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10 Attorneys for Plaintiffs
11 JOHN DOE, DAVID GUDEMAN
12 AND PAOLA CORREA

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF SAN FRANCISCO

15 JOHN DOE, DAVID GUDEMAN, and
16 PAOLA CORREA, on behalf of the State of
17 California and aggrieved employees,

18 Plaintiffs,

19 vs.

20 GOOGLE, INC., ALPHABET, INC.
21 ADECCO USA INC., ADECCO GROUP
22 NORTH AMERICA and ROES 1 through 10,

23 Defendants.

Case No. CGC-16-556034

**BAKER DECLARATION AND
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFF CORREA'S
MOTION FOR INCENTIVE PAYMENT**

Hearing Date: March 4, 2019

Time: 2:00 p.m.

Department: 304 (COMPLEX)

Judge: Hon. A.C. Massullo

Complaint Filed: December 20, 2016

Trial Date: Not set

24 I, Chris Baker, declare as follows:

25 1. I am counsel of record for the Plaintiffs in this action. I have personal knowledge
26 of the following facts.

27 2. Attached to this declaration are copies of court records concerning incentive
28 payments and/or enhancement awards that superior courts have awarded to PAGA plaintiffs in
other cases.

- a. **Exhibit 1** is an order from the Alameda County Superior Court in *Garrett v. Bank of America*, Case No. RG13699027 (October 28, 2016). In this order, the superior court awarded three PAGA plaintiffs \$25,000 each as service awards.
- b. **Exhibit 2** is an order and related papers from the Orange County Superior Court in *Brewer v. Connell Chevrolet*, Case No. 30-2016-00852123. In this case, the superior court approved a PAGA settlement in which the PAGA representative was awarded an individual settlement payment of \$15,000.
- c. **Exhibit 3** is an order and related papers from the Los Angeles Superior Court in *Jones v. J.C. Penny Corporation*, Case No. 30-2016-00852123. In this case, the superior court approved a PAGA settlement in which the PAGA representative received a service award of \$10,000.
- d. **Exhibit 4** is an order and related papers from the San Bernardino Superior Court in *Garcia v. Macy's West Stores*, Case No. CIVDS1516007. In this case, the superior court approved a PAGA settlement in which the superior court approved a service award of \$10,000.

3. The Court is authorized to take judicial notice of its own and other courts' records. Cal. Evid. Code § 452. The above-referenced records are relevant because they help demonstrate the reasonableness of Correa's request for an incentive payment.

4. In addition, plaintiff Correa has actively supported this case. She has been responsive. She has been communicative. She has asked very good questions and she understand the case. She has risked a lot. It is scary to sue Google and Adecco (Google's largest supplier of temporary labor and a huge staffing firm with hundreds of thousands of temporary employees), and this is a high-profile case. Correa attended the day long mediation with Adecco in April 2018. She has reviewed the documents in this case. She responded to discovery and provided evidentiary support to the motion practice and otherwise, including an extensive declaration in support of Plaintiff's motion for summary judgment. She will not "benefit financially" from this settlement in any meaningful sense, yet she has obtained a substantial payment to the State of California. Moreover, through her efforts, she has changed Adecco's employment practices with respect to the

1 Adult Content Liability Release and accomplished the rescission of more than 2,000 unlawful
2 provisions in employment agreements signed by Adecco employees.

3 5. I fully support Correa's request for a modest incentive payment of \$1000.

4 I declare, under penalty of perjury, under the laws of the State of California, that the
5 foregoing is true and correct. Executed this 28th day of January, 2019, in San Francisco,
6 California.

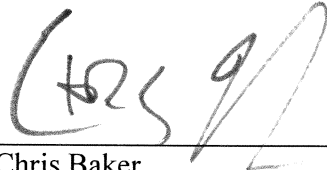
7 
8 _____
9 Chris Baker

Exhibit 1



OCT 26 2016

FILED
ALAMEDA COUNTY

OCT 29 2016
CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

NICOLE GARRETT, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

BANK OF AMERICA, N.A., BANK OF
AMERICA CORPORATION, and DOES 1-
10, inclusive,

Defendants.

CASE NO. RG13699027

**~~PROPOSED~~ ORDER APPROVING
SERVICE AWARDS**

This Court is familiar with this lawsuit, having had jurisdiction over the past 10 months. This Court has reviewed the Joint Stipulation for Settlement, the Motion for Service Awards, and the Declaration of Kevin J. McInerney in Support of the Service Awards.

IT IS HEREBY ORDERED that, within five calendar days after the Settlement Administrator receives the deposit of funds from defendants following the Effective Date (as defined by the Joint Stipulation for Settlement), the Settlement Administrator shall disburse the following payments:

Nicole Garrett	\$25,000.00
Rhonique Green	\$25,000.00
Olivia Giddings	\$25,000.00

Pursuant to the Joint Stipulation for Settlement, these amounts shall be paid from the 25%

~~PROPOSED~~ ORDER APPROVING SERVICE AWARDS
CASE NO. RG13699027

1 of the Net Settlement Fund (as defined by the Joint Stipulation for Settlement) available for
2 payments to Aggrieved Employees, to compensate the PAGA Representatives for their services as
3 representatives of the LWDA and the Aggrieved Employees, for the risks associated with filing the
4 litigation, and in exchange for a General Release of claims.

5 **IT IS SO ORDERED.**

6
7 DATED: October 28, 2016

Winifred Y. Smith
WINIFRED Y. SMITH
JUDGE OF THE ALAMEDA SUPERIOR COURT

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Exhibit 2

Brian J. Mankin, Esq. [CSB No. 216228]
Peter J. Carlson, Esq. [CSB No. 295611]
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Attorneys for Plaintiff on behalf of the State of California and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

BRANDON BREWER, on behalf of all
aggrieved employees and the State of
California;

Plaintiff,

vs.

CONNELL CHEVROLET, a California
Corporation; and DOES 1 through 10,
inclusive;

Defendants.

Case No.: 30-2016-00852123-CU-OC-CXC
(Assigned to Honorable Judge Glenda Sanders,
Dept. CX101)

**ORDER APPROVING SETTLEMENT
PURSUANT TO THE PRIVATE ATTORNEYS
GENERAL ACT AND JUDGMENT ENTERED
THEREON**

Hearing

Date: June 9, 2017

Time: 1:30 p.m.

Dept.: CX 101

Complaint Filed: May 11, 2016

1 The Motion to Approve the Settlement in accordance with Labor Code § 2699(1)(2) of the
2 Private Attorneys General Act of 2004 (“PAGA”) came before this Court on a regularly noticed
3 motion.

4 Plaintiff’s Complaint contains a causes of action under the PAGA based on alleged
5 violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 256,
6 405, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198 and 2802, and Industrial Welfare Commission
7 Wage Order No. 4, §§ 3(A), 4, 9(B), 12. Plaintiff’s Complaint seeks civil penalties on behalf of
8 the State of California and other similarly situated aggrieved employees, as authorized by PAGA,
9 in relation to alleged violations of those predicate statutes on behalf of all current and former
10 non-exempt automobile repair mechanics and/or technicians who are and/or were employed by
11 Defendant Connell Chevrolet, Inc., (“Defendant” or “Connell”) in California between April 8,
12 2015, and the Effective Date (which is the date the Court enters a Final Order approving the
13 Settlement).

14 The Court, having considered the settlement, including proposed PAGA penalties,
15 embodied in the Stipulation of Settlement and Release (“Settlement” or “Settlement Agreement”)
16 (attached hereto as Exhibit “A”) between Plaintiff Brandon Brewer and Defendant Connell
17 Chevrolet, Inc. (“Defendant”) pursuant to Labor Code § 2699(1)(2); having considered the
18 papers filed in support of the Motion and the arguments of counsel; and good cause appearing,
19 **HEREBY ORDERS THE FOLLOWING:**

20 1. In a settlement of a PAGA action brought by an aggrieved employee, the Court
21 “shall review and approve any settlement of any civil action filed pursuant to this part.” Cal.
22 Lab. Code § 2699(1)(2).

23 2. The Court finds that the instant Action presented a good faith dispute of the claims
24 alleged, and the Court finds in favor of settlement approval. Specifically, the claims on behalf of
25 the Aggrieved Employees alleged that Defendant: (a) failed to pay or underpaid wages for all
26 time worked, resulting in failure to pay regular, minimum and/or overtime wages; (b) failed to
27 provide all requisite rest periods; (c) failed to indemnify employees for hand tools and
28 equipment; (d) failed to provide and maintain accurate itemized wage statements; and (e) failed

1 to timely pay wages due during or at separation of employment, which include claims for alleged
2 violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 1194, 1197, 1198,
3 2802, 2810.5, and 2699 *et seq.* to the extent they arise out of the underlying Labor Code claims
4 against Defendant (the “Operative Claims”).

5 3. The Court approves the Settlement of the above-captioned action, as set forth in
6 the Settlement Agreement and each of the releases and other terms, as fair, just, reasonable, and
7 adequate. The Settling Parties are directed to perform in accordance with the terms set forth in
8 the Settlement Agreement.

9 4. All of the Released Claims, as defined in the Settlement Agreement, are dismissed
10 with prejudice as to Plaintiff and the Aggrieved Employees. The Parties are to bear their own
11 costs, except as otherwise provided in the Settlement Agreement.

12 5. In accordance with the Settlement Agreement, Defendant agreed to pay
13 \$190,000.00 (the “Settlement Amount”), inclusive of payments to the LWDA and Aggrieved
14 Employees, Plaintiff’s Individual Settlement Payment, attorneys’ fees and litigation costs, as well
15 as Administrator costs. As part of the Settlement, Plaintiff’s Counsel sought an award of
16 attorney’s fees of \$63,333.33, litigation expenses of \$7,500, an Individual Settlement Payment to
17 Plaintiff Brandon Brewer of \$15,000, and \$2,500 to the Settlement Administrator, Rust
18 Consulting. Defendant does not oppose these requests. The Court finds that the Settlement
19 Amount is fair, reasonable and adequate, and approves each of these payments set from the
20 Settlement Amount.

21 6. After deducting the foregoing payments, the remainder of approximately \$101,667
22 shall form the Net PAGA Settlement Fund (aka the “Net Settlement Amount”), which shall be
23 allocated as PAGA Penalties. Pursuant to Labor Code § 2699(i), the PAGA penalties shall be
24 divided with 75% (\$76,250) being paid to the LWDA, and the remaining 25% (\$25,417) paid to
25 the Aggrieved Employees on a pro rata basis, as set forth in the Settlement Agreement. The
26 Court approves the PAGA Penalties, and directs the Administrator to issue checks to the LWDA
27 and Aggrieved Employees, along with the Notice Letter (attached hereto as Exhibit “B”), as set
28 forth Settlement Agreement.

Exhibit 3

ORIGINAL

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6 Facsimile: (310) 861-9051

7 Attorneys for Plaintiff Alyssa Jones
8 *(Counsel continued on Next Page)*

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES

12 ALYSSA JONES, individually, and on
13 behalf of other members of the general
14 public similarly situated,

15 Plaintiff,

16 vs.

17 J. C. PENNEY CORPORATION, INC., a
Delaware Corporation; J. C. PENNEY
18 COMPANY, INC., a Delaware Corporation;
and DOES 1 through 10, inclusive,

19 Defendants.
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FILED
Superior Court of California
County of Los Angeles

APR 20 2017

Sherri R. Carter, Executive Officer/Clerk
By R. Castle Deputy
R. Castle

REC'D
APR 19 2017
FILING WINDOW

RECEIVED

APR 20 2017

DEPT. 39

Case No.: BC451823

ENFORCEMENT ACTION UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698
ET SEQ.

Assigned for all purposes to
Hon. Elizabeth R. Feffer, Department 39

**JOINT STIPULATION RE PAGA
PENALTY SETTLEMENT; [PROPOSED]
ORDER APPROVING PAGA PENALTIES
SETTLEMENT AND JUDGMENT**

RECEIPT #: CCHS24880114
DATE PAID: 04/19/17 03:23 PM
PAYMENT: \$20.00
RECEIVED:
CHECK: \$20.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00

CIT/CASE: BC451823
LEA/DEF#:

JOINT STIPULATION RE PAGA PENALTY SETTLEMENT; ORDER APPROVING PAGA PENALTIES SETTLEMENT AND JUDGMENT

04/24/2017

1 MICHAEL D. WEIL (STATE BAR NO. 209056)
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7 Attorneys for Defendants
J. C. PENNEY CORPORATION, INC. and J. C. PENNEY COMPANY, INC.
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1 **JOINT STIPULATION RE PAGA PENALTY SETTLEMENT**

2 Plaintiff Alyssa Jones ("Plaintiff") and Defendants J.C. Penney Corporation, Inc.
3 ("JCP") and J.C. Penney Company, Inc. (collectively, "Defendants") (together with Plaintiff, the
4 "Parties"), by and through their respective counsel of record, hereby stipulate as follows:

5 **WHEREAS**, Plaintiff Alyssa Jones worked for JCP at the Lakewood, California store as
6 a seasonal sales associate/cashier from November 2007 to January 2008, and again from
7 November 2009 to December 2009. On December 23, 2010, Plaintiff filed a class action
8 complaint against Defendants. On January 27, 2011, Plaintiff amended her complaint to reflect
9 that her lawsuit was only a representative action under the California Private Attorneys General
10 Act ("PAGA") seeking to recover penalties for California Labor Code violations. The First
11 Amended Complaint asserted a single cause of action under the PAGA, and sought relief based
12 on Defendants' alleged violations of Labor Code section 1198 and California Code of
13 Regulation section 11070(4) (failure to provide seating). On March 18, 2011, Defendants
14 removed the action to the United States District Court for the Central District of California and
15 on June 9, 2011, the district court remanded the action. On July 8, 2011, Defendants removed
16 the action a second time and on or about October 5, 2011, the action was remanded to the Los
17 Angeles Superior Court. On March 26, 2012, Defendants filed an Answer to the First Amended
18 Complaint. On July 25, 2012, Defendants filed a motion to compel arbitration. After the Court
19 denied arbitration, Defendants appealed the order. The court of appeal affirmed the order
20 denying arbitration and the action was remitted to the trial court on November 13, 2014. On
21 April 30, 2015, the court granted Defendants' motion to stay, and the action was stayed until
22 May 2, 2016.

23 **WHEREAS**, this representative action was filed by Plaintiff after she complied with the
24 administrative requirements set forth in California Labor Code section 2699.3.

25 **WHEREAS**, the Parties participated in a mediation on February 7, 2017, at the offices
26 of experienced wage and hour mediator David Rotman in San Francisco, California. The
27 Parties reached an agreement at the time, and the principle terms of the PAGA settlement were
28 subsequently outlined and are now set forth in complete and final form in the Settlement

1 Agreement, attached as Exhibit 1.

2 **WHEREAS**, in negotiating this settlement, Plaintiff has considered the expense and
3 length of continued proceedings necessary to litigate her case through trial and through any
4 possible appeals, and the burdens of proof necessary to establish liability for the claims asserted
5 in the action, both generally and in response to Defendants' defenses. Plaintiff has also taken
6 into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
7 delays inherent in such litigation. Based on the foregoing, Plaintiff has determined that the
8 settlement is fair and promotes PAGA's objectives.

9 **WHEREAS**, Defendants maintain that they had, and continue to have, legally-compliant
10 employment policies and practices throughout the statutory period. Defendants do not admit
11 that they ever violated any provision of the California Labor Code, including, but not limited to,
12 those sections for which Plaintiff seeks penalties pursuant to PAGA, for the time period from
13 December 23, 2009 through the date the Court signs the Order for Approval of Settlement under
14 Labor Code section 2699 and Judgment by Court ("Order and Judgment"). Moreover, even if
15 such violations had occurred, which Defendants deny, they would only be considered to be an
16 "initial violation" under Labor Code section 2699(f)(2).

17 **WHEREAS**, the Parties and their counsel recognize the expense and length of continued
18 proceedings necessary to litigate the disputes through trial and through any possible appeals,
19 and have also taken into account the uncertainty and risk of the outcome of further litigation,
20 and the difficulties and delays inherent in such litigation. The Parties and their counsel are also
21 aware of the burdens of proof necessary to establish liability for the claims alleged, and the
22 affirmative and other defenses asserted. Thus, reaching this settlement now has the potential for
23 having a higher value today than it might have later if this litigation was to continue. The
24 Parties and their counsel have also taken into account that this settlement confers substantial
25 benefits to the State of California and to the Allegedly Aggrieved Employees (Defendants'
26 current and former nonexempt employees who worked at JCP's Store Nos. 0250, 1778, 2648,
27 2649, 2823 and/or 2937 at any time between December 23, 2009 and January 5, 2017, and
28 whose duties included operating a cash register). Based on the foregoing, each Party and their

1 counsel have determined that the settlement set forth in this Settlement Agreement is a fair,
2 adequate and reasonable settlement, and is in the best interests of the Allegedly Aggrieved
3 Employees. Based on the extensive experience of Plaintiff's attorneys of record with wage and
4 hour class actions as well as PAGA-only representative actions, they believe that the terms of
5 the Settlement Agreement are fair and reasonable and approximate or exceed the result that
6 would have reasonably been obtained by the State agency, as required by the PAGA.

7 **WHEREAS**, PAGA provides that "[t]he superior court shall review and approve any
8 settlement of any civil action filed pursuant to this part." Cal. Lab. Code § 2699(1)(2). No other
9 duties are conferred on the Court by PAGA, and thus the Court is to review the settlement in
10 light of the specific policy goals and stated objectives of PAGA, as well as California's policy
11 of encouraging settlements.¹

12 **NOW THEREFORE**, the Parties stipulate to settle this matter according to the terms
13 and conditions set forth in the attached PAGA Settlement Agreement.

14 **IT IS SO STIPULATED**

15
16 April 13, 2017

INITIATIVE LEGAL GROUP APC

17
18 By: 

Mónica Balderrama
G. Arthur Meneses

19 Attorneys for Plaintiff Alyssa Jones

20 \\\n

21
22 ¹ See *McClure v. McClure*, 100 Cal. 339, 343 (1893) (settlements "are highly favored as
23 productive of peace and goodwill in the community, and reducing the expense and persistency
24 of litigation"); *Lamb v. Herndon*, 97 Cal. App. 193, 203 (1929) ("it is the fixed policy of the law
25 to encourage the settlement of disputes and the prevention of litigation"); *Hamilton v. Oakland
26 School Dist.*, 219 Cal. 322, 329 (1933) ("[It] is the policy of the law to discourage litigation and
27 to favor compromises of doubtful rights and controversies, made either in or out of court");
28 *Potter v. Pacific Coast Lumber Co.*, 37 Cal. 2d 592, 602 (1951) ("The law wisely favors
settlements"); *Cilibrasi v. Reiter*, 103 Cal. App. 2d 397, 400 (1951) ("the law favors settlement
of legal controversies"); *Brown v. Guarantee Ins. Co.*, 155 Cal. App. 2d 679, 696 (1957) ("it is
fundamental that the law favors settlements"); and *Central Basin etc. Wat. Dist. v. Fossette*, 235
Cal. App. 2d 689, 705 (1965) ("It is the policy of the law to discourage litigation and to favor
compromise and voluntary settlements of doubtful rights and controversies, made either in or
out of court").

1
2 April 13, 2017

ORRICK, HERRINGTON & SUTCLIFFE LLP

3 By: 

4 Stephanie Gail Lee

5 Attorneys for Defendants J.C. Penney Corporation,
6 Inc. and J.C. Penney Company, Inc.
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1 **ORDER APPROVING PAGA SETTLEMENT AND JUDGMENT**

2 **GOOD CAUSE** having been shown, the Court hereby grants the Parties' stipulation to
3 settle Plaintiff's claims for PAGA penalties, attorneys' fees, interest and costs.

4 1. The Court approves and incorporates by reference the terms and conditions of the
5 attached Settlement Agreement, and directs the implementation of all remaining terms,
6 conditions, and provisions of the Settlement Agreement.

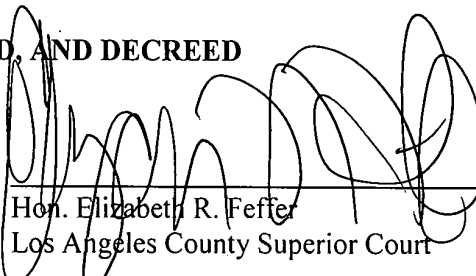
7 2. The Settlement Agreement is not an admission by Defendants, nor is this order a
8 finding of the validity of any allegations or of any wrongdoing by Defendants. Neither this
9 order, the Settlement Agreement, nor any document referred to herein, nor any action taken to
10 carry out the Settlement Agreement, may be construed as, or may be used as, an admission of
11 any fault, wrongdoing, omission, concession, or liability whatsoever by or against Defendants.

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

18 4. The Court shall retain exclusive and continuing jurisdiction over the above-
19 captioned action and the Parties for purposes of enforcing the terms of the Settlement
20 Agreement as well as this Order and Judgment pursuant to Code of Civil Procedure section
21 664.6.

22
23 **IT IS SO ORDERED, ADJUDGED, AND DECREED**

24
25 Date: 4/20/17

26 
27 Hon. Elizabeth R. Feffer
28 Los Angeles County Superior Court

04/24/2017

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Attorneys for Defendants
14 J.C. PENNEY CORPORATION, INC., and J.C.
PENNEY COMPANY, INC.
15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF LOS ANGELES
18

19 ALYSSA JONES, individually, and on behalf
of other members of the general public
20 similarly situated,

21 Plaintiff,

22 v.

23 J.C. PENNEY CORPORATION, INC., a
Delaware Corporation; J.C. PENNEY
24 COMPANY, INC., a Delaware Corporation,
and DOES 1 through 10, inclusive,
25

26 Defendants.
27
28

Case No. BC451823

ASSIGNED FOR ALL PURPOSES TO
JUDGE ELIZABETH R. FEFFER, DEPT.
39

SETTLEMENT AGREEMENT

Complaint Filed: December 23, 2010
FAC Filed: January 27, 2011
Trial: October 2, 2017

1 This Settlement Agreement is made and entered into by and between Representative
2 Plaintiff Alyssa Jones ("Plaintiff"), and Defendants J.C. Penney Corporation, Inc. ("JCP") and J.C.
3 Penney Company, Inc. ("Defendants") (collectively, the "Parties"). The Parties hereby agree that
4 this entire action shall be settled on the terms and conditions set forth in this Settlement Agreement,
5 subject to the approval of the Court pursuant to the section 2699 of the Labor Code, Private
6 Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA").

7 INTRODUCTION

8 1. On December 23, 2010, Plaintiff filed a class action complaint against Defendants
9 in the Superior Court of California, County of Los Angeles, alleging one cause of action for
10 violation of Labor Code section 1198 and California Code of Regulations, Title 8, section
11 11070(14) ("Section 14"). On January 27, 2011, Plaintiff amended her complaint to reflect that her
12 lawsuit was only a representative enforcement action pursuant to PAGA with one cause of action
13 for violation of Section 14 (the "Lawsuit"). On March 18, 2011, Defendants removed the action to
14 the United States District Court for the Central District of California and on June 9, 2011, the
15 district court remanded the Lawsuit. On July 8, 2011, Defendants removed the Lawsuit a second
16 time and on or about October 5, 2011, the Lawsuit was remanded to the Los Angeles Superior
17 Court. On March 26, 2012, Defendants filed an Answer to the First Amended Complaint. On July
18 25, 2012, Defendants filed a motion to compel arbitration. After the Court denied arbitration,
19 Defendants appealed the order. The court of appeal affirmed the order denying arbitration and the
20 Lawsuit was remitted to the trial court on November 13, 2014. On April 30, 2015, the Court granted
21 Defendants' motion to stay, and the matter was stayed until May 2, 2016.

22 2. The parties litigated this case extensively, including two trips to the federal court,
23 one to the court of appeal, multiple motions to compel, and various stays.

24 3. Plaintiff's Lawsuit is premised on her allegation that, in violation of Section 14,
25 Defendants denied her and other allegedly similarly aggrieved employees the opportunity to be
26 seated even where the nature of the work reasonably permitted seating under the totality of
27 circumstances, and that Defendants cannot sustain their burden to prove it was infeasible to provide
28 suitable seating.

1 4. Defendants deny liability and Plaintiff acknowledges that neither this Settlement
2 Agreement, nor promises made pursuant to the Settlement Agreement, shall be taken or construed
3 to be an admission or concession of any kind with respect to liability or alleged wrongdoing by
4 Defendants. Plaintiff acknowledges that Defendants deny any wrongdoing or liability related to
5 her or the Allegedly Aggrieved Employees (as defined in Paragraph 9.c).

6 5. Plaintiff and her counsel have conducted necessary discovery and performed a
7 thorough analysis of the law and facts relating to the claims asserted in the Lawsuit. The Parties
8 also participated in a day-long mediation with David A. Rotman, Esq., a very experienced mediator,
9 on February 7, 2017. Based on Plaintiff's investigation, written discovery, and taking into account
10 the defenses that Defendants proposed to raise in connection with both liability and the amount of
11 any civil penalty that might be imposed by the Court pursuant to Labor Code section 2699(e)(2),
12 the expense and time necessary to pursue the action through trial, the risks and costs of further
13 prosecution of the Lawsuit, the uncertainties of complex litigation, and the benefits that will accrue
14 to the State of California's Labor and Workforce Development Agency ("LWDA") and the
15 Allegedly Aggrieved Employees, Plaintiff and her counsel believe that a settlement with
16 Defendants on the terms set forth herein is fair, reasonable, adequate, and in the best interests of
17 Plaintiff, the LWDA, and the Allegedly Aggrieved Employees.

18 6. By entering into this Settlement Agreement, Defendants are not admitting that the
19 imposition of any PAGA civil penalty in connection with the Lawsuit is proper or warranted.
20 Defendants have entered into this Settlement Agreement solely to avoid the expense, risk, and
21 nuisance of continued litigation. The Parties agree that an express condition of this settlement is
22 that there has been no finding of liability on the merits, and that this Settlement Agreement and
23 ensuing judgment therefore cannot be a basis for a finding of collateral estoppel or res judicata on
24 the issue of liability.

25 7. The settlement set forth in this Settlement Agreement requires Defendants to pay up
26 to the total maximum amount of Three Million Two Hundred Thousand Dollars and No Cents
27 (\$3,200,000.00) ("Maximum Settlement Amount") to cover all payments to the LWDA, Allegedly
28 Aggrieved Employees, notice and administration costs, attorneys' fees, interest and costs, and

1 payment to Plaintiff as a service award. Payment of the Maximum Settlement Amount by
2 Defendants is strictly for the purpose of compromising a disputed matter. Under no circumstances
3 shall Defendants be required to pay more than the Maximum Settlement Amount to cover all
4 payments to the LWDA, Allegedly Aggrieved Employees, notice and administration costs,
5 attorneys' fees, interest, costs or any other expense, penalty, cost or fee associated with the Lawsuit.

6 8. The settlement set forth in this Settlement Agreement also requires Defendants to
7 institute a pilot project to determine the feasibility of providing seats for appropriate cash stands at
8 JCP stores in California, with the intent to implement seats at appropriate cash stands in all JCP
9 stores in California depending on the results.

10 TERMS OF SETTLEMENT

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

13 a. It is agreed by and between Plaintiff and Defendants that the Lawsuit and
14 any claims and causes of action which were or are the subject of the Lawsuit be settled and
15 compromised as between Plaintiff, on behalf of herself and on behalf of the LWDA, and each and
16 every Allegedly Aggrieved Employee, Defendants and the Releasees (as defined in Paragraph 15),
17 subject to the terms and conditions set forth in this Settlement Agreement and the approval of the
18 Court.

19 b. Effective Date: The "Effective Date" shall be the date the Court signs the
20 Order for Approval of Settlement under Labor Code section 2699 and Judgment by Court ("Order
21 and Judgment").

22 c. Consideration: In consideration for this Settlement Agreement, Defendants
23 agree to pay up to the Maximum Settlement Amount of \$3,200,000.00 to cover all payments to the
24 LWDA, Allegedly Aggrieved Employees, notice and administration costs, attorneys' fees, interest
25 and costs. The Maximum Settlement Amount shall be distributed as follows:

26 (1) Counsel for Plaintiff and the Alleged Aggrieved Employees
27 (Initiative Legal Group APC) shall receive One Million Three Hundred Seventy Five Thousand
28 Dollars (\$1,375,000.00) as reasonable attorneys' fees under PAGA, and Twenty Five Thousand

1 Dollars (\$25,000.00) in interest and costs;

2 (2) The actual costs of administration, up to a maximum payment
3 of Twenty-Four Thousand Dollars (\$24,000.00) shall be paid to the Claims Administrator (as
4 defined in Paragraph 9.f);

5 (3) Plaintiff shall receive Ten Thousand Dollars (\$10,000) as a
6 PAGA service award (any portion of the \$10,000 not awarded to Plaintiff will be retained by
7 Defendants); and

8 (4) The remainder of the Maximum Settlement Amount, once the
9 amounts above have been deducted (the Net PAGA Settlement Amount, "NPSA"), will be
10 distributed as required by Labor Code section 2699(i), and in accordance with the terms of this
11 Settlement Agreement, subject to the Court's approval as required by Labor Code section 2699, as
12 follows:

13 (a) The LWDA shall receive seventy-five percent of the
14 final NPSA, up to an estimated One Million Three Hundred Twenty Four Thousand Five Hundred
15 Dollars (\$1,324,500.00), to settle the claims for PAGA penalties based on the alleged violations of
16 the Labor Code as alleged in the Lawsuit on behalf of Defendants' current and former nonexempt
17 employees who worked at JCP's Store Nos. 0250, 1778, 2648, 2649, 2823 and/or 2937 at any time
18 between December 23, 2009 and January 5, 2017, and whose duties included operating a cash
19 register ("Allegedly Aggrieved Employees"); and

20 (b) The Allegedly Aggrieved Employees shall receive
21 twenty-five percent of the final NPSA, up to an estimated Four Hundred Forty-One Thousand Five
22 Hundred Dollars (\$441,500.00), which shall be allocated to each Allegedly Aggrieved Employee
23 on a pro rata basis using the number of pay periods worked as an Allegedly Aggrieved Employee.
24 Defendants calculate that the Allegedly Aggrieved Employees worked approximately 156,483 pay
25 periods during the statutory period.

26 d. Notice to Allegedly Aggrieved Employees. Allegedly Aggrieved
27 Employees will receive the Notice attached hereto as Exhibit A. Settlement checks mailed out to
28 Allegedly Aggrieved Employees shall be valid for 120 days from the date of issuance. Funds

1 represented by settlement checks returned as undeliverable and those settlement checks remaining
2 un-cashed for more than 120 days after issuance will be tendered to the California Department of
3 Industrial Relations Unpaid Wage Fund (see Cal. Lab. Code § 96.6). Ninety days after the checks
4 are mailed, the Claims Administrator will provide the Parties a list of all Allegedly Aggrieved
5 Employees whose checks have not been cashed and their contact information.

6 e. Tax Treatment of the Allegedly Aggrieved Employee Payments: The
7 individual settlement payments to Allegedly Aggrieved Employees shall be considered a civil
8 penalty and shall not be subject to withholdings. The Claims Administrator shall be responsible
9 for timely issuing an appropriate Form 1099 to each Allegedly Aggrieved Employee, if necessary.

10 f. Costs of Claims Administrator: The Parties have selected CPT ("Claims
11 Administrator") to act as the Claims Administrator. The Claims Administrator has agreed to
12 perform all necessary administration duties for no more than Twenty-Four Thousand Dollars
13 (\$24,000.00). These administration duties shall include, without limitation, the calculation,
14 processing, and mailing of all settlement checks and tax forms, and notices to all Allegedly
15 Aggrieved Employees, the LWDA, Plaintiff's counsel and any tax authorities, performing address
16 updates and verifications as necessary prior to the mailing, and performing a single address follow
17 up on any returned mail. The Settlement Administrator will also be responsible for establishing a
18 qualified settlement fund ("QSF"). All administration costs approved by the Court shall be paid out
19 of the Maximum Settlement Amount. If the actual costs of administration are less than \$24,000,
20 the difference shall be distributed by the Claims Administrator to the LWDA.

21 g. Funding the Settlement and Timing of Payment. Within twenty calendar
22 days of the Effective Date, Defendants will deposit the Maximum Settlement Amount into the QSF
23 to be established by the Claims Administrator. Within twenty-one calendar days of the funding of
24 the Settlement, the Claims Administrator will issue payments to: (a) Allegedly Aggrieved
25 Employees, along with the Notice; (b) the LWDA; (c) Plaintiff; (d) Plaintiff's Counsel; and (e)
26 itself. Plaintiff's counsel will provide Defendants' counsel with fully executed W-9 form within
27 five days of the Effective Date.

28 h. Additional Consideration. Defendants shall institute a pilot project to

1 determine the feasibility of providing seats for appropriate cash stands at JCP stores in California,
2 with the intent to implement seats at appropriate cash stands in all JCP stores in California
3 depending on the results. Defendants retain all rights to make and implement all decisions
4 regarding the manner in which they implement seating at JCP stores in California, if any, or any
5 changes to JCP's seating policy and practices, if any, following this pilot project. Defendants also
6 retain all rights to make and implement all decisions regarding all aspects of store design, including
7 the availability and use of chairs or other seating in JCP stores in California. Defendants shall have
8 one year from the Effective Date to complete this implementation, if any.

9 10. Non-Approval of the Settlement Agreement of Settlement: If the Court should, for
10 any reason, not approve the settlement as set forth in this Settlement Agreement, then this
11 Settlement Agreement shall be considered null and void, and neither this Settlement Agreement,
12 nor any of the related negotiations or proceedings, shall be of any force or effect and shall be
13 inadmissible for any purpose in any proceeding, and all Parties to this Settlement Agreement shall
14 stand in the same position, without prejudice, as if the Settlement Agreement had been neither
15 entered into nor filed with the Court.

16 11. Invalidation: Invalidation of any material portion of this Settlement Agreement
17 shall invalidate this Settlement Agreement in its entirety, unless the Parties subsequently agree in
18 writing that the remaining provisions of the Settlement Agreement are to remain in full force and
19 effect.

20 12. Taxes: Defendants and Plaintiff agree that all tax obligations, if any, which may
21 arise from the payments set forth above shall be the sole obligation of Plaintiff, and that Plaintiff
22 will indemnify Defendants against any and all costs, penalties, taxes or other payments made or
23 required as a result of the allocation of those payments, if any, or the reporting of those payments.
24 Plaintiff agrees to notify Defendants promptly of any claims made for costs, penalties or taxes
25 related to those payments. Plaintiff acknowledges that Defendants make no representations as to
26 the tax consequences or characterization of the nature of any payment made pursuant to this
27 Settlement Agreement.

28 13. Attorneys' Fees and Costs: Except as provided in Paragraph 9 above, Plaintiff, on

1 the one hand, and Defendants, on the other, each agree to bear their own costs and attorneys' fees
2 and waive any statute, rule of court, provision or legal proposition which might otherwise be relied
3 upon to obtain costs, fees or expenses in connection with Plaintiff's allegations and cause of action
4 released herein. Each Party agrees that it is not a prevailing party within the meaning of the Labor
5 Code, Wage Orders, or any other statute applicable to Plaintiff's legal claims. Plaintiff's counsel
6 acknowledges that if this settlement is approved it will have no claim for or legal right to attorneys'
7 fees or costs independent of any claim that Plaintiff may have, and upon approval of the settlement
8 Plaintiff's counsel waives and releases any such claim or legal right.

9 14. Liens: Plaintiff acknowledges that she is solely responsible for the resolution,
10 waiver, satisfaction, and/or discharge of any equitable or contractual claims, subrogation claims or
11 liens, known or unknown, past or future, asserted against the settlement proceeds of this settlement
12 by any person or entity that provided benefits or payments of any kind to Plaintiff. Plaintiff agrees
13 to indemnify Defendants from and against any and all claims, judgments, or suits for any such
14 claims, subrogation claims or liens.

15 15. Release of Claims by Allegedly Aggrieved Employees and the LWDA: Upon the
16 approval by the Court of this Settlement Agreement, and except as to such rights or claims as may
17 be created by this Settlement Agreement, each and every Allegedly Aggrieved Employee (which
18 includes any legal heirs and/or successors-in-interest of each and every Allegedly Aggrieved
19 Employee) and the LWDA, fully release and discharge J.C. Penney Corporation, Inc., J.C. Penney
20 Company, Inc., and all of its and their direct and indirect affiliates, subsidiaries, parents,
21 predecessors, successors and assigns, and all of its and their respective past, present and future
22 partners, principals, officers, directors, employees, attorneys, insurers, representatives and agents,
23 whether acting as agents or in individual capacities, and any company pension and welfare benefit
24 plans (and their respective plan administrators, fiduciaries, insurers and trustees) (collectively, the
25 "Releasees"), from any and all debts, liabilities, demands, obligations, penalties, guarantees, costs,
26 expenses, attorneys' fees, damages, interest, actions or causes of action of whatever kind or nature,
27 whether known or unknown, all claims that are alleged in, or that could have been alleged in the
28 Lawsuit arising out of the alleged failure to provide "suitable seating" under Section 14 (or similar

1 “suitable seating” provisions of any other Industrial Welfare Commission Wage Order), any
2 resulting claim for penalties under PAGA, and/or other provisions of law alleged to have been
3 violated in the Lawsuit through the Effective Date (the “Released Claims”). This includes claims
4 under California law for any claim related to any alleged failure to provide “suitable seating,”
5 including any claim for damages, penalties or other remedies resulting from such claims, as well
6 as any derivative penalties under PAGA. The Parties agree that, beyond the Maximum Settlement
7 Amount, Defendants shall not owe any further monies to Allegedly Aggrieved Employees, the
8 LWDA, or to Plaintiff’s counsel based on the Released Claims.

9 16. Waiver of Unknown Claims by Allegedly Aggrieved Employees and the LWDA:

10 With respect to the Released Claims only, the Parties agree that, upon the Effective Date, each and
11 every Allegedly Aggrieved Employee (which includes any legal heirs and/or successors-in-interest
12 of each and every Allegedly Aggrieved Employee) and the LWDA shall have, by operation of the
13 Order and Judgment, waived and relinquished, to the fullest extent permitted by law, the provisions,
14 rights, and benefits of section 1542 of the California Civil Code, which provides:

15 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
16 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
17 EXIST IN HIS/HER FAVOR AT THE TIME OF EXECUTING
18 THE RELEASE, WHICH IF KNOWN BY HIM/HER MUST
19 HAVE MATERIALLY AFFECTED HIS/HER SETTLEMENT
20 WITH THE DEBTOR.

21 All Allegedly Aggrieved Employees and the LWDA shall be deemed to have acknowledged that
22 this Settlement Agreement is intended to include in its effect all Released Claims that they do not
23 know or suspect to exist in their favor at the time of approval of this Settlement Agreement.

24 17. Release of Claims by Plaintiff: In consideration for receiving the PAGA service
25 award payment described above, Plaintiff hereby binds herself, and all of her heirs, beneficiaries,
26 trustees, administrators, executors, assigns, agents and legal representatives, and hereby releases,
27 waives and forever discharges Defendants and the Releasees from, and hereby acknowledges full
28 accord and satisfaction of, any and all claims, demands, causes of action, and liabilities of any kind
whatsoever (upon any legal or equitable theory, whether contractual, common law or statutory,
under federal, state or local law or otherwise), whether known or unknown, asserted or unasserted,

1 by reason of any act, omission, transaction, agreement or occurrence, that she has ever had, now
2 has or hereafter may have against Defendants and the Releasees up to and including the date of the
3 execution of this Agreement ("Plaintiff's Released Claims"). Plaintiff also covenants not to sue
4 Defendants and the Releasees for any of the claims released herein, agrees not to participate in any
5 class, collective, representative, or group action that may include any of the claims released herein,
6 and will affirmatively opt out of any such class, collective, representative or group action. Plaintiff
7 agrees not to participate in, seek to recover in, or assist in any litigation or investigation by other
8 persons or entities against Defendants and/or the Releasees, except as required by law.
9 Notwithstanding any other provision of this Settlement Agreement, this general release does not
10 release any claims that cannot lawfully be released. This general release is not intended to limit
11 Plaintiff from filing a charge with, or participating in an investigation conducted by, the Equal
12 Employment Opportunity Commission; provided, however, that Plaintiff expressly waives and
13 relinquishes any rights she might have to recover damages or other relief, whether equitable or
14 legal, in any such proceeding (whether brought by her or on her behalf) concerning events or actions
15 that arose on or before the date that she signed this Settlement Agreement.

16 18. Waiver of Unknown Claims by Plaintiff: With respect to Plaintiff's Released
17 Claims, Plaintiff acknowledges the language of section 1542 of the California Civil Code, which
18 provides:

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

25 Plaintiff expressly waives the protection of section 1542. Plaintiff understands and agrees that
26 claims or facts in addition to or different from those which are now known or believed by her to
27 exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all of the
28 claims Plaintiff now has against Defendants and the Releasees whether known or unknown,
suspected or unsuspected, except as to claims that cannot lawfully be released.

19. Standing and No Transfer of Claims: Plaintiff expressly represents and warrants

1 that she has standing to dismiss any and all claims she has or may have against Defendants and the
2 Releasees, and that she is not a "debtor" within the meaning of the federal bankruptcy statutes.
3 Plaintiff further represents and warrants that she has not assigned, transferred or conveyed to any
4 person or entity any claim, demand, liability, obligation or cause of action released by this
5 Settlement Agreement. Plaintiff agrees to indemnify, defend and hold harmless Defendants and
6 the Releasees from any claims which may be asserted against them based on, or arising out of, any
7 such assignment, transfer, or conveyance.

8 20. Statements Regarding the Settlement: The Parties and their counsel agree that they
9 will not issue any press releases or press statements, hold any press conferences, or initiate any
10 communications with the press or media about this Settlement Agreement.

11 **PAYMENT TO THE ALLEGEDLY AGGRIEVED EMPLOYEES AND RELEASE**

12 21. Within 20 days after approval of this Settlement Agreement by the Court,
13 Defendants will provide to the Claims Administrator information concerning the list of Allegedly
14 Aggrieved Employees including their social security numbers. The Claims Administrator will
15 perform address updates and verifications prior to the first mailing. Within 21 days after receipt of
16 the list of Allegedly Aggrieved Employees, and subject to the approval of the Court, the Claims
17 Administrator will mail a settlement Notice (in the form attached hereto as Exhibit A) and check to
18 each Allegedly Aggrieved Employee by first class mail. The Claims Administrator will perform
19 one address follow-up on returned mail, and will re-mail the Notice and check to an updated address
20 (if any) within ten calendar days of receipt of the returned mail. The Parties intend that reasonable,
21 but not extraordinary, means are to be used to locate Allegedly Aggrieved Employees. If no other
22 address is found, no further action is required.

23 22. The Claims Administrator shall also be responsible for taking care of all required
24 tax reporting and issuing Form 1099s with the settlement payments, if necessary. Upon completion
25 of its calculation of payments, the Claims Administrator shall provide Plaintiff's counsel and
26 Defendants' counsel with a report listing the amount of all payments made to each Allegedly
27 Aggrieved Employee but without the social security numbers of the Allegedly Aggrieved
28 Employees.

1 ADDITIONAL PROVISIONS

2 23. Plaintiff's Motions to Compel: The parties agree that, to the extent it has not already
3 occurred, Plaintiff shall take her pending Motions to Compel Defendants' Further Responses to
4 Special Interrogatories, Sets Three and Five, and Requests for Production, Set Five (the "Discovery
5 Motions"), set for hearing on February 27, 2017, off calendar. If the Court should, for any reason,
6 not approve the settlement as set forth in this Settlement Agreement, Defendants agree not to object
7 to the timeliness of the Discovery Motions if Plaintiff re-files them within 45 days after the
8 settlement is not approved.

9 24. Construction: The Parties agree that the terms and conditions of this Settlement
10 Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and
11 that this Settlement Agreement shall not be construed in favor of or against any Party by reason of
12 the extent to which any Party or his, her, or its counsel participated in the drafting of this Settlement
13 Agreement.

14 25. Choice of Law: This Settlement Agreement shall in all respects be interpreted,
15 enforced and governed by and under the laws of the State of California (other than its choice-of-
16 law provisions). In interpreting the language of this Settlement Agreement, both Parties to the
17 Settlement Agreement shall be treated as having drafted this Settlement Agreement after
18 meaningful negotiations.

19 26. Captions and Interpretations: Paragraph titles or captions contained herein are
20 inserted as a matter of convenience and for reference only and in no way define, limit, extend, or
21 describe the scope of this Settlement Agreement or any provision hereof. Each term of this
22 Settlement Agreement is contractual and not merely a recital.

23 27. Modification: This Settlement Agreement may not be changed, altered, or modified,
24 except in a writing signed by counsel for all Parties. Any material changes, alternations, or
25 modifications to the provisions of this Settlement Agreement must be approved by the Court.

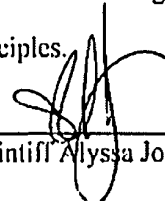
26 28. Integration Clause: This Settlement Agreement contains the entire agreement
27 among the Parties relating to the settlement and transaction contemplated hereby, and all prior or
28 contemporaneous agreements, understandings, representations, and statements, whether oral or

1 written and whether by a Party or that Party's legal counsel, are merged herein. In entering into
2 this Settlement Agreement, none of the Parties has relied on any representation or promise not
3 expressly set forth in this Settlement Agreement.

4 29. Counterparts: This Settlement Agreement may be executed in counterparts, and has
5 the same force and effect as if all signatures were obtained in one document. Execution of a
6 facsimile copy shall have the same force and effect as execution of an original, and a facsimile
7 signature shall be deemed an original and valid signature.

8 30. Enforcement of Settlement Agreement: Pursuant to Labor Code section 2699, this
9 Settlement Agreement must be approved by the Court and will be enforceable by the Court pursuant
10 to Code of Civil Procedure section 664.6. Even after the entry of judgment, the Parties jointly
11 request and reserve the Court's continuing jurisdiction under section 664.6. All terms of this
12 Settlement Agreement shall be governed by and interpreted according to the laws of the State of
13 California, without giving effect to conflict of laws principles.

14 Dated: 4/5/17



Plaintiff Alyssa Jones

16 Dated: _____

for Defendants
J.C. Penney Corporation, Inc., and
J.C. Penney Company, Inc.

18 **APPROVED AS TO FORM:**

20 Dated: _____

INITIATIVE LEGAL GROUP APC

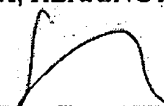
21

22 By: _____
Counsel for Plaintiff
Alyssa Jones

24 Dated: 4/18/17

ORRICK, HERRINGTON & SUTCLIFFE LLP

25

26 By: 
Counsel for Defendants
J.C. Penney Corporation, Inc., and
J.C. Penney Company, Inc.

28

1 alternations, or modifications to the provisions of this Settlement Agreement must be approved by
2 the Court.

3 28. Integration Clause: This Settlement Agreement contains the entire agreement
4 among the Parties relating to the settlement and transaction contemplated hereby, and all prior or
5 contemporaneous agreements, understandings, representations, and statements, whether oral or
6 written and whether by a Party or that Party's legal counsel, are merged herein. In entering into
7 this Settlement Agreement, none of the Parties has relied on any representation or promise not
8 expressly set forth in this Settlement Agreement.

9 29. Counterparts: This Settlement Agreement may be executed in counterparts, and
10 has the same force and effect as if all signatures were obtained in one document. Execution of a
11 facsimile copy shall have the same force and effect as execution of an original, and a facsimile
12 signature shall be deemed an original and valid signature.

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14 Settlement Agreement must be approved by the Court and will be enforceable by the Court
15 pursuant to Code of Civil Procedure section 664.6. Even after the entry of judgment, the Parties
16 jointly request and reserve the Court's continuing jurisdiction under section 664.6. All terms of
17 this Settlement Agreement shall be governed by and interpreted according to the laws of the State
18 of California, without giving effect to conflict of laws principles.

19 Dated: _____

20
21 Dated: 4/12/17

Plaintiff Alyssa Jones

Mellisa Liegl
Mellisa Liegl for Defendants
J.C. Penney Corporation, Inc., and
J.C. Penney Company, Inc.

23 **APPROVED AS TO FORM:**

24
25 Dated: 4/17/17

INITIATIVE LEGAL GROUP APC

26
27 By: Mónica J. [Signature]
Counsel for Plaintiff
Alyssa Jones

EXHIBIT A

04/24/2017

Alyssa Jones v. J.C. Penney Corporation, Inc. et al.
Los Angeles Superior Court, Case No. BC451823

This notice relates to the settlement of a Private Attorneys General Act ("PAGA") action. A lawsuit was filed by a former J.C. Penney employee, Alyssa Jones ("Plaintiff"), against J.C. Penney Corporation, Inc. and J.C. Penney Company, Inc. ("JCP") in Los Angeles County Superior Court. Plaintiff brought the lawsuit as a representative action under PAGA, on behalf of the State of California and certain other current and former employees of JCP who were employed from December 23, 2009 to the present. A PAGA action is an action for penalties in which the State of California receives 75% of any penalties collected.

Plaintiff alleges that JCP denied certain employees the opportunity to be seated even where the nature of the work reasonably permitted seating, particularly while performing cashiering duties. JCP strongly denies Plaintiff's claims and asserts that no penalties are due to Plaintiff or to other allegedly aggrieved employees. The Court has made no determination on the merits of Plaintiff's claims, but the parties have decided to resolve the case through settlement, with the approval of the Court.

You have received this notice because JCP's records indicate that you may be one of the employees whom Plaintiff alleges was potentially aggrieved by one or more of the practices about which she complains (you are or were a nonexempt employee of JCP at any time between December 23, 2009 and January 5, 2017, you work(ed) at Store Nos. 0250 (Lakewood), 1778 (Orange), 2648 (Brea), 2649 (Westminster Mall), 2823 (Rancho Cucamonga), and/or 2937 (Chino), and your duties included operating a cash register). The parties have agreed that a portion of the settlement proceeds would be distributed to the allegedly aggrieved employees, including you, after 75% of any penalties collected are paid to the State of California according to California law.

The enclosed check represents your portion of the settlement payment, which is based on your share of the total settlement proceeds that the parties have agreed to be paid to the allegedly aggrieved employees. You may deposit or cash the check without any further obligation on your part and there is no need for you to contact the settlement administrator, the parties, or the Court.

Because you have a constitutional right of privacy to object to the disclosure of your personal contact information, your personal contact information has not been provided to counsel for Plaintiff. The Court has authorized a third-party administrator to send you this notice, and they have agreed to keep your contact information confidential.

If you have questions about this notice, please contact the Claims Administrator, CPT at (877) 705-5021.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THIS PROCEEDING.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS CASE.

04/24/2017

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1801 Century Park East, Suite 2500, Los Angeles, California 90067.

On April 19, 2017, I served the document described as:

**JOINT STIPULATION RE PAGA PENALTY SETTLEMENT; [PROPOSED]
ORDER APPROVING PAGA PENALTIES SETTLEMENT AND JUDGMENT**

on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Michael D. Weil
Stephanie Gail Lee
ORRICK, HERRINGTON &
SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105

☒ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

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

Executed this April 19, 2017, at Los Angeles, California.

Joseph Liu

Type or Print Name

Signature

Exhibit 4

1 Brian J. Mankin, Esq. [CSB No. 216228]
2 Peter J. Carlson, Esq. [CSB No. 295611]
3 Fernandez & Lauby LLP
4 4590 Allstate Drive
5 Riverside, CA 92501
6 Tel: (951) 320-1444
7 Fax: (951) 320-1445
8 bjm@fernandezlauby.com

9 Kirk D. Hanson, Esq. [CSB No. 167920]
10 Law Offices of Kirk D. Hanson
11 2790 Truxtun Rd., Suite 140
12 San Diego, California 92106
13 Tel: (619) 523-1992
14 Fax: (619) 523-9002
15 hansonlaw@cox.net

16 Attorneys for Plaintiff, Amber Garcia, on Behalf of the State of California and Aggrieved
17 Employees

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN BERNARDINO
13

14 AMBER GARCIA, Individually, and on
15 Behalf of All Aggrieved Employees,

16 Plaintiff,

17 vs.

18 MACY'S WEST STORES, INC. dba
19 MACY'S; an Ohio Corporation; MACY'S,
20 INC., a Delaware Corporation; and DOES 1
21 through 25, inclusive,

22 Defendants.
23
24
25
26
27
28

Case No.: CIVDS1516007

[Assigned for all purposes to the Hon. Donna
Gunnell Garza, Dept. S24]

**[PROPOSED] ORDER APPROVING
SETTLEMENT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT AND
JUDGMENT ENTERED THEREON**

Hearing

Date: September 13, 2017

Time: 8:30 a.m.

Dept.: S24

Compliant filed: October 30, 2015

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 13 2017

BY J. Gable
JESSICA GABLE, DEPUTY

1 The Motion to Approve the Parties' Settlement and Release Agreement in accordance
2 with Labor Code § 2699(1)(2) of the Private Attorneys General Act of 2004 ("PAGA") came
3 before this Court on a regularly noticed motion.

4 Plaintiff's Complaint alleges that Defendants failed to accurately report pay on the wage
5 statements issued to their California commission-eligible employees in violation of California
6 Labor Code § 226(a). Plaintiff's Complaint seeks, as a result of such alleged violation, to
7 recover civil penalties under PAGA on behalf of the State of California and all current and
8 former commission-eligible employees, including Plaintiff, who are and/or were employed by
9 Defendants in California between September 27, 2014, and the date of this Order ("Covered
10 Employees").

11 The Court, having considered the settlement, including the proposed PAGA penalties to
12 be paid to the Plaintiff, the Labor Workforce and Development Agency ("LWDA"), and the
13 Covered Employees, embodied in the Settlement and Release Agreement between Plaintiff
14 Amber Garcia and Defendants Macy's West Stores, Inc. and Macy's Inc.'s pursuant to Labor
15 Code § 2699(1)(2); having considered the papers filed in support of the Motion and the
16 arguments of counsel; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

17 1. In a settlement of a PAGA action brought by an aggrieved employee, the Court
18 "shall review and approve any settlement of any civil action filed pursuant to this part." Cal.
19 Lab. Code § 2699(1)(2).

20 2. Plaintiff's claims alleged that Defendants failed to provide accurate, itemized
21 wage statement to their commission-eligible employees, as mandated by Labor Code § 226(a),
22 and sought civil penalties under California Labor Code §§ 2699 *et seq* (the "Operative Claims").

23 3. The Court approves the settlement of the above-captioned action, as set forth in
24 the Settlement and Release Agreement and each of the releases and other terms of that
25 agreement.

26 4. The Court finds that the settlement, including the amount of the civil penalties to
27 be paid under PAGA, is fair, just, reasonable, and adequate in that, among other reasons, the
28 Operative Claims (i) raised issues involving the reporting of advance commission pay on wage

1 statements that had not yet been addressed by an appellate court and to that extent remained
2 unsettled under California law, (ii) will be cured by Defendants' agreement to implement the
3 modified commission pay plan attached to the Settlement and Release Agreement, and (iii) did
4 not assert any allegation that Defendants failed to properly calculate and pay Plaintiff and the
5 Covered Employees. *See, e.g., Cotter v. Lyft, Inc.* (N.D. Cal. 2016) 193 F.Supp. 3d 1030, 1037
6 (setting forth criteria for the amount of PAGA penalties to be assessed); *Fleming v. Covidien*
7 (C.D. Cal. 2011), 2011 U.S. Dist. LEXIS 154590, *8-9 (same). Accordingly, the Parties are
8 directed to comply with the terms set forth in the Settlement and Release Agreement.

9 5. All of the Released Claims, as defined in the Settlement and Release Agreement,
10 are dismissed with prejudice as to Plaintiff and the Covered Employees up through the date of
11 this Order. The Parties are to bear their own costs, except as otherwise provided in the
12 Settlement and Release Agreement.

13 6. In accordance with the Settlement and Release Agreement, Defendants agreed to
14 pay a total of \$12,500,000.00 (the "Settlement Amount"). As part of the settlement, Plaintiff's
15 Counsel seeks an award of attorney's fees equal to one-third of the Settlement Amount
16 (\$4,166,666.67), reimbursement of its reasonable litigation expenses in the amount of
17 \$18,811.95, a Service Enhancement Award of \$10,000 for Plaintiff, and settlement
18 administrative costs in the amount of \$35,562 for the Settlement Administrator, Rust Consulting.
19 Defendants do not oppose these requests. The Court finds that the Settlement Amount and the
20 payments requested to be made from the Settlement Amount are fair, reasonable and adequate,
21 and approves each of these payments.

22 7. After deducting these approved payments, the balance of the Settlement Amount
23 will be \$8,268,959.38 ("the Net Settlement Amount"), which shall be allocated as PAGA civil
24 penalties. Pursuant to Labor Code § 2699(i), the PAGA civil penalties shall be paid 75 percent to
25 the LWDA (\$6,201,719.53), and 25 percent to the Covered Employees (\$2,067,239.85), as set
26 forth in the Settlement and Release Agreement. The Court authorizes and directs the Settlement
27 Administrator, Rust Consulting, to issue and send the settlement checks to the LWDA and
28 Covered Employees, including the Notice (attached hereto as Exhibit "A") to be included in the

1 settlement checks to the Covered Employees, in accordance with the terms of the Settlement and
2 Release Agreement.

3 8. Without affecting the finality of this Order entered herein, the Court retains
4 jurisdiction of all matters relating to the interpretation, administration, implementation,
5 effectuation and enforcement of this Order and the Settlement and Release Agreement pursuant
6 to Cal Civ. Proc. Code § 664.6.

7 9. This Order is intended to be a final disposition of the above action in its entirety
8 and this matter is dismissed with prejudice.

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10 Dated: SEP 13 2017


11 Hon. Donna Gunnell Garza
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Settlement Administrator
(Address)
(Phone)

DATE OF MAILING, 2017

[Covered Employee]
[Address]
[Address]

Re: *Amber Garcia v. Macy's West Stores, Inc.*
San Bernardino County Superior Court Case No. CIVDS1516007

Notice of PAGA Settlement and Payment

Dear [Covered Employee]:

According to Macy's records, you were employed as a commission-eligible employee at one of its stores in California at some point during the time period of September 27, 2014, through _____, 2017 (the "Covered Period") and received at least one wage statement reflecting commission wages during this period. Amber Garcia, a former Macy's commissioned employee, filed a lawsuit against Macy's in September 2015 under California's Private Attorneys General Act of 2004 ("PAGA" at Labor Code § 2699), alleging that Macy's failed to provide, maintain, and/or issue to its commission-eligible employees accurate itemized wage statements within the meaning of California Labor Code § 226.. This PAGA action sought civil penalties on behalf of the State of California and commission-eligible employees who worked during the Covered Period.

Macy's disputes that it violated any provisions of the California Labor Code and contends that it properly reported on its wage statements the pay its commission-eligible employees received in compliance with all requirements of California law. Nevertheless, without admitting any wrongdoing, Macy's agreed to resolve this case by way of settlement.

The Court approved the Settlement on _____, 2017. Under California law, any settlement of a PAGA case results in 75 percent of the awarded penalty being paid to the State of California and 25 percent of the penalty being paid to the employees who worked during the Covered Period. The settlement releases only claims for civil penalties alleged in the complaint under PAGA (Labor Code § 2699) for the wage statements reflecting commission wages that Macy's issued to you during the period of September 27, 2014, through _____, 2017. Your share of the settlement was calculated based on the number of wage statements reflecting commission wages issued to you during the Covered Period and is being paid to you in the enclosed settlement check. You have 120 days to cash the settlement check. If you do not cash the settlement check within 120 days, the check will be voided and a stop-payment will be issued. Your share will be forwarded to the California Department of Industrial Relations Unclaimed Property Department in your name, but you will otherwise be deemed to have irrevocably waived your right to a settlement payment from Macy's.

You can learn more about the lawsuit on the Court's website at _____.
You may also call the Settlement Administrator using the number listed above: