or Alternate Payee had a separate account in the Plan during the Class Period, by

determining the year-end balance of each such Beneficiary or Alternate Payee, and (ii) dividing the sum of each Participant's or Authorized Former Participant's, or to the extent applicable, each Beneficiary's or Alternate Payee's, year-end account balances during the Class Period by the total sum of year-end asset amounts in the Plan during the Class Period.

- 1.5.2 If the dollar amount of the settlement payment to an Authorized Former Participant, or a Beneficiary or Alternate Payee who does not have an Active Account, is initially calculated by the Settlement Administrator to be \$10.00 or less, then that person's payment shall be \$10.00. All such amounts shall be retained in the Qualified Settlement Fund for distribution under Paragraph 1.13.
- 1.5.3 The Plan Recordkeepers (or designee) shall provide the necessary data subject to its control as may be reasonably available and necessary to enable the Settlement Administrator to perform the above calculations.
- 1.5.4 The Settlement Administrator shall utilize the calculations required to be performed herein for (a) making the required payments to Authorized Former Participants, and to Beneficiaries or Alternate Payees who do not have Active Accounts, under Paragraph 1.7 of this Plan of Allocation; and (b) instructing the Plan as to the amount of the Net Settlement Amount to be allocated to Participants, and to Beneficiaries or Alternate Payees who have Active Accounts, under Paragraph 1.6 of this Plan of Allocation and calculating the total amount to deposit into each of their Active Account(s) to fulfill this instruction.
- 1.5.5 The total amount of all rollovers or checks to be paid by the Settlement Administrator for Authorized Former Participants, and Beneficiaries or Alternate Payees who do not have Active Accounts, plus the total amount of all allocations that the Plan is instructed to make to Participants, and Beneficiaries or Alternate Payees who have Active Accounts, may not exceed the Net Settlement Amount. Nothing in this Paragraph 1.5 is intended to modify the requirements of Paragraph 1.8 below. In the event that the Settlement Administrator determines that the Plan of Allocation total would otherwise exceed the Net Settlement Amount, the Settlement Administrator is authorized and required to make such pro rata changes as are necessary to the Plan of Allocation such that said total does not exceed the Net Settlement Amount.

1.6 Payments to Participants and Beneficiaries or Alternate Payees with Active Accounts. Participants, and Beneficiaries or Alternate Payees who have Active Accounts, will not be required to submit a Former Participant Claim Form to receive a settlement payment.

- 1.6.1 Within two (2) business days after the Settlement Administrator has completed all payment calculations for all Participants, and Beneficiaries or Alternate Payees who have Active Accounts, the Settlement Administrator will provide the Plan's Recordkeepers, in a format and via a delivery method mutually agreed upon by the Settlement Administrator and the Plan's Recordkeepers, with an Excel

spreadsheet containing the name, Social Security number (or alternative identifier(s) mutually acceptable), and amount of the settlement payment to be made into the Active Account(s) for each of these persons. In the event the Excel spreadsheet includes Social Security numbers, the Settlement Administrator will transmit the spreadsheet in a manner to protect the confidentiality of any such Social Security numbers.

- 1.6.2 Thereafter, within ten (10) business days' written notice to the Plan and the Plan's Recordkeepers, the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the trust for the Plan of the aggregate amount of all settlement payments payable to Active Participants, and Beneficiaries or Alternate Payees who have Active Accounts, as reflected in the spreadsheet provided by the Settlement Administrator. 99 Cents Only Stores LLC (or its designee) shall direct the Plan's Recordkeepers to credit the individual Active Account(s) of each such person in an amount equal to that stated on the spreadsheet provided by the Settlement Administrator in relation to each such person.
- 1.6.3 The settlement payment for each Participant who is an active participant in the Plan (i.e. has the right to make contributions to the Plan), will be invested in accordance with and proportionate to such Participant's investment elections then on file for new contributions. If the Participant is no longer an active participant in the Plan, or does not have an investment election on file, then such Participant shall be deemed to have directed such payment to be invested in the Plan's default investment option. Likewise, the settlement payment to each Beneficiary or Alternate Payee who has an Active Account will be invested in accordance with and proportionate to such person's investment elections then on file, or if such a person does not have investment elections on file, then such persons will be deemed to have directed such payments to be invested in the Plan's default investment option.
- 1.6.4 The Plan's Recordkeeper shall process all settlement payments to Participants, and Beneficiaries or Alternate Payees who have Active Accounts, as soon as administratively feasible after the Plan receives the payment from the Qualified Settlement Fund and the Excel spreadsheet containing the agreed-upon information.
- 1.6.5 The Plan may be amended, to the extent necessary, to reflect the settlement allocation to Active Account(s) in accordance with this Plan of Allocation.
- 1.6.6 If, as of the date when payments pursuant to this Settlement Agreement are made, a Participant, or Beneficiary or Alternate Payee who had an Active Account, no longer has an Active Account, he or she will be treated as an Authorized Former Participant for purposes of the settlement distribution only and will receive his or her payment from the Settlement Administrator in the form of a check or rollover as described in Paragraph 1.7. A Participant, or Beneficiary or Alternate Payee who had an Active Account, who no longer has an Active Account on the date of

his or her settlement distribution need not complete a Former Participant Claim Form.

1.7 **Payments to Authorized Former Participants, and Beneficiaries or Alternate Payees without Active Accounts.** Each Authorized Former Participant, and Beneficiary or Alternate Payee who does not have an Active Account, will have the opportunity to elect a rollover of his or her settlement payment to an individual retirement account or other eligible employer plan, which he or she has identified on the Former Participant Claim Form, provided that such a person supplies adequate information to the Settlement Administrator to effect the rollover. Otherwise, the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account, will receive his or her settlement payment directly by check. The distributions shall be issued as follows:

1.7.1 The Settlement Administrator will either effect from the Qualified Settlement Fund the rollover elected by the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account, in the Former Participant Claim Form (if the conditions for such rollover are satisfied) and any associated paperwork necessary to effect the settlement distribution by rollover, *or* issue a check from the Qualified Settlement Fund to the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account, and mail the check to the address of such person listed in his or her Former Participant Claim Form, or in the case of ambiguity or uncertainty, to the address of such person as determined by the Settlement Administrator using commercially reasonable means.

1.7.2 With respect to settlement payments that are not rolled over, the Settlement Administrator shall (i) calculate and withhold any applicable taxes associated with the payments allocable to the Authorized Former Participant, or Beneficiary or Alternate Payee who does not have an Active Account; (ii) report such payments and remit such tax withholdings to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to these persons.

1.8 This Plan of Allocation is based upon preliminary data regarding the Class Members who may be entitled to settlement payments. If the Settlement Administrator concludes that it is impracticable to implement any provision of this Plan of Allocation, the Settling Parties agree to promptly discuss modifications to the terms of this Plan of Allocation and present such modified terms to the Court for its approval. Direct mailed notice to Class Members of such proposed modification of the Plan of Allocation shall not be required. However, notice of such proposed modification shall be posted by the Settlement Administrator on the Settlement Website.

The Settlement Administrator shall be solely responsible for performing any calculations required by this Plan of Allocation.

1.9 Within ten (10) business days of completing all aspects of this Plan of Allocation, the Settlement Administrator shall send to Class Counsel and Defense Counsel one or more

affidavits stating the following: (a) the name of each Class Member to whom the Settlement Administrator sent the Settlement Notice and/or the Former Participant Claim Form, and the address of such mailing; (b) the date(s) upon which the Settlement Administrator sent the Settlement Notice and/or the Former Participant Claim Form; (c) the name of each Class Member whose Settlement Notice and/or Former Participant Claim Form was returned as undeliverable; (d) the efforts made by the Settlement administrator to find the correct address and to deliver the Settlement Notice and/or Former Participant Claim Form for each such Class Member; and (e) the name of each Class Member to whom the Settlement Administrator made a payment from the Net Settlement Amount, together with the amount and form of the payment, the name of the payee, the date of payment, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

- 1.10 The Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants and Defense Counsel will provide no tax advice to the Class Members and make no representation regarding the tax consequences of any of the settlement payments described in this Settlement Agreement. To the extent that any portion of any settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be treated as wages by the Parties.
- 1.11 Each Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold Defendants, the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Defendants, the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.
- 1.12 All checks issued pursuant to this Plan of Allocation shall expire one hundred eighty (180) calendar days after their issue date. All checks that are undelivered or are not cashed before their expiration date shall be paid to the designated cy pres, Pension Rights Center, per para. 5.5 of the Class Action Settlement Agreement.
- 1.13 No sooner than three hundred ninety-five (395) calendar days following the Settlement Effective Date, any Net Settlement Amount remaining in the Qualified Settlement Fund after payments, including costs and taxes, shall be paid to the designated cy pres, Pension Rights Center, per para. 5.6 of the Class Action Settlement Agreement.

Exhibit C

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No. 2:22-cv-01966- SPG

**[PROPOSED] PRELIMINARY
APPROVAL ORDER [ECF No. 67]**

SALVADOR AQUINO, SUSAN
FORD, MONICALAYLE GARCIA,
BARBARA KRAUS, MARTHA
LOPEZ, FRANCISCO MARTINEZ,
MEGAN SARGENT, individually and
as a representative of a Putative Class
of Participants and Beneficiaries, on
behalf of the 99 CENTS ONLY
STORES 401(K) PLAN,

Plaintiffs,

v.

99 CENTS ONLY STORES LLC; THE
RETIREMENT COMMITTEE OF THE
99 CENTS ONLY 401(K) PLAN; and
DOES 1 through 20,

Defendants.

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PRELIMINARY APPROVAL ORDER

- (1) **CONFIRMING PRELIMINARY CERTIFICATION OF THE SETTLEMENT CLASS;**
- (2) **GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT;**
- (3) **APPOINTING A SETTLEMENT ADMINISTRATOR;**
- (4) **ENJOINING CLASS MEMBERS FROM PURSUING ANY CLAIMS THAT ARISE OUT OF OR RELATE IN ANY WAY TO THE RELEASED CLAIMS PENDING FINAL APPROVAL OF THE SETTLEMENT;**
- (5) **DIRECTING NOTICE TO CLASS MEMBERS AND APPROVING THE FORM AND MANNER OF NOTICE;**
- (6) **APPROVING THE PLAN OF ALLOCATION;**
- (7) **SCHEDULING A FAIRNESS HEARING; AND**
- (8) **SCHEDULING A HEARING ON CLASS COUNSEL’S FEE AND EXPENSE APPLICATION AND PLAINTIFFS’ REQUEST FOR CASE CONTRIBUTION AWARDS.**

The Court, having received and considered the Unopposed Motion for a Preliminary Approval Order (the “Motion”) of Plaintiffs and Class Representatives Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent (collectively, “Plaintiffs” or “Class Representatives”) in *Aquino, et al., v. 99 Cents Only Stores, et al.*, C.D. Cal. Case No. 2:22-cv-01966-SPG, and the papers filed in support of the Motion, including the Class Action Settlement Agreement entered into as of April 17, 2023 and all exhibits thereto (the “Agreement”), and the declarations of counsel, having further considered the arguments of counsel and the pleadings and record in this case, and finding good cause for granting the Motion,

HEREBY ORDERS AS FOLLOWS:

1 1. Capitalized terms not defined in this Order shall have the meaning
2 ascribed to them in Article I of the Agreement.

3 2. This Court has jurisdiction to consider the Motion and the relief
4 requested therein under 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e)(1).

5 3. Venue before the Court is proper pursuant to 29 U.S.C. § 1132(e)(2).

6 4. The Court finds, on a preliminary basis and for the purposes of
7 settlement only, that the requirements for certification under Rule 23(a) and Rule
8 23(b)(1) are satisfied:

9 a) The Settlement Class meets the numerosity requirement of Rule
10 23(a)(1), as it consists of approximately 5700 class members.

11 b) The Class Representatives have asserted claims that have at least one
12 common question of law or fact to the Settlement Class and relate to the
13 management of the Plan as a whole.

14 c) The Class Representatives are current and former participants in the
15 Plan and are typical of other Class Members.

16 d) The Class Representatives have no conflicts with other Class Members,
17 are adequate to represent the Settlement Class, and have retained experienced and
18 qualified counsel to represent the Settlement Class as Class Counsel.

19 5. Class certification is appropriate under Rule 23(b)(1) because the Class
20 Representatives assert claims on behalf of the Plan as a whole, and prosecution of
21 separate actions by individual class members would create a risk of inconsistent or
22 varying adjudications with respect to individual class members that would establish
23 incompatible standards of conduct for Defendants and would be dispositive of the
24 interests of other class members as a practical matter or would substantially impair or
25 impede their ability to protect their interests.

26 a) The Court appoints Christina Humphrey Law, P.C., and Tower Legal
27 Group, P.C. as Class Counsel, and appoints Salvador Aquino, Susan Ford,
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1 Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan
2 Sargent, the Named Plaintiffs, as the Class Representatives.

3 b) The non-opt out Settlement Class will be preliminarily certified for
4 settlement purposes only, under the terms of the Agreement. The Settlement Class is
5 defined as: All current and former participants and beneficiaries of the Plan at any
6 time during the period from March 25, 2016 through the entry date of this
7 Preliminary Approval Order (the “Class Period”), including any beneficiary of a
8 deceased person who was a participant in the Plan at any time during the Class
9 Period, and any alternate payees, in the case of a person subject to a [qualified
10 domestic relations order (“QDRO”)] who was a participant in the Plan at any time
11 during the Class Period.

12 c) If the Court does not issue the Final Approval Order and Judgment, then
13 the certification will be vacated, and Defendants shall not be deemed to have
14 admitted the propriety of Class certification under any provision of Federal Rule 23.

15 d) The terms set forth in the Agreement are preliminarily approved, subject
16 to further consideration at the hearing the Court will hold pursuant to Federal Rule of
17 Civil Procedure 23(e) to determine whether the Settlement should receive final
18 approval by the Court, as provided for below (the “Fairness Hearing”). Having
19 considered the terms of the Settlement and the submissions in support of preliminary
20 approval, the Court determines, in accordance with Fed. R. Civ. P. 23(e)(1)(B), that
21 it is likely that the Court will be able to grant final approval of the Settlement under
22 Fed. R. Civ. P. 23(e)(2) following notice and a hearing. The Agreement therefore is
23 sufficiently within the range of reasonableness to warrant the preliminary approval of
24 the Agreement, the scheduling of the Fairness Hearing, and the issuance of Notice to
25 Class Members, each as provided for in this Order.

26 6. The Court approves the retention by Class Counsel of ILYM Group,
27 Inc. as the Settlement Administrator.

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1 7. In further aid of the Court’s jurisdiction to review, consider, implement,
2 and enforce the Settlement, the Court orders that Plaintiffs, all Class Members and
3 the Plan are preliminarily enjoined and barred from commencing, prosecuting, or
4 otherwise litigating, in whole or in part, either directly, individually, representatively,
5 derivatively, or in any other capacity, whether by complaint, counterclaim, defense,
6 or otherwise, in any local, state, or federal court, arbitration forum, or in any agency
7 or other authority or forum wherever located, any contention, allegation, claim, cause
8 of action, matter, lawsuit, or action (including but not limited to actions pending as
9 of the date of this Order), including, without limitation, any Unknown Claims, that
10 arises out of or relates in any way to the Released Claims or the Action.

11 8. The Court approves the Notice to Class Members in substantially the
12 forms attached as **Exhibits A-A1** to the Agreement. The Court approves the form
13 and content of the Notice and finds that the proposed Settlement Notices fairly and
14 adequately:

- 15 a. Summarize the claims that are asserted;
- 16 b. Identify the Settlement Class;
- 17 c. Describe the terms and effect of the Settlement Agreement,
18 including the benefits of the Settlement and the class
19 release;
- 20 d. Provide information regarding who is required to submit a
21 Claim Form and the process for doing so;
- 22 e. Notify the Settlement Class that Class Counsel will seek
23 compensation from the Net Settlement Amount for
24 Administrative Expenses, Attorneys’ Fees and Expenses,
25 and Case Contribution Fees;
- 26 f. Describe how the recipients of the Class Notice may object to the
27 Settlement, or any requested Administrative Expenses, Attorneys’ Fees
28 and Expenses, or Case Contribution Fees; and
- 29 g. Give notice to the Settlement Class of the time and place of
the Fairness Hearing, and Class Members’ right to appear.

30 9. The Court finds that the Plan of Allocation proposed by Plaintiffs and
31 Class Counsel for allocating the Settlement Amount to Class Members, as described

1 in **Exhibit B** to the Agreement, is likely to receive final approval and that the
2 agreement is within the range of reasonableness to warrant preliminary approval.

3 //

4 **Manner of Giving Notice**

5 10. Defendants shall use reasonable efforts to cause the Plan Recordkeepers
6 to provide to the Settlement Administrator, within fifteen (15) calendar days of the
7 entry of this Preliminary Approval Order, the Class Member List, as defined in the
8 Settlement Agreement in Section 8.2, sufficient to implement the Plan of Allocation,
9 and distribute the Net Settlement on the terms provided for in the Agreement. The
10 names and addresses provided to the Settlement Administrator pursuant to this Order
11 shall be used solely for the purpose of providing Notice of this Settlement and
12 distribution of the Settlement Fund, and for no other purpose and shall be treated as
13 “Confidential” under the Protective Order governing the Action (Case No. 2:22-cv-
14 01966-SPG, Dkt. 53).

15 11. Within fifteen (15) calendar days of receipt of the Class Member List,
16 the Settlement Administrator shall cause the Notice to be sent to each Class Member
17 by First Class Mail.

18 12. The same date the Notice is initially mailed, the Settlement
19 Administrator shall establish a website containing, the Notice, the Agreement and its
20 exhibits, this Order, the First Amended Complaint, and the Motions for Preliminary
21 Approval and Final Approval (when filed); the Motion for Attorneys’ Fees and
22 Expenses (when filed); any approval order or other Court orders related to the
23 Settlement, any amendments or revisions to these documents, and any other
24 documents or information mutually agreed upon by the Parties, as well as the date,
25 time, and instructions to attend the Fairness Hearing (and any changes thereto).

26 13. The same date the Notice is initially mailed, the Settlement
27 Administrator shall establish a toll-free telephone number to which Class Members
28 can direct questions about the Settlement.

1 14. The Court finds that the Notice to be provided as set forth in this Order
2 is the best means of providing notice to the Class Members as is practicable under
3 the circumstances and, when completed, shall constitute due and sufficient notice of
4 the Settlement and the Fairness Hearing to all persons affected by or entitled to
5 participate in the Settlement or the Fairness Hearing, in full compliance with the
6 requirements of due process and the Federal Rules of Civil Procedure.

7 15. All reasonable costs incurred by the Settlement Administrator for
8 providing the Notice as well as for administering the Settlement shall be paid as set
9 forth in the Agreement.

10 **Fairness Hearing**

11 16. The Court will hold the Fairness Hearing on
12 _____, at _____, in Courtroom 5C of the United States
13 District Court for the Central District of California -Western Division, First Street
14 U.S. Courthouse, 350 W. 1st Street, Suite 4311, Los Angeles, CA 90012-4565, for
15 the following purposes: (a) to determine whether the proposed Settlement on the
16 terms and conditions provided for in the Agreement is fair, reasonable, adequate, and
17 in the best interests of the Class and should be finally approved by the Court; (b) to
18 determine whether Class Counsel's Fee and Expense Application is reasonable and
19 should be approved; (c) to determine whether Plaintiffs' request for Case
20 Contribution Awards is reasonable and should be approved; (e) to determine whether
21 a Final Approval Order and Judgment substantially in the form attached as **Exhibit**
22 **D** to the Agreement should be entered dismissing with prejudice all Claims; and (f)
23 to consider any other matters that may properly be brought before the Court in
24 connection with the Settlement. Notice of the Settlement and the Fairness Hearing
25 shall be given to Class Members as set forth in Paragraphs 11 and 13 of this Order.

26 17. The Court may adjourn the Fairness Hearing and approve the Settlement
27 with such modification as the Parties may agree to, if appropriate, without further
28 notice to the Class.

1 18. Not later than thirty-five (35) calendar days before the Fairness Hearing,
2 Class Counsel shall submit their papers in support of final approval of the Agreement
3 and in support of Class Counsel’s Fee and Expense Application and Approval of
4 Case Contribution Awards.

5 19. Not later than thirty (30) calendar days before the Fairness Hearing, the
6 Independent Fiduciary shall submit its written determination to Defendants’ Counsel
7 and Class Counsel pursuant to Section 2.1 of the Agreement.

8 20. Not later than thirty-five (35) calendar days before the Fairness Hearing,
9 the Settlement Administrator shall submit its declaration affirming that the notice
10 process has been completed pursuant to the Settlement Agreement.

11 **Objections to the Settlement**

12 21. Class Members can request the Court to deny approval of the Settlement
13 and/or the Motion for Attorneys’ Fees and Expenses of Class Counsel or the Case
14 Contribution Fees to be requested for the Class Representatives by filing an
15 objection or making an appearance at the Fairness Hearing and stating the objection.
16 The Court will consider written comments and objections to the Settlement, to the
17 proposed Motion for Attorneys’ Fees and Expenses, and to Plaintiffs’ request for
18 Case Contribution Awards. No appearance is necessary at the Fairness Hearing if the
19 objection is submitted in writing. If the objection is submitted in writing, it should
20 (a) clearly identify the case name and number (i.e. *Aquino, et al. v. 99 Cents Only*
21 *Stores., et al.*, Case No. 22-cv- 01966-SPG), (b) be submitted to the Court either by
22 mailing it to the Clerk of the Court, United States District Court for the Central
23 District of California, Clerk of the Court for the United States District Court for the
24 Central District of California -Western Division, First Street U.S. Courthouse, 350
25 W. 1st Street, Suite 4311, Los Angeles, CA 90012-4565, or by filing it in person at
26 any location of the United States District Court for the Central District of California,
27 and (c) be filed or postmarked on or before _____ [actual date to be 35 days
28 before Final Fairness Hearing]. Your objection should including the following

1 information: (1) his/her/its full name, current address, and current telephone number,
2 and, if represented by counsel, any of his/her/its counsel's name and contact
3 information; (2) whether the objection applies only to the objecting Class Member,
4 to a specific subset of the Class, or to the entire Class; (3) a statement of the
5 position(s) the objector wishes to assert; (4) copies of any other documents that the
6 objector wishes to submit in support of his/her/its position; and (5) a list of any other
7 objections to any class action settlements submitted in any court, whether state,
8 federal, or otherwise, in the United States in the previous five (5) years.

9 22. Any Class Member who files and serves a written comment or objection
10 may also appear at the Fairness Hearing either in person or through qualified counsel
11 retained at their own expense. Any comment or objection that is timely filed or
12 postmarked will be considered by the Court even in the absence of a personal
13 appearance by the Class Member or that Class Member's counsel.

14 23. The Parties may file written responses to any objections not later than
15 five (5) business days before the Fairness Hearing or submit an oral response at the
16 Fairness Hearing.

17 **Termination of Settlement**

18 24. This Order shall become null and void, *ab initio*, and shall be without
19 prejudice to the rights of the Parties, all of whom shall be deemed to have reverted to
20 their respective status in the Action as of April 1, 2023, (for Plaintiffs and the 99
21 Cents Defendants), if Settlement is terminated in accordance with the terms of the
22 Agreement.

23 **Use of Order**

24 25. This Order is not admissible as evidence for any purpose against the
25 Defendants or the Released Parties in any pending or future litigation. This Order:
26 (a) shall not give rise to any inference of, and shall not be construed or used as an
27 admission, concession, or declaration against any of the Defendants or the Released
28 Parties of wrongdoing or liability in the Action or any other proceeding; (b) is not an

1 admission of any liability of any kind, whether legal or factual; (c) shall not be used
2 or received in evidence in any action or proceeding for any purpose, except in an
3 action or proceeding to enforce the Agreement, whether affirmatively or defensively;
4 (d) shall not be construed or used as an admission, concession, or declaration by or
5 against Plaintiffs, the Plan, or the Class Members that their claims lack merit or that
6 the relief requested in the Action is inappropriate, improper or unavailable; and (e)
7 shall not be construed or used as an admission, concession, declaration or waiver by
8 any Party of any arguments, defenses, or claims he, she, or it may have in the event
9 that the Agreement is terminated. This Order and the Agreement and any
10 proceedings taken pursuant to the Agreement are for settlement purposes only.

11 **Jurisdiction**

12 26. The Court may adjourn or continue the Fairness Hearing without further
13 direct notice to the Class Members other than by notice to Class Counsel and retains
14 jurisdiction to consider all further applications or matters arising out of or connected
15 with the proposed Settlement. The Court may approve the Settlement, with such
16 modifications as may be agreed to by the Parties, if appropriate, without further
17 notice to the Class.

18
19 **IT IS SO ORDERED.**

20
21 Dated:

22 HON. SHERILYN PEACE GARNETT
23 UNITED STATES DISTRICT JUDGE
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Exhibit D

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No. 2:22-cv-01966- SPG

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT (ECF No. _)**

SALVADOR AQUINO, SUSAN
FORD, MONICALAYLE GARCIA,
BARBARA KRAUS, MARTHA
LOPEZ, FRANCISCO MARTINEZ,
MEGAN SARGENT, individually and
as a representative of a Putative Class
of Participants and Beneficiaries, on
behalf of the 99 CENTS ONLY
STORES 401(K) PLAN,

Plaintiffs,

v.

99 CENTS ONLY STORES LLC; THE
RETIREMENT COMMITTEE OF THE
99 CENTS ONLY 401(K) PLAN; and
DOES 1 through 20,

Defendants.

1 **[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT**

2 WHEREAS, Plaintiffs and Class Representatives Salvador Aquino, Susan
3 Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and
4 Megan Sargent (collectively, “Plaintiffs”) in the action, *Aquino, et al., v. 99 Cents*
5 *Only Stores, et al.*, C.D. Cal. Case No. 2:22-cv-01966-SPG, on behalf of themselves
6 and the Class and the Plan, on the one hand, and Defendants 99 Cents Only Stores
7 LLC; and The Retirement Committee Of The 99 Cents Only 401(K) Plan
8 (collectively, the “Defendants”), on the other hand, have entered into a Settlement
9 Agreement and Release dated April 17, 2023(the “Agreement” or “Settlement
10 Agreement”), which provides for a complete dismissal with prejudice of all claims
11 asserted in the Action against Defendants by the Class on the terms and conditions
12 set forth in the Agreement, subject to the approval of this Court (the “Settlement”);

13 WHEREAS, the capitalized terms not defined in this Final Approval Order
14 and Judgment shall have the same meaning ascribed to them in Article I of the
15 Agreement;

16 WHEREAS, by Order dated [REDACTED], 2023 (the “Preliminary
17 Approval Order”), this Court (1) preliminarily certified the Class for settlement
18 purposes only; (2) preliminarily approved the Settlement; (3) appointed a Settlement
19 Administrator; (4) directed notice be given to the Class and approved the form and
20 manner of Notice; (5) approved the Plan of Allocation; and (6) scheduled a Fairness
21 Hearing;

22 WHEREAS, the Court conducted a hearing on [REDACTED], 2023 (the
23 “Fairness Hearing”) to consider, among other things: (1) whether the Class should be
24 certified for settlement purposes only; (2) whether the proposed Settlement on the
25 terms and conditions provided for in the Agreement is fair, reasonable, adequate, and
26 in the best interests of the Class and should be finally approved by the Court; (3)
27 whether Class Counsel’s Fee and Expense Application is reasonable and should be
28 approved; (4) whether Plaintiffs’ requests for Case Contribution Awards are

1 reasonable and should be approved; and (5) whether this Final Approval Order and
2 Judgment should be entered dismissing with prejudice all claims asserted in the
3 Action against Defendants; and

4 WHEREAS, the Court having reviewed and considered the Agreement, all
5 papers filed and proceedings held herein in the Action in connection with the
6 Settlement, all oral and written comments received regarding the Settlement, and the
7 record in the Action, and good cause appearing therefor;

8 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
9 DECREED:

10 1. **Jurisdiction**: The Court has jurisdiction over the subject matter of the
11 Action, and all matters relating to the Settlement, as well as personal jurisdiction
12 over all of the Parties and each of the Class Members.

13 2. **Incorporation of Settlement Documents**: This Final Approval Order
14 and Judgment incorporates and makes a part hereof: (a) the Agreement filed with the
15 Court on April 19, 2023, including the exhibits submitted therewith; and (b) the
16 Notice approved by the Court on [REDACTED], 2023.

17 3. **Class Certification**: The Court has held that the non-opt out Class
18 should be certified under Federal Rule of Civil Procedure 23(a) and 23(b)(1), under
19 the terms of the Agreement. The Court confirms that the class preliminarily certified
20 under Fed. R. Civ. P. 23(b)(1) is appropriate for the reasons set forth in its
21 Preliminary Approval Order, and hereby finally certifies the following non-opt-out
22 class:

23 All persons who participated in the Plan at any time during the period from
24 March 25, 2016 through and including [the date of the Preliminary Approval
25 Order] (the "Class Period"), including any Beneficiary of a deceased Person
26 who participated in the Plan at any time during the Class Period, and any
27 Alternate Payee of a Person subject to a QDRO who participated in the Plan at
28

1 any time during the Class Period. Excluded from the Settlement Class are
2 Defendants and their Beneficiaries.

3 4. **Notice:** The Court finds that the dissemination of the Notice: (a) was
4 implemented in accordance with the Preliminary Approval Order; (b) constituted the
5 best notice reasonably practicable under the circumstances; (c) constituted notice that
6 was reasonably calculated, under the circumstances, to apprise all Class Members of
7 the pendency of the Action, of the effect of the Settlement (including the releases
8 provided for therein), of their right to object to the Settlement and appear at the
9 Fairness Hearing, of Class Counsel's Motion for Attorneys' Fees, Reimbursement of
10 Expenses, and of the Class Representatives' request for Case Contribution Awards;
11 (d) constituted due, adequate, and sufficient notice to all persons or entities entitled
12 to receive notice of the proposed Settlement; and (e) satisfied the requirements of
13 Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution
14 including the Due Process Clause, and all other applicable law and rules.

15 5. **Objections:** The Court finds that there were no objections submitted to
16 the Settlement Agreement, to the Administration Costs, to the Motion for Attorneys'
17 Fees, Reimbursement of Expenses, and the Class Representatives' request for Case
18 Contribution Awards.

19 6. **Final Settlement Approval:** Pursuant to Fed. R. Civ. P. 23(e), the
20 Court hereby approves the Settlement and the terms therein as a fair, reasonable, and
21 adequate settlement and compromise of the claims asserted in the Class Action. The
22 Court finds that the Settlement is fair, reasonable, and adequate to the Plan and Class
23 Members based on the following findings of fact, conclusions of law, and
24 determinations of mixed fact/law questions:

- 25 a. The Settlement resulted from arm's-length negotiations by experienced and
26 competent counsel overseen by a neutral mediator;
- 27 b. The Settlement was negotiated only after Class Counsel had conducted a
28 pre-settlement investigation and received pertinent information and

- 1 documents from Defendants in discovery;
- 2 c. Class Counsel and Plaintiffs were well-positioned to evaluate the value of
- 3 the Action;
- 4 d. If the Settlement had not been achieved, Plaintiffs and the Class Members
- 5 faced significant expense, risk, and uncertainty in connection with the
- 6 litigation, which likely would have been prolonged;
- 7 e. The amount of the Settlement is fair, reasonable, and adequate in light of the
- 8 claims that were asserted, the risks of litigation, and settlements in other
- 9 similar cases, and the Plan of Allocation is also fair, reasonable, and
- 10 appropriate;
- 11 f. The Class Representatives and Class Counsel support the Settlement, and
- 12 have concluded that the Agreement is fair, reasonable, and adequate;
- 13 g. Class Members had the opportunity to be heard on all issues relating to the
- 14 Settlement and the requested Administrative Expenses, Attorneys' Fees and
- 15 Costs, and Class Representatives' Compensation by submitting objections
- 16 to the Settlement Agreement to the Court. There were no objections to the
- 17 Settlement.
- 18 h. The Settlement also was reviewed by an Independent Fiduciary, who has
- 19 approved and authorized the Settlement.

20 7. The Motion for Final Approval of the Settlement Agreement is hereby
21 GRANTED, the Settlement of the Class Action is APPROVED as fair, reasonable,
22 and adequate to the Plan and the Settlement Class, and the Parties are hereby directed
23 to take the necessary steps to effectuate the terms of the Agreement.

24 8. Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses,
25 and Class Representatives' Case Contribution Awards, is hereby approved.

26 9. Pursuant to, and in accordance with, Rule 23 of the Federal Rules of
27 Civil Procedure, this Court fully and finally approves the Settlement set forth in the
28 Agreement in all respects including, without limitation, the terms of the Settlement;

1 the releases provided for therein; and the dismissal with prejudice of the claims
2 asserted in the Action, and finds that the Settlement is, in all respects, fair,
3 reasonable, and adequate, and is in the best interests of Plaintiffs, the Class, and the
4 Plan. The Parties are directed to implement, perform, and consummate the
5 Settlement in accordance with the terms and provisions of the Agreement.

6 10. The Settlement Administrator shall have final authority to determine the
7 share of the Net Settlement Amount to be allocated to each Active Participant and
8 each Authorized Former Participant pursuant to the Plan of Allocation.

9 11. With respect to payments or distributions to Authorized Former
10 Participants, all questions not resolved by the Settlement Agreement shall be
11 resolved by the Settlement Administrator in its sole and exclusive discretion.

12 12. Within twenty-one (21) calendar days following the issuance of all
13 settlement payments to Class Members as provided by the Plan of Allocation, the
14 Settlement Administrator shall prepare and provide to Class Counsel and Defense
15 Counsel a list of each person who received a settlement payment or contribution
16 from the Qualified Settlement Fund and the amount of such payment or contribution.

17 13. **Dismissal of Claims:** As of the Effective Date, pursuant to Fed. R. Civ.
18 P. 54(b), all of the Claims against Defendants are dismissed with prejudice. The
19 Parties shall bear their own costs and expenses, except as otherwise expressly
20 provided in the Agreement.

21 14. **Binding Effect:** The terms of the Agreement and of this Final Approval
22 Order and Judgment shall be forever binding on Defendants, Plaintiffs, and all Class
23 Members, as well as their respective current and former beneficiaries, heirs,
24 descendants, dependents, marital communities, administrators, executors,
25 representatives, predecessors, successors, and assigns, and as described under the
26 Agreement.

27 15. **CAFA:** Pursuant to the Class Action Fairness Act, 29 U.S.C. § 1711, et
28 seq., a separate notice of the Settlement (“CAFA Notice”) was provided to the

1 Attorneys General for each of the states in which a Class Member resides, the
2 Attorney General of the United States, and the United States Secretary of Labor. All
3 requirements of the Class Action Fairness Act (“CAFA”), 29 U.S.C. § 1711, et seq.,
4 have been met, and Defendants have fulfilled their obligations under CAFA.

5 16. **Releases:** The releases of the Released Claims, as set forth in the
6 Agreement (the “Releases”), are expressly incorporated herein in all respects. The
7 Releases are effective as of the date of the entry of this Final Approval Order and
8 Judgment.

9 17. **No Admissions:** This Final Approval Order and Judgment, the
10 Preliminary Approval Order, the Agreement, including the exhibits thereto and the
11 Plan of Allocation contained therein (or any other plan of allocation that may be
12 agreed-upon by the Parties or approved by the Court) and any other supporting
13 papers, and any related negotiations or proceedings: (a) shall not give rise to any
14 inference of, and shall not be construed or used as an admission, concession, or
15 declaration against any of the Defendants or Released Parties of wrongdoing or
16 liability in the Action or any other proceeding; (b) are not an admission of any
17 liability of any kind, whether legal or factual; (c) shall not be used or received in
18 evidence in any action or proceeding for any purpose, except in an action or
19 proceeding to enforce the Agreement, whether affirmatively or defensively; (d) shall
20 not be construed or used as an admission, concession, or declaration by or against
21 Plaintiffs, the Plan, or the Class that their claims lack merit or that the relief
22 requested in the Action is inappropriate, improper, or unavailable; and (e) shall not
23 be construed or used as an admission, concession, declaration, or waiver by any
24 Party of any arguments, defenses, or claims he, she, or it may have in the event that
25 the Agreement is terminated. This Final Approval Order and the Agreement and any
26 proceedings taken pursuant to the Agreement are for settlement purposes only.

27 18. **Retention of Jurisdiction:** Without affecting the finality of this Final
28 Approval Order and Judgment in any way, this Court retains continuing and

1 exclusive jurisdiction over: (a) the Parties for purposes of the administration,
2 interpretation, implementation, and enforcement of the Settlement; (b) the
3 disposition of the Settlement Fund; (c) Class Counsel’s Fee and Expense Application
4 and the Class Representatives’ request for Case Contribution Awards; and (d) the
5 Class Members for all matters relating to the Action.

6 19. **Modification of the Agreement:** Without further approval from the
7 Court, Plaintiffs and Defendants are authorized to agree to and adopt such
8 amendments or modifications of the Agreement or any exhibits attached thereto to
9 effectuate this Settlement that: (a) are not materially inconsistent with this Final
10 Approval Order and Judgment; and (b) do not materially limit the rights of Class
11 Members in connection with the Settlement.

12 20. **Termination:** If the Settlement does not go into effect or is terminated
13 as provided for in the Agreement, then this Final Approval Order and Judgment (and
14 any orders of the Court relating to the Settlement) shall be vacated, rendered null and
15 void, and be of no further force or effect, except as otherwise provided by the
16 Agreement.

17 21. **Entry of Final Judgment:** There is no just reason to delay entry of this
18 Final Approval Order and Judgment as a final judgment with respect to the claims
19 asserted in the Action. Accordingly, the Clerk of the Court is expressly directed to
20 immediately enter this Final Approval Order and Judgment pursuant to Fed. R. Civ.
21 P. 54(b) as against Defendants.

22
23 **IT IS SO ORDERED.**

24
25 Dated:

26 _____
27 HON. SHERILYN PEACE GARNETT
28 UNITED STATES DISTRICT JUDGE

Exhibit E

Eric G. Serron.
202 429 6470
ESerron@steptoe.com

Steptoe

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoe.com

April __, 2023

VIA FEDERAL EXPRESS

The Honorable Merrick B. Garland
Attorney General of the United States of America
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The State Attorneys General (identified on Attachment A hereto)

Re: Defendants' Class Action Fairness Act Notice in *Aquino v. 99 Cents Only Stores LLC and The Retirement Committee of the 99 Cents Only 401(k) Plan, Case No. 2:22-cv-01966-SPG (AFMx), C. D. Ca.*

Dear Attorney General Garland and State Attorneys General:

In accordance with the Class Action Fairness Act of 2005 ("CAFA"), Defendants 99 Cents Only Stores LLC and The Retirement Committee of the 99 Cents Only 401(k) Plan, in the above action, provide this Notice to advise you that, on April 19, 2023, Plaintiffs Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent filed a proposed class action settlement agreement in the above action. This letter and enclosures are submitted on behalf of all parties named as defendants.

The specified documents referenced in CAFA are contained on the CD enclosed with this letter. The CD contains a .PDF copy of each of the following:

- Class Action Complaint of Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent (ECF 1);
- First Amended Class Action Complaint of Salvador Aquino, Susan Ford, Monicalayle Garcia, Barbara Kraus, Martha Lopez, Francisco Martinez, and Megan Sargent (ECF 40);

- Notice of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, Conditional Certification of Settlement Class, Approval of Class Notice, and Scheduling of a Fairness Hearing (ECF [REDACTED]);
- Memorandum of Points and Authorities in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, Conditional Certification of Settlement Class, Approval of Class Notice, and Scheduling of a Fairness Hearing (ECF [REDACTED]);
- Declaration of Christina A. Humphrey in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, Conditional Certification of Settlement Class, Approval of Class Notice, and Scheduling of a Fairness Hearing (ECF [REDACTED]);
- Declaration of James A. Clark in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, Conditional Certification of Settlement Class, Approval of Class Notice, and Scheduling of a Fairness Hearing (ECF [REDACTED]);
- Declaration of Lisa Mullins (ECF [REDACTED]);
- Class Action Settlement Agreement (ECF [REDACTED]);
- Notice of Class Action Settlement (ECF [REDACTED]);
- Class Counsel's Proposed Plan of Allocation (ECF [REDACTED]);
- [Proposed] Preliminary Approval Order (ECF [REDACTED]);
- [Proposed] Final Approval Order and Judgment (ECF [REDACTED]);

Based on currently available information, a reasonable estimate of the number of settlement class members residing in each State is shown on Attachment B. It is not feasible to provide the estimated proportionate share of class members' claims to the entire settlement pursuant to 28 U.S.C. § 1715(b)(7). Plaintiffs are developing a Plan of Allocation to be submitted to the Court in connection with final approval of the settlement. Under the Class Action Settlement Agreement, a portion of the settlement fund of \$750,000 will be used to pay plaintiffs' attorneys fees and costs, service awards to class representatives, settlement administration expenses, as well as any taxes that are or will be owed.

The final fairness hearing is scheduled for _____, 2023, at _____ .m., before United States District Court Judge Sherilyn Peace Garnett, at the First Street Courthouse, 350 West 1st Street, Courtroom 5C, Los Angeles, California 90012.

There are no settlements or other agreements contemporaneously made between the class counsel and counsel for defendants other than as contained in the Settlement Agreement.

If you are unable to access any of the information included on the enclosed CD, or if you have other questions, please contact us.

Very truly yours,

Eric G. Serron

*On Behalf of Defendants 99 Cents Only Stores LLC
and The Retirement Committee of the 99 Cents Only
401(k) Plan*

cc: Paul J. Ondrasik, Jr., Esq. (without enclosure)

Christina Humphrey, Esq. (without enclosure)

James A. Clark, Esq. (without enclosure)

Renee P. Ortega, Esq. (without enclosure)

**ATTACHMENT A
State Attorneys General**

The Honorable Ellen F. Rosenblum
Attorney General of Oregon
Office of the Attorney General
ATTN: CAFA Coordinator
1162 Court St. NE
Salem, OR 97301-4096

The Honorable Andrea Campbell
Attorney General of the Commonwealth of Massachusetts
Office of the Attorney General
ATTN: CAFA Coordinator/General Counsel's Office
One Ashburton Place
Boston, MA 02108

The Honorable Chris Carr
Attorney General of the State of Georgia
Office of the Attorney General
ATTN: CAFA Coordinator
40 Capitol Square, SW
Atlanta, GA 30334

The Honorable Letitia James
New York Attorney General
Office of the Attorney General
ATTN: CAFA Coordinator
The Capitol
Albany, NY 12224-0341

The Honorable Ashley Moody
Attorney General of the State of Florida
Office of the Attorney General
ATTN: CAFA Coordinator
PL-01 The Capitol
Tallahassee, FL 32399-1050

The Honorable Rob Bonta
Attorney General of California
Office of the Attorney General
ATTN: CAFA Coordinator
Office of the Attorney General
Consumer Protection Section
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

The Honorable Josh Stein
Attorney General of North Carolina
Department of Justice
ATTN: CAFA Coordinator
9001 Mail Service Center
Raleigh, NC 27699-9001

The Honorable Steve Marshall
Attorney General of Alabama
ATTN: CAFA Coordinator
501 Washington Ave. P.O. Box 300152
Montgomery, AL 36130-0152

The Honorable Kris Mayes
Attorney General of Arizona
ATTN: CAFA Coordinator
2005 N Central Avenue
Phoenix, AZ 85004 |

The Honorable Tim Griffin
Attorney General of Arkansas
323 Center St., Suite 200
Little Rock, AR 72201-2610

The Honorable Phil Weiser
Attorney General of Colorado
ATTN: CAFA Coordinator
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 10th Floor
Denver, CO 8020

The Honorable Anne E. Lopez
Attorney General of Hawaii
425 Queen Street
Honolulu, HI 96813

The Honorable Todd Rokita
Attorney General of Indiana
ATTN: CAFA Coordinator
Indiana Government Center South – 5th Floor
302 West Washington Street
Indianapolis, IN 46204

The Honorable Brenna Bird
Attorney General of Iowa
ATTN: CAFA Coordinator
Hoover State Office Bldg.
1305 E. Walnut
Des Moines, IA 50319

The Honorable Dana Nessel
Attorney General of Michigan
ATTN: CAFA Coordinator
P.O. Box 30212
525 W. Ottawa St.
Lansing, MI 48909-0212

The Honorable Keith Ellison
Attorney General of Minnesota
ATTN: CAFA Coordinator
Suite 102, State Capital
75 Dr. Martin Luther King Blvd.
St. Paul, MN 55155

The Honorable Andrew Bailey
Attorney General of Missouri
Supreme Ct. Bldg.
207 W.High St.
Jefferson City, MO 65101

The Honorable Aaron D. Ford
Attorney General of Nevada
ATTN: CAFA Coordinator
Old Supreme Ct. Bldg
100 N. Carson St.
Carson City, NV 89701

The Honorable Matthew Platkin
Attorney General of New Jersey
ATTN: CAFA Coordinator
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 080
Trenton, NJ 08625

The Honorable Raul Torrez
Attorney General of New Mexico
P.O. Drawer 1508
Santa Fe, NM 87504-1508

The Honorable Gentner Drummond
Attorney General of Oklahoma
ATTN: CAFA Coordinator
313 NE 21st St.
Oklahoma City, OK 73105

The Honorable Jonathan Skrmetti
Attorney General of Tennessee
ATTN: CAFA Coordinator
425 5th Avenue North
Nashville, TN 37243

The Honorable Ken Paxton
Attorney General of Texas
ATTN: CAFA Coordinator
Capitol Station
P.O.Box 12548
Austin, TX 78711-2548

The Honorable Sean Reyes
Attorney General of Utah
ATTN: CAFA Coordinator
State Capitol, Rm. 236
Salt Lake City, UT 84114-0810

The Honorable Jason Miyares
Attorney General of Virginia
ATTN: CAFA Coordinator
202 North Ninth Street
Richmond, VA 23219

The Honorable Bob Ferguson
Attorney General of Washington
ATTN: CAFA Coordinator
1125 Washington St. SE
P.O. Box 40100
Olympia, WA 98504-0100

The Honorable Josh Kaul
Attorney General of Wisconsin
ATTN: CAFA Coordinator
Wisconsin Department of Justice
State Capitol, Room 114 East
P. O. Box 7857
Madison, WI 53707-7857

ATTACHMENT B

STATE	Estimated Numbers of Class Members
AL	2
AR	1
AZ	479
CA	4402
CO	4
FL	13
GA	1
HI	2
IA	2
IN	1
MA	1
MI	2
MN	1
MO	2
NC	3
NJ	1
NM	1
NV	243
NY	1
OK	1
OR	3
TN	5
TX	523
UT	2
VA	1
WA	2
WI	2
Out of Country	2