

SETTLEMENT AGREEMENT AND RELEASE

Schearon Stewart and Jason Stewart v. Albertsons Companies, LLC, et al.
Multnomah County Circuit Court Case No. 16CV15125

This Settlement Agreement and Release (“Agreement”) is made and entered into by Albertsons Companies, Inc. (“ACI”) and Safeway Inc. (collectively “Defendants”) and Plaintiffs Schearon Stewart and Jason Stewart (collectively “Plaintiffs”), on their own behalf and on behalf of a putative class and each of its Settlement Class Members (as defined herein) in *Stewart, et al. v. Albertsons Companies, LLC, et al.*, Multnomah County Circuit Court, State of Oregon, Case No. 16CV15125 (“the Action”) with the assistance of counsel. Plaintiffs and Defendants collectively are referred to in this Agreement as the “Parties.” The Parties agree that the Action and the Released Claims (as defined below) shall be fully and finally compromised, settled and released, and dismissed with prejudice and final judgment entered, subject to the approval of the Court and the terms and provisions set forth in this Agreement (the “Settlement”).

I. RECITALS

A. On May 4, 2016, Plaintiffs filed a putative class action Complaint in Multnomah County Circuit Court for the State of Oregon, seeking equitable relief against Albertsons Companies, LLC,¹ Albertson’s LLC, and Safeway Inc. (the “Original Defendants”). On July 11, 2016, Plaintiffs filed an Amended Complaint, seeking equitable relief and money damages. The material allegations of the Amended Complaint were that the Original Defendants allegedly violated the Oregon Unlawful Trade Practice Act via “Buy One, Get One Free” and “Buy One, Get Two Free” promotions (collectively “BOGO” promotions) on certain meat products sold in Safeway and Albertsons bannered stores in the state of Oregon.

B. The Parties engaged in extensive motion practice, including but not limited to motions to dismiss under ORCP 21 and ORCP 32 I.

C. In February 2017, the Court dismissed Albertson’s LLC from the Action.

¹ In 2018, Albertsons Companies, LLC merged with and into ACI with ACI the surviving corporation and, thereby, the successor in interest to Albertsons Companies, LLC.

D. In January 2018, the Court granted Defendants' motion under ORCP 32 I with respect to a limited number of meat products. The Court entered a limited judgment dismissing the class claims for money damages with respect to the limited number of meat products. Plaintiffs appealed from the limited judgment.

E. The Oregon Court of Appeals issued its opinion on January 13, 2021, reversing the Court's order granting Defendants' Rule 32 I Motion, and the Oregon Supreme Court denied review on May 6, 2021. *Stewart v. Albertson's Companies LLC*, 308 Or App 464, 481 P3d 978, review denied, 368 Or 138, 485 P3d 894 (2021).

F. After the appellate judgment issued on June 10, 2021, and the Action was remanded to this Court, the Parties continued to litigate this Action.

G. Since June 2021, the Parties exchanged formal document discovery, conducted numerous depositions, and exchanged other information informally. The Parties also engaged in extensive motion practice, including, but not limited to, the motions and objections described below.

H. By Opinion issued December 22, 2022, the Court, on Plaintiffs' motion, certified the proposed class, and Plaintiffs submitted a proposed form of order on January 10, 2023. Defendants objected to Plaintiffs' proposed form of order because it did not include the statutory findings under ORS 19.225 permitting Defendants to seek interlocutory review of the class certification decision. The Court has not ruled on Defendants' objection.

I. On December 19, 2023, Defendants moved for summary judgment on all claims, which motion is fully briefed.

J. On January 24, 2023, Plaintiffs filed a motion for leave to file a second amended complaint, which, *inter alia*, added a claim for punitive damages and alleged Defendants' conduct also violated federal law as well as state law of other states, in addition to Oregon, including the state of Idaho.

K. The Court is scheduled to hear all pending motions, and will hold a pretrial conference, on February 17, 2023. A two-week jury trial in this Action is scheduled to begin March 6, 2023.

L. In 2022, the Parties engaged in good-faith, adversarial negotiations in formal mediation with Senior Judge Henry Kantor serving as the mediator. Following an unsuccessful all-day mediation session on June 1, 2022, the Parties continued their settlement discussions, facilitated by Judge Kantor, and have now reached agreement as set forth in the terms and conditions in this Agreement.

M. The Parties believe the information exchanged between them in informal and formal discovery and through extensive motion practice was sufficient to assess the strengths and weakness of the claims and defenses.

N. At all times, Defendants have generally and specifically denied any and all wrongdoing or liability of any sort with regard to any of the claims alleged, make no concessions or admissions of wrongdoing or liability of any sort, and contend that for any purpose other than settlement, the Action is not appropriate for class treatment. Defendants assert a number of defenses to the claims and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. There has been no final determination by any court as to the merits of the claims asserted by Plaintiffs against Defendants. Counsel for Plaintiffs and counsel for Defendants are familiar with the claims being settled and the defenses asserted.

O. Defendants believe that the claims asserted in the Action do not have merit and that Defendants would have likely prevailed at summary judgment, trial or on appeal. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, Defendants have concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise, and the Agreement, any related documents, and negotiations resulting in it will not be construed as or deemed to be evidence of or an admission or concession of liability or wrongdoing on the part of Defendants, or any of the Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever or with respect to the certifiability of a litigation class.

P. Plaintiffs and Class Counsel (defined below) believe that the claims asserted in the Action against Defendants have merit and that they would have prevailed at summary judgment, trial and on appeal. Nonetheless, Plaintiffs and Class Counsel recognize that Defendants have raised factual and legal defenses that present a risk that Plaintiffs may not prevail. Plaintiffs and Class Counsel also recognize the expense and delay associated with continued prosecution of the Action against Defendants through the motion for summary judgment, trial, post-trial motions and any subsequent appeals. Plaintiffs and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, Plaintiffs believe it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on its evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class (defined below), and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions in this Agreement.

II. AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into and are an integral part of this Agreement, and in consideration of the mutual promises below, the sufficiency of which the Parties readily acknowledge and accept, the Parties agree as follows:

1. DEFINITIONS

In addition to the definitions contained elsewhere in this Agreement, the following definitions shall apply:

1.1 Administration Costs: The costs and expenses actually incurred by the Settlement Administrator in implementing the Notice Plan, including the publication of Class Notice and establishment of the Settlement Website; implementing the Claims Process, including the processing, handling, and reviewing of claims; implementing the Distribution Plan, including paying Approved Claims; establishing the Settlement Fund; and all other expenses related to the administration of the Settlement Fund and administering this Settlement.

1.2 Agreement, Settlement Agreement, or Settlement: The settlement agreement reflected in this document, titled “Settlement Agreement and Release.”

1.3 Approved Claim: A Claim for a cash payment submitted by a Settlement Class Member for whom the Settlement Administrator lacks sufficient information to make a Direct Payment that: (a) is submitted timely and in accordance with the directions on the Claim Form and the provisions of the Agreement; (b) is signed by the Settlement Class Member, physically or electronically; and (c) is approved by the Settlement Administrator pursuant to the provisions of this Agreement.

1.4 Attorney's Fee and Cost Award: The amount that the Court awards to Class Counsel as reasonable attorneys' fees and recoverable litigation costs in this matter. The Attorney's Fee and Cost Award shall be paid from the Settlement Fund.

1.5 Claim Form: The document to be submitted by Settlement Class Members for whom the Settlement Administrator lacks sufficient information to issue a Direct Payment seeking a cash payment pursuant to this Agreement. The Claim Form will be available online at the Settlement Website and the contents of the Claim Form will be agreed to by the Parties, subject to Court approval.

1.6 Claimant: A Settlement Class Member who receives a Direct Payment or who submits a claim for cash payment as described in Paragraph 3.4 of this Agreement.

1.7 Claims Deadline: The date by which all Claim Forms must be postmarked or received by the Settlement Administrator to be considered timely. The Claims Deadline shall be sixty (60) calendar days from the initial mailing of the Class Notice to Settlement Class Members. The Claims Deadline will be clearly set forth in the Preliminary Approval Order as well as in the Class Notice and Claim Form.

1.8 Class or Settlement Class: All persons who, between May 4, 2015 and September 7, 2016 (the "Class Period"), purchased certain meat products at Safeway stores located within Oregon, offered on a Buy One, Get One Free or Buy One, Get Two Free promotion, using their Safeway Club Card. Excluded from the Settlement Class are: (1) any Judge presiding over this Action and members of their families; (2) persons who properly execute and file a timely request for exclusion from the Settlement Class; and (3) the legal representatives, successors, or assigns of any such excluded persons.

1.9. Class Counsel: Attorneys David F. Sugerman, Nadia H. Dahab and Sarah R. Osborn of Sugerman Dahab and Tim Alan Quenelle of Tim Quenelle, PC.

1.10 Class Member or Settlement Class Member: Each person eligible to participate in this Settlement who is a member of the Settlement Class as defined above.

1.11 Class Notice or Notice: The Notice of Proposed Class Action Settlement, in a long form and short form and the contents of both forms will be agreed to by the Parties, subject to Court approval.

1.12 Class Representatives: Plaintiffs Schearon Stewart and Jason Stewart.

1.13 Court: The Multnomah County Circuit Court for the State of Oregon, acting in Case No. 16CV15125.

1.14 Defendants' Counsel: The law firm of Perkins Coie LLP.

1.15 Direct Payment: For those Settlement Class Members for whom the Settlement Administrator has sufficient information to make a cash payment, a payment made directly to Settlement Class Members in an amount not to exceed \$200. In issuing Direct Payments, the Settlement Administrator shall use appropriate fraud detection and fraud prevention measures to ensure that Direct Payments are made only to Settlement Class Members.

1.16 Effective Date: One business day following the latest of the following events: the Final Approval Order and General Judgment of Dismissal have been entered on the Court docket, and: (a) the date upon which the time expires for filing or noticing any appeal of the Court's Final Approval Order and General Judgment of Dismissal has expired and no appeal has been timely filed; (b) if such an appeal has been filed, the date of completion, in a manner that finally affirms and leaves in place the Final Approval Order and General Judgment of Dismissal without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (c) the Court following the resolution of the appeal enters a further order approving settlement on the material terms set forth herein and in the Final Approval Order and General Judgment of Dismissal, and either no further

appeal is taken from such Final Approval Order and General Judgment of Dismissal or any such appeal results in affirmation of such Final Approval Order and General Judgment of Dismissal.

1.17 Escrow Holder: The financial institution with which the Claims Administrator, with approval by Class Counsel and Defendants, will open an escrow account for the Settlement Fund, as set out in Paragraph 7 below.

1.18 Final Approval or Final Approval Order: The Order approving this Agreement issued by the Court at or after the Final Approval Hearing Date and in a form agreed to by the Parties, subject to Court approval.

1.19 General Judgment of Dismissal: The general judgment of dismissal entered by Court after Final Approval of the Agreement and in a form agreed to by the Parties, subject to Court approval.

1.20 Notice Date: The date of publication of notice pursuant to Paragraph 3.3(b) of this Agreement.

1.21 Objection/Exclusion Deadline: The date by which all objections and requests for exclusion must be postmarked or received by the Settlement Administrator or the Court to be considered timely. The Objection/Exclusion Deadline shall be sixty (60) calendar days from the initial mailing of Class Notice to Settlement Class Members.

1.22 Preliminarily Approve, Preliminary Approval or Preliminary Approval Order: The Court's order preliminarily approving the terms and conditions of this Agreement, certifying the Settlement Class for settlement purposes, and directing Notice of the Settlement to the Settlement Class, in a form agreed to by the Parties, subject to Court approval.

1.23 Preliminary Approval Date: The date on which the Court enters an order granting Preliminary Approval.

1.24 Request for Exclusion: Election Not to Participate or Opt-out statement by a Class Member, as described further in Paragraph 3.9.

1.25 Released Claims: The claims that Releasing Parties are releasing in exchange for the consideration provided for by this Agreement, which include any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims,

demands, liabilities, rights, causes of action, controversies, extracontractual claims, damages, debts, judgments, suits, actual, statutory, punitive, exemplary or multiplied damages, expenses, costs, attorneys' fees and/or obligations whether in law or in equity, accrued or unaccrued, direct, individual, derivative, or representative, of every nature and description whatsoever, whether based on any federal, state, local, statutory or common law or any other law, rule or regulation—including, but not limited to, claims for violation of the Oregon Unlawful Trade Practices Act; injunctive relief; declaratory relief; unjust enrichment—against the Released Parties, or any of them, arising out of or related in any way to the pricing, advertising and sale of the certain meat products at issue in this Action, including all facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act regarding the pricing, advertising and sale of the certain meat products at issue in this Action, including all claims that were brought or could have been brought in the Action. Even if the Settlement Class Member discovers facts in addition to or different from those that he or she now knows or believes to be true or otherwise fails to discover facts, with respect to the subject matter of the Released Claims, those claims will remain released and forever barred.

1.26 Released Parties: Defendants and their past, present, and future parent companies, subsidiaries, affiliates, and related entities, and all of their respective partners, principals, managers, officers, directors, employees, shareholders, members, advisors, consultants, representatives, insurers, accountants, attorneys, trustees, assigns, real or alleged alter egos, predecessors, successors, transferees, managing agents, investors, and agents.

1.27 Releasing Parties: Jointly and severally, and individually and collectively, the Plaintiffs, Settlement Class Members and all of their respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, affiliates, related entities, divisions, banners, and agents, and all of their respective partners, principals, managers, officers, directors, employees, shareholders, members, advisors, consultants, insurers, personal or legal representatives, accountants, attorneys, trustees, assigns, real or alleged alter egos, transferees, heirs, executors, managing agents, investors, agents, independent contractors, financial and other advisors, investment bankers, underwriters, and lenders, of each of the foregoing, and anyone claiming by, through, derivatively, or on behalf of them.

1.28 Settlement Administrator: Postlethwaite & Netterville (P&N), the third-party administration company that has been selected jointly by the Parties and will be approved by the Court to perform the duties set forth in this Agreement.

1.29 Settlement Website: A website to be established, operated, and maintained by the Settlement Administrator for purposes of providing notice and otherwise making available to the Settlement Class Members the documents, information, and online claims submission process referenced in Paragraph 3.3(e), below.

1.30 Settlement Fund: The funds transferred by Defendants into an escrow account with the Escrow Holder pursuant to this Agreement and subject to an escrow agreement, as required by Paragraph 7, below, together with such income as that fund may earn and less such expenses as it may accrue as provided herein. The Settlement Fund shall be a Qualified Settlement Fund, as provided in Paragraph 7, below.

2. SETTLEMENT RELIEF AND SETTLEMENT CLASS CERTIFICATION

2.1 Gross Settlement Amount. Subject to the terms and conditions of this Agreement, Defendants will pay the lump-sum amount of One Hundred and Seven Million Dollars (\$107,000,000) (the “Settlement Payment”) to the Settlement Fund. The Settlement Payment is the maximum gross amount Defendants can be required to pay under this Agreement. The Settlement Fund represents the total maximum extent of Defendants’ monetary obligations under the Agreement. Defendants shall have no obligation to make further payments to the Settlement Fund.

2.2 Settlement of the Action and All Released Claims. The Final Approval of this Agreement is intended to and will settle and resolve with finality on behalf of Plaintiffs and Settlement Class Members, the Action and the Released Claims and other claims that have been brought, could have been brought, or could be brought now or at any time in the future against the Released Parties by Plaintiffs and Settlement Class Members in the Action or any other proceeding arising out of, in any manner related to, or connected in any way with the Released Claims.

2.3 Settlement Class Certification. Solely for the purpose of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Settlement Class

Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Settlement Class for the purpose of settlement as defined in this Agreement.

2.4 Conditional Nature of Stipulation for Certification. The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs and Settlement Class Members for purposes of this Settlement only. If the Settlement does not become Final, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with, the question of whether the Court, or an appellate court, should certify any claims in a non-settlement context as a class in the Action or in any other lawsuit. If the Settlement does not become Final, Defendants reserve the right to appeal and contest any issues relating to class certification and liability.

2.5 Appointment of Class Representatives. Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs shall be appointed as the representatives for the Settlement Class.

2.6 Appointment of Class Counsel. Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Settlement Class.

2.7 Payment of Direct Payments and Approved Claims. Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a cash payment from the Net Settlement Amount (defined below) for Direct Payments and Approved Claims from the Settlement Fund, as described in Paragraph 3.4 below.

2.8 Settlement Disbursements. Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments from the Settlement Fund:

(a) **To Class Counsel.** Class Counsel will apply to the Court for a total Attorney's Fee in an amount of fees not to exceed 20% of the Settlement Payment (i.e., Twenty One Million Four Hundred Thousand Dollars (\$21,400,000)) and a Cost Award for reimbursement of costs actually incurred or reasonably expected. The Settlement Administrator will pay the court-approved amounts for the Attorneys' Fee and Cost Award out of the Settlement Fund. IRS Form 1099 will be issued to Class Counsel by the Settlement Administrator for this payment. In the event the Court does not approve the entirety of the application for the Attorneys' Fee and Cost

Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference to Class Counsel between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for Attorneys' Fees and Cost Award, the difference shall remain in the Settlement Fund and be available for distribution to Settlement Class Members. The approval by the Court of any such lesser sum(s) shall not be grounds for Plaintiffs and/or Class Counsel to terminate the Settlement; however, Class Counsel retain their right to appeal any decision by the Court regarding the Attorneys' Fees and Cost Award.

(b) **To Settlement Class Members.** The Settlement Administrator will pay Settlement Class Members pursuant to the Claims Process and Distribution Plan set forth below in Paragraph 3.4. All payments to Settlement Class Members shall be made from the Settlement Fund.

(c) **To the Settlement Administrator.** All Administration Costs (reasonable fees and expenses) will be paid from the Settlement Fund, and the Settlement Class and Class Counsel may authorize payment from the Settlement Fund of the Administration Costs (reasonable fees and expenses) to the Settlement Administrator as approved by the Court.

2.9 Appointment and Responsibilities of the Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate that a Settlement Administrator will be appointed based on mutual agreement of parties. The Parties have selected P&N as the Settlement Administrator. Class Counsel is responsible for retaining and managing the Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and distributing the Class Notice and Claim Forms; establishing the Settlement Website that posts notices, Claim Forms, and other related documents by the Notice Date; receiving and processing claims and distributing payments to Settlement Class Members; answering inquiries from Settlement Class Members and/or forwarding such written inquiries to Class Counsel; keeping track of any objections or Requests for Exclusion from Settlement Class Members and providing copies of such objections or Requests for Exclusion to Class Counsel and Defendants' Counsel; performing skip traces and remailing Notices and payments to Settlement Class Members; calculating each Claimant's settlement payment; providing weekly status reports to Class Counsel and Defendants' Counsel, which are to include weekly updates on any objections or Requests for

Exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval Hearing including copies of objections and exclusions; mailing settlement payments; distributing the Attorneys' Fee and Cost Award to Class Counsel; distributing the Service Awards to Plaintiffs; providing a due diligence declaration for submission to the Court upon the completion of the Settlement; disbursing any funds remaining in the Settlement Fund as a result of uncashed checks as ordered by the Court, including the administration of related tax items; and for such other tasks as the Parties mutually agree. Within one (1) year after the completion of the Distribution Plan, the Settlement Administrator shall prepare the Final Report, which shall contain cumulative totals of all amounts actually distributed from the Settlement Fund to the Settlement Class Members, the amount actually paid from the Settlement Fund to the Settlement Class Members, and the remaining amount from the Settlement Fund distributed 50 percent to the Oregon State Bar fund for legal services and, subject to the Court's approval, 50 percent divided equally among (i) National Association of Consumer Advocates, (ii) National Consumer Law Center, (iii) Public Justice, (iv) Oregon Consumer Justice, and (v) Oregon Food Bank pursuant to Paragraph 4.4. The Final Report shall be sent to the Court, Class Counsel, and Defendants' Counsel. The Settlement Administrator will carry out any additional duties as set forth in this Agreement or as ordered by the Court.

2.10 Performance Standards of Settlement Administrator. The contract with the Settlement Administrator will obligate the Settlement Administrator to abide by the following performance standards:

(a) The Settlement Administrator will accurately and neutrally describe, and will train and instruct its employees and agents to accurately and objectively describe, the provisions of this Agreement in communications with Settlement Class Members;

(b) The Settlement Administrator will provide prompt, accurate, and objective responses to inquiries from Class Counsel and Defendants' Counsel and will periodically report on Claims, objectors, requests for exclusion, etc.

(c) The Settlement Administrator will seek clarification, instruction, or authorization for performance of its duties and expenditure or disposition of the Settlement Fund from Class Counsel and Defendants' Counsel.

(d) The Settlement Administrator shall keep all information regarding the Settlement Class Members confidential except as otherwise provided herein. All data created and/or obtained and maintained by the Settlement Administrator pursuant to this Agreement shall be destroyed eighteen (18) months after the Settlement Administration is complete.

3. PROCEDURES FOR APPROVING SETTLEMENT

3.1 Motion for Preliminary Approval and Conditional Certification. As soon as reasonably practical after execution of this Agreement, Plaintiffs will file the Agreement with the Court, and move for an order conditionally certifying the Settlement Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice and Claims Process, and submit the Preliminary Approval Order, in a form agreed to by the Parties, to the Court for approval. Class Counsel will provide a draft of the Preliminary Approval motion to Defendants' Counsel for review prior to filing.

3.2 Should the Court decline to Preliminarily Approve all material aspects of the Settlement, the Settlement will be null and void, and the Parties will have no further obligations under it. The Parties agree that if the Court declines to Preliminarily Approve non-material aspects of the Settlement, that the Parties will work cooperatively to make such changes required by the Court.

3.3 Notice Plan. After the Court enters the Preliminary Approval Order, Class Notice will be provided to the Settlement Class in accordance with the following procedures:

(a) The Settlement Administrator will be responsible for updating, verifying and otherwise locating U.S. Mail addresses for Settlement Class Members. Defendants will not and are not obligated to take any other steps to identify Settlement Class Members, locate contact information for Settlement Class Members, or take any other steps to identify or locate Settlement Class Members. Defendants have previously provided Settlement Class Member information and transactional data for the Class Period to Class Counsel sufficient to deliver notices and administer a claims verification process. To the extent the Settlement Administrator identifies incomplete or corrupted data in some respect, Defendants agree to confer with Class Counsel and the Settlement Administrator to determine whether additional information is available in Defendants' customer information or transaction databases. Before Class Notice is distributed pursuant to the Notice

Plan, the Settlement Administrator will attempt to update available address information and locate address information where a phone number, but no address, currently is available. To do that, the Settlement Administrator will run reverse phone look-up searches for Settlement Class Members for whom a phone number, but no address, is currently available. Where an address is available, the Settlement Administrator will run the address recipients through the U.S. Postal Service National Change of Address (“NCOA”) database for the purposes of verifying and updating addresses of intended recipients. In addition, the addresses will be certified through the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code and will be verified through Delivery Point Validation (“DPV”) to confirm the accuracy of the addresses. Should NCOA provide a more current mailing address for a Settlement Class Member, the Settlement Administrator will update the address accordingly. If a notice is returned with forwarding address information, the Settlement Administrator will re-mail to the forwarded address. For notices that USPS returns after mailing as undeliverable, the Settlement Administrator will use standard skip-tracing to obtain forwarding address information and, if skip-tracing provides a different forwarding mailing address, will re-mail the notice to the address identified by the skip-trace.

(b) **Direct Class Notice.** Within thirty (30) business days after the Court enters the Preliminary Approval Order, the Settlement Administrator will mail or e-mail the short-form Class Notice to all identified Settlement Class Members via U.S. Mail where a last-known U.S. Mail address has been located (the “Notice Date”). The Settlement Administrator will mail or email a short-form Class Notice agreed upon by the Parties to Settlement Class Members using the information previously provided to Class Counsel by Defendants. That information consists largely of emails, phone numbers, and addresses for Settlement Class Members. Plaintiffs’ preliminary review of that information shows that the Settlement Administrator will have at least an email or address (or, in some cases, a combination of the two) for approximately 361,000 Settlement Class Members.

(c) With regard to email Class Notice, the Settlement Administrator will provide direct email notice to Settlement Class Members for whom an email address is currently available. The email notice will be a short-form Class Notice agreed upon by the Parties, will be created using embedded .html text to provide an easy-to-read format without tables, graphs or other content that may increase the likelihood of the email landing in SPAM folders and/or being

blocked by Internet Service Providers (“ISP” or “ISPs”). The Settlement Administrator will follow email best practices, including “unsubscribe” links, administrator contact information, and maintaining multiple IP addresses with strong sender reputations. Emails will also be batched into small groups and sent over multiple days to decrease the likelihood of being erroneously flagged as bulk junk email. The Settlement Administrator will track and report to the Parties and the Court all email delivery attempts. If an item is returned as undeliverable, commonly referred to as a “bounce,” the reason is noted. If the email address is noted as non-existent as attempted, this is referred to as a “hard bounce,” and no additional attempts to deliver the email Class Notice to that email address will be made. Responses where the inbox is full, the attempt is initially blocked or deferred by the ISP, or any other circumstances that prevent delivery are referred to as “soft bounces.” To limit the number of soft bounces, the Settlement Administrator will continue to attempt to resend emails receiving a soft bounce for a period of 72-hours. If the email is not able to be delivered after the 72-hour period, the email will be deemed undeliverable, and no additional attempts will be made to that email address.

(d) **Social Media.** In an effort to reach those Settlement Class Members for whom no contact information is currently available, and to supplement the direct Class Notice efforts described above, the Settlement Administrator will place targeted newsfeed ads on social media platforms, including Facebook. The Parties will agree on the specific social media platforms and the form of these newsfeed ads. The ads will include a link to the Settlement Website.

The Settlement Administrator will create this social media Class Notice in consultation with and with approval of the Parties. It will develop custom notices in accordance with Facebook advertising guidelines and geo-target the primary locations in which Settlement Class Members are known to reside. The text of the Facebook notice will allow users to identify themselves as Settlement Class Members and directly link to the Settlement Website.

(e) **Settlement Website.** By the Notice Date, the Settlement Administrator will provide the long-form Class Notice on the Settlement Website at www.SafewayBOGOClassAction.com, which will be, administered, and maintained by the Settlement Administrator and will include the ability to file Claim Forms online, provided that such Claim Forms, if signed electronically, will be binding for purposes of applicable law and

contain a statement to that effect. The content and form of the Settlement Website shall be mutually acceptable to the Parties, and the Settlement Administrator shall give Class Counsel and Defendants the opportunity to review the Settlement Website and any changes to it.

(f) **Toll-Free Case Hotline.** By the Notice Date, the Settlement Administrator will create a dedicated toll-free informational hotline that will be available to Settlement Class Members 24 hours per day, seven days per week. The hotline will use an interactive voice response (IVR) system through which Settlement Class Members can obtain essential information about the case and answers to FAQs.

(g) The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendants' Counsel of the number of Class Notices mailed and emailed, the number of Class Notices returned as undeliverable, the number of Class Notices re-mailed, the number of Claim Forms received, and the number of objections and Requests for Exclusion received.

(h) Neither Class Counsel nor the Settlement Administrator shall have any obligation to provide information regarding the Settlement of the Final Approval Hearing to any Settlement Class Member in any manner other than what is set forth in this Section.

(i) Settlement Class Members shall not be provided any type of notice by the Class Representatives, Class Counsel or Defendants other than as set forth above in this Section. Nothing herein shall prevent (1) Class Counsel from directing inquirers to the Class Notice; (2) Class Counsel from contacting or responding to questions from Settlement Class Members; (3) Class Counsel providing Settlement Class Members with any of the approved Class Notices; (4) Class Counsel from encouraging, on an individual basis, potential Settlement Class Members who are not eligible for Direct Payments to submit a Claim, (5) Class Counsel from encouraging, on an individual basis, Settlement Class Members to cash checks or claim Direct Payments; and (6) any Party from responding to any inquiries from members of the public regarding the Settlement, including via social media and media, provided that any comments (i) state that there is a settlement of the Action that is subject to Court approval and other conditions, and/or (ii) refer the inquirer to the Class Notice, and/or (iii) summarize or quote statements made in publicly available filings in the Action. To the extent Class Counsel or the Settlement Administrator are receiving numerous inquiries from Settlement Class Members expressing confusion about the

Settlement, its terms and conditions, or the legitimacy of a Direct Payment, Defendants are willing to confer with Class Counsel and the Settlement Administrator regarding the need for and language of a supplemental notice or public statement to clarify these issues. The limitations contained here are not intended to limit, bar, or alter communications or disclosures otherwise required by law.

3.4 Claims Process and Distribution Plan. Each Settlement Class Member will be entitled to either receive a Direct Payment or submit a Claim for cash payment, consistent with this Paragraph and as determined by the Court.

(a) **Direct Payment:** For those Settlement Class Members for whom the Settlement Administrator has sufficient information to make a Direct Payment, the Settlement Administrator will issue Direct Payments to those Settlement Class Members in a form approved by the Court. In issuing Direct Payments, the Settlement Administrator shall use appropriate fraud detection and fraud prevention measures to ensure that Direct Payments are made only to Settlement Class Members. Direct Payments will not exceed \$200 on a per-individual basis.

(b) **Claims.** Settlement Class Member for whom the Settlement Administrator lacks sufficient information to make a Direct Payment may file a claim that will, if timely and valid, entitle him or her to a cash payment not to exceed \$200 on a per-individual basis. The Settlement Administrator shall review claims in accordance with the provisions of Paragraph 3.6, below, and make cash payments only to Settlement Class Members with Approved Claims.

(c) **Method of Payment.** Direct Payments shall be offered in a default form of payment chosen by the Settlement Administrator, subject to approval of the Court. If requested by a Settlement Class Member eligible for Direct Payment, the Settlement Administrator may, at its discretion, issue an alternative form of payment, whether by paper check or by electronic means (e.g., Paypal/Venmo, ACH/Direct Deposit, etc.). Payment by paper check will be the default payment method for hard copy claims filed via email or mail or in the event that a Settlement Class Member fails to indicate a preferred method of payment or provides incomplete or inaccurate electronic payment information. Payment by paper check is the only methods of payment that require Settlement Class Members making a claim to take action to receive custody of the funds, and Settlement Class Members receiving payment by paper check shall be provided one hundred and eighty (180) calendar days from issuance to negotiate or accept the funds. If the paper check is not cashed, deposited, or otherwise negotiated within this 180-day period, the check will be

voided, and the funds shall be distributed by the Settlement Administrator according to Paragraph 3.4(f) below.

(d) **Determining Net Settlement Amount for Distribution.** The Settlement Administrator shall determine the total amount of money available for payout to Settlement Class Members, which is the Gross Settlement Amount less (1) the court-approved Attorney's Fee and Cost Award, and (2) Administration Costs. In other words, the Net Settlement Amount is the portion of the Gross Settlement Amount remaining in the Settlement Fund that will be distributed to Settlement Class Members through the Claims Process.

(e) **Settlement Class Distributions from Settlement Fund.** Settlement Class Members who receive Direct Payments or who submit Approved Claims will be paid a pro rata distribution of the Net Settlement Amount, not to exceed \$200 per Settlement Class Member. Claims will be paid from the Settlement Fund within thirty (30) days after the date the Agreement becomes Final, pursuant to Paragraph 4.3.

(f) **Pro Rata Adjustment.** If the total value of all Approved Claims exceeds the Net Settlement Amount, then the amount paid on an Approved Claim will be reduced pro rata as necessary.

(g) **Unclaimed Funds.** If the total value of all Approved Claims is less than the Net Settlement Amount, then the remaining funds in the Settlement Fund will be distributed pursuant to ORCP 32 O, with one-half of the unclaimed funds paid to the Oregon State Bar for the funding of legal services provided through the Legal Services Program established under ORS 9.572, and the remaining one-half of the unclaimed funds, subject to the Court's approval, paid, in equal portions, to (i) National Association of Consumer Advocates, (ii) National Consumer Law Center, (iii) Public Justice, (iv) Oregon Consumer Justice, and (v) Oregon Food Bank.

Similarly, those Settlement Class Members whose cash benefit checks are not cleared or electronic payments are not claimed within one hundred eighty (180) days after issuance will be ineligible to receive a cash settlement benefit from the Settlement Fund, and Defendants will have no further obligation to make any payment pursuant to this Agreement or otherwise to such Settlement Class Members. Any unclaimed funds remaining after administration of this

Settlement Agreement will be paid pursuant to ORCP 32 O with one-half of the unpaid funds paid to the Oregon State Bar for the funding of legal services provided through the Legal Services Program established under ORS 9.572, and the remaining one-half of the unclaimed funds, subject to the Court's approval, paid, in equal portions, to (i) National Association of Consumer Advocates, (ii) National Consumer Law Center, (iii) Public Justice, (iv) Oregon Consumer Justice, and (v) Oregon Food Bank.

3.5 Proof of Claim. A maximum of one payment, whether by Direct Payment or Claim, may be paid to each Settlement Class Member. A Claimant must include information required by the Settlement Administrator in the Claim Form.

3.6 Review of Claims. The Settlement Administrator will be responsible for reviewing all claims to determine their validity. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraphs 1.8, 3.4, and 3.5 above, or is submitted after the Claims Deadline. The Settlement Administrator will, however, ultimately be the final decisionmaker on the validity of any claim. The Settlement Administrator shall use good faith and appropriate procedures to prevent, detect, and reject the payment of Fraudulent Claims and ensure payment of only legitimate claims. As used in this Agreement, "Fraudulent Claims" means any Claim Form(s) that the Settlement Administrator, in conjunction with the Parties, determines in good faith contain indicia of fraud or deceit.

3.7 Objections to the Settlement. The Class Notice will provide that any Settlement Class Members (other than the Class Representatives) who wish to object to the Settlement should do so in writing, signed, dated, and filed with the Court and also mailed to the Settlement Administrator by the Objection/Exclusion Deadline. Objections may also be made in person at the Final Approval Hearing. Settlement Class Members who fail to make written objections and who do not appear at the Final Approval Hearing to voice their objections shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

(a) **Format.** Any written Objection must contain the following information so that the Court and Parties understand who is objecting, whether they have standing to object, and on what basis: (i) the objecting Settlement Class Member's full name, address, and

telephone number; (ii) the word “Objection”; (iii) a statement attesting that the objecting Settlement Class Member purchased at least one qualifying meat product at a Safeway store located within Oregon, offered on BOGO promotion, using a Safeway Club Card between May 4, 2015 and September 7, 2016; (iv) a statement identifying (1) the Safeway store address(es) at which the objecting Settlement Class Member claims they made the purchase(s) between May 4, 2015 and September 7, 2016; (2) the objecting Settlement Class Member’s Safeway Club Card account number; (v) a description, in clear and concise terms, of the specific factual and legal grounds for each objection, including why the objector has chosen to object; (vi) an indication of whether the Settlement Class Member is represented by counsel, and, if so, that counsel’s full name, address and bar number; (vii) a list of and copies of all documents that the Settlement Class Member may seek to use at the Final Approval Hearing, and a list of the names of any witnesses that the Settlement Class Member wants to present at the Final Approval Hearing; (viii) a list of all other objections to class settlements submitted by the Settlement Class Member or Settlement Class Member’s counsel to any Court within the United States within the last 5 years, if any, including the total number of such objections and the case and court information in which each such objection was asserted; (ix) indicate whether the Settlement Class Member would like to appear at the Final Approval Hearing; (x) identify the name of the case (*Stewart, et al. v. Albertsons Companies, LLC, et al.*, Multnomah County Circuit Court Case No. 16CV5125). The objection must be personally signed by the person making the objection.

(b) **Option to Appear.** Settlement Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector’s own counsel. Any counsel representing an objecting Settlement Class Member must file with the Court a notice of appearance and Points and Authorities in support of the objection, which brief shall contain any and all legal authority upon which the objector will rely and confirm whether the attorney intends to appear at the Final Approval Hearing. Copies of these documents must be filed with the Clerk of Court and delivered to Class Counsel and Defendant’s Counsel no later than the Objection/Exclusion Deadline. A written objection will still be considered even if an objecting Settlement Class Member does not appear at the Final Approval Hearing, either in person or through the objector’s own counsel.

(c) **Invalid Objections.** An objection will be invalid and will not be considered if the submission does not comply with the requirements set forth in Paragraphs 3.7(a) and (b), is received after the Objection/Exclusion Deadline, or is not timely filed with the Court and mailed to the correct addresses for the Settlement Administrator, Class Counsel and Defendants' Counsel listed on the Class Notice.

(d) The Class Representatives agree that the Agreement is fair and reasonable to the Settlement Class Members and that they do not, and will not, object to the Agreement, and hereby waive any right that they may have had to do so.

3.9 Request for Exclusion from the Settlement (“Opt-Out”). Settlement Class Members shall have sixty (60) calendar days from the Notice Date to request to opt out. The Class Notice will provide that Settlement Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator a Request for Exclusion. A written request to opt out should: (1) state the Settlement Class Member's name, mailing address, and email or telephone number; (2) state that the Settlement Class Member wishes to opt out from the Settlement; (3) be signed by the Settlement Class Member; and (4) be postmarked no later than the Objection/Exclusion Deadline. The request for exclusion must be personally signed by the person requesting exclusion. So-called “mass” or “class” exclusion requests shall not be allowed.

(a) **Confirmation of Authenticity.** If there is a question about the authenticity of a signed Request for Exclusion, the Settlement Administrator may demand additional proof of the Settlement Class Member's identity. Any Settlement Class Member who returns a timely, valid, and executed Request for Exclusion will not participate in or be bound by the Settlement and Final Approval Order and General Judgment of Dismissal and will not receive a cash settlement benefit. A Settlement Class Member who does not complete and mail a timely Request for Exclusion will automatically be included in the Settlement and will be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the subsequent Final Approval Order, regardless of whether he or she has objected to the Settlement.

(b) **Report.** No later than seven (7) calendar days after the Objection/Exclusion Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Class Notices mailed and emailed to Settlement Class Members, the number of Class Notices returned as undeliverable, the number of Class Notices re-mailed to the

Settlement Class Members, the number of re-mailed Class Notices returned as undeliverable, the number of Settlement Class Members who objected to the Settlement and copies of their submitted objections, the number of Settlement Class Members who returned valid Requests for Exclusion and copies of those Requests for Exclusion, and the number of Settlement Class Members who returned invalid Requests for Exclusion. The Settlement Administrator shall file a declaration with the Court, concurrently with the filing of any motion for Final Approval, authenticating a copy of every Request for Exclusion and objection received by the Settlement Administrator.

(c) If a Settlement Class Member submits both a timely and valid Request for Exclusion and timely and valid objection, the objection will be rejected and the Settlement Class Member's Request for Exclusion will be accepted.

3.10 Motion for Final Approval. At or before the Final Approval Hearing, Class Counsel shall apply to the Court for a Final Approval Order, in a form agreed upon by the Parties, providing the following:

(a) finally approving this Agreement, adjudging the terms thereof to be fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class; directing the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(b) approving the notice, claims and objections procedures, and finding that the Notice Plan (1) constituted the best practicable notice under the circumstances; (2) constituted notice that was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the Agreement, and to appear at the Final Approval Hearing; (3) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) met all applicable requirements of the Oregon Rules of Civil Procedure, due process, the United States Constitution, the Oregon Constitution, and any other applicable law;

(c) finding that the Class Representatives and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Agreement;

(d) approving and incorporating the Releases provided in Paragraphs 5.1, 5.2 and 5.3 and ordering that, as of the Effective Date, the Released Claims will be released and forever discharged as to the Released Parties;

(e) declaring that the Final Approval Order and General Judgment of Dismissal are binding on Class Representatives, Settlement Class Members and Class Counsel.

(f) stating that the Agreement shall not be offered or admitted into evidence and the Settlement shall not be or referred to in any way (orally or in writing) in any other action, arbitration, or other proceeding, except as allowed by OEC 408 or other similar rules (and specifically excepting the Action and/or a proceeding involving an effort to enforce the Agreement);

(g) permanently barring and enjoining all Settlement Class Members from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any other lawsuit or action in any jurisdiction against any of the Released Parties based on the Released Claims;

(h) authorizing the Court to enter a General Judgment of Dismissal in a form agreed upon by the Parties; and

(i) retaining continuing and exclusive jurisdiction to enforce the terms of this Agreement.

3.11 If the Court does not grant Final Approval and enter a General Judgment of Dismissal, or if the Court's Final Approval Order and General Judgment of Dismissal is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. An award by the Court of a lesser amount than sought by Plaintiffs and Class Counsel for the Attorney's Fee and Cost Award will not constitute a material modification to the Settlement within the meaning of this Paragraph 3.

3.12 After entry of the Final Approval Order and the General Judgment of Dismissal, the Court shall have continuing jurisdiction over the Action for purposes of: (1) enforcing this

Agreement; (2) addressing settlement administration matters; and (3) addressing such post-judgment matters as may be appropriate under Court rules and applicable law.

3.13 Waiver of Right to Appeal. Provided that the Final Approval Order and the General Judgment of Dismissal are consistent with the terms and conditions of this Agreement, if Settlement Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Final Approval Order and the General Judgment of Dismissal, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside the Final Approval Order and the General Judgment of Dismissal or any extraordinary writ, and the Final Approval Order and the General Judgment of Dismissal will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right of Class Counsel to appeal any award of their fees and costs that is less than they applied for, or to oppose any appeal, appellate proceeding, or post-judgment proceeding.

3.14 Vacating, Reversing, or Modifying the Final Approval Order or the General Judgment of Dismissal on Appeal. If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Final Approval Order or the General Judgment of Dismissal such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Final Approval Order and the General Judgment of dismissal are not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount.

4. DISBURSEMENT OF THE SETTLEMENT FUND

4.1 Disbursement Plan. Subject to the Court finally approving the Agreement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order. The maximum amount Defendants can be required to pay under this Settlement for any purpose is the Gross Settlement Amount. The Settlement Administrator shall keep Class Counsel and Defendants' Counsel apprised of all distributions from the Settlement Fund. The Settlement Administrator shall respond to questions from Class Counsel and Defendants' Counsel. No person shall have any claim against Defendants, Defendants' Counsel,

Plaintiffs, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.

4.2 Funding the Settlement Fund. Within fourteen (14) calendar days after the Effective Date, Defendants will pay an amount equal to One Hundred Seven Million Dollars and Zero Cents (\$107,000,000) to the Settlement Fund established and controlled by the Settlement Administrator and by following the procedures of Paragraph 7 below.

4.3 Disbursements: Within forty-five (45) calendar days after the date the Effective Date, the Settlement Administrator shall pay from the Settlement Fund (1) the Attorney's Fee and Cost Award, (2) the Service Awards, (3) the Administration Costs incurred to date and reasonably expected to be incurred through completion of the Settlement Administration, and (4) the Approved Claims.

4.4 Disbursements for Uncleared Checks and Unclaimed Funds. Claimants must cash or deposit their checks or claim their electronic payments within one hundred eighty (180) days after issuance. Any unclaimed funds remaining in the Settlement Fund after payments to Claimants and to the Settlement Administrator and any amounts unclaimed as a result of failure of a Claimant to cash or deposit a check within 180 days of issuance and any interest accrued on that amount will be paid as part of the payment pursuant to ORCP 32 O as set forth in Paragraph 3.4(f).

4.5 Final Report by Settlement Administrator. Within one (1) year after the completion of the Distribution Plan, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds. Class Counsel will be responsible for submitting a final report to the Court pursuant to the Court's order or request.

5. RELEASE OF CLAIMS

5.1 In addition to the effect of any Final Approval Order and the General Judgment of Dismissal entered in accordance with this Agreement, upon Final Approval of this Agreement, and for other valuable consideration as described herein, Released Parties shall be completely released, acquitted, and forever discharged from any and all Released Claims.

5.2 As of the Effective Date, and with the approval of the Court, all Releasing Parties hereby fully, finally, and forever release, waive, discharge, surrender, forego, give up, abandon,

and cancel any and all Released Claims against Released Parties. As of the Effective Date, all Releasing Parties will be forever barred and enjoined from prosecuting any action against the Released Parties asserting any and/or all Released Claims. All Releasing Parties, and anyone else purporting to act on behalf of, for the benefit of, or derivatively for any of them, are permanently barred from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits or other relief from any other lawsuit, arbitration, or administrative, regulatory, or other proceeding, in any jurisdiction or forum, that is based upon, arises out of, or relates to any Released Claim, including, without limitation, any claim that is based upon, arises out of, or relates to (i) the Action or the transactions and occurrences referred to in the Action or (ii) any BOGO pricing or promotions between May 4, 2015 and September 7, 2016.

5.3 As of the Effective Date, Plaintiffs hereby waive and relinquish to the fullest extent permitted by law, California Civil Code section 1542. Each Plaintiff hereby certifies that they are aware of and have read and reviewed the following provision of California Civil Code section 1542:

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.

5.4 Termination of Settlement. In the event that the Settlement Agreement is terminated, cancelled, declared void or fails to become effective in accordance with its terms, or to the extent termination, cancellation, or voiding of the Settlement Agreement is otherwise provided, no payments shall be made or distributed to anyone in accordance with the terms of this Agreement. The Parties will bear their own costs and fees with regard to the efforts to obtain Court approval, and this Agreement shall be deemed null and void with no effect on the Action whatsoever. In such event, the terms and provisions of the Agreement shall have no further force and effect with respect to the Parties and shall not be used in this litigation or any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Agreement shall be treated as vacated, *nunc pro tunc*. In the event of a termination of Settlement, each party should bear its own costs and attorney's fees.

6. MISCELLANEOUS TERMS

6.1 No Admission of Liability. Defendants make no admission of liability or wrongdoing by virtue of entering into this Agreement. Defendants reserve the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendants deny that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants of liability or wrongdoing. This Settlement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation, other than solely in connection with enforcing this Settlement, including to establish that Defendants is entitled to dismissal of Released Claims as a result of the Settlement Agreement.

6.2 Change of Time Periods. The time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Class Counsel and Defendants' Counsel, without notice to Settlement Class Members. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any provision of this Agreement.

6.3 Time for Compliance. If the date for performance of any act required by or under this Agreement falls on a Saturday, Sunday or court holiday, that act may be performed on the next business day with same effect as if it had been performed on the day or within the period of time specified by or under this Agreement.

6.4 Confidential Information. The Parties acknowledge and agree that the confidential mediation communications, including non-public information about the business practices and business records of Defendants disclosed solely during the scope of confidential mediation proceedings and settlement negotiations, and records marked confidential and produced pursuant to the Stipulated Protective Order in this Action ("Confidential Information") will not be disclosed to any third parties and will be returned to Defendants, with no copies retained after the Court issues Final Approval of the Settlement. The Parties further acknowledge and agree that

such confidential mediation communications and Confidential Information have not and will not be used for any purpose other than for evaluating claims for purposes of entering into this Settlement.

6.5 Integrated Agreement. No oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement, and its exhibits. Notwithstanding any course of dealing to the contrary, no modification or amendment of this Agreement shall be effective until reduced to writing and signed by the Parties.

6.6 Authorization to Enter into Settlement Agreement. Class Counsel and Defendants' Counsel warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.

Additionally, each signatory to this Agreement who signs on behalf of another hereby warrants that it, he, or she has the authority to sign on behalf of such person or entity.

6.7 Interim Stay of Proceedings. The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.

6.8 Amendment or Modification of Agreement. This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.

6.9 Agreement Binding on Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

6.10 No Prior Assignment. Plaintiffs hereby represent, covenant, and warrant that they have not directly, or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

6.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of Oregon, without giving effect to any conflict of law principles or choice of law principles.

6.12 Fair, Adequate, and Reasonable Settlement. The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

6.13 No Tax or Legal Advice. The Parties understand and agree that the Parties are neither providing tax or legal advice nor making representations regarding tax obligations or consequences, if any, related to this Agreement; that Settlement Class Members will assume any such tax obligations or consequences that may arise from this Agreement; and that Settlement Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that taxes are due from any Settlement Class Member, such Settlement Class Member assumes all responsibility for the payment of such taxes. The Parties further agree that Defendants shall have no legal obligation to pay, on behalf of the Settlement Class Members, any taxes, deficiencies, levies, assessments, fines, penalties, interests, or costs, which may be required to be paid with respect to settlement payments.

6.14 Jurisdiction of the Court. The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders in connection therewith.

6.15 Invalidity of Any Provision; Severability. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid

to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

6.16 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

6.17 Execution in Counterpart/Electronic Execution and Delivery. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. The Parties agree that an electronically made signature, or an original signature that is scanned, will be deemed an original signature and an electronically delivered counterpart deemed an original counterpart.

6.18 Notices. All notices to the Parties or their respective counsel required by this Agreement will be made in writing and communicated by email and mail to the following addresses:

For the Settlement Class: David F. Sugerman, Sugerman Dahab, 707 SW Washington St., Ste. 600, Portland, OR 97205, david@sugermandahab.com.

For Defendants: Sarah J. Crooks, Perkins Coie LLP, 1120 NW Couch Street, 10th Floor, Portland, Oregon 97209, SCrooks@perkinscoie.com. With a copy to: Albertsons Companies, Inc., 250 Parkcenter Blvd., Boise, ID 83702, Attn: Michael Dingel (Legal Dept), Michael.dingel@albertsons.com.

6.20 Scope of Agreement. This Agreement shall not apply, except as otherwise noted, to any other entity or organization affiliated with Defendants.

7. QUALIFIED SETTLEMENT FUND

7.1 The Settlement Fund shall be established by Escrow Holder as a separate escrow account constituting a Qualified Settlement Fund (“QSF”) as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1. A financial institution recommended by P&N shall serve as escrow agent. The Settlement Administrator shall advise Class Counsel with respect to the

management of the fund, provide tax advice, and take such steps as shall be necessary to qualify the QSF under 26 U.S.C. §468B, and the regulations promulgated pursuant thereto, including, but not limited to, satisfying the segregation requirements of Treasury Regulations Section 1.468B-1(h). Defendants shall be considered the “transferor” within the meaning of Treasury Regulation §1.468B-1(d)(1). The Settlement Administrator shall be the “administrator” within the meaning of Treasury Regulation §1.468B-2(k)(3). The Parties shall cooperate in securing an order of the Court to establish the QSF in accordance with the terms hereof in conjunction with its Preliminary Approval of the Settlement and Notice of Settlement. The Court shall retain jurisdiction over the administration of the QSF. Defendants shall supply to the Settlement Administrator and to the Internal Revenue Service the statement described in Treasury Regulation §1.4688-3(e)(2). It is intended that the transfers to the QSF will satisfy the “all events test” and the “economic performance” requirement of §461(h)(1) of the Internal Revenue Code, and Treasury Regulation §1.461-1(a)(2). Accordingly, Defendants shall not include the income of the QSF in its income. Rather, the QSF shall be taxed on its modified gross income, excluding the sums transferred to it, and shall make payment of resulting taxes from its own funds. In the event that the entire balance of the QSF is not depleted within one (1) year, including after all efforts of the Parties, if any, to locate the Settlement Class Members, then payments of the unclaimed amounts shall be made pursuant to Paragraph 3.4(f), above.

7.2 The Settlement Administrator shall cause to be filed, on behalf of the Settlement Fund, all required federal, state, and local tax returns, information returns and tax withholdings statements in accordance with the provisions of Treasury Regulation §1.468B-2.

7.3 The taxable year of the QSF shall be the calendar year in accordance with Treasury Regulation §1.468B-2(j). The Settlement Fund shall utilize the accrual method of accounting within the meaning of § 446(c) of the Internal Revenue Code.

7.4 All funds held by the Escrow Holder shall be deemed and considered to be in *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court, until distributed pursuant to this Agreement.

8. EXECUTION BY THE PARTIES

The Parties hereby execute this Agreement.

CLASS REPRESENTATIVES:

Dated: 2/17/2023

DocuSigned by:
Schearon Stewart
87036A449BC9448...

Dated: 2/17/2023

DocuSigned by:
Jason Stewart
1404F1F3EB284A3...

APPROVED AS TO FORM:

CLASS COUNSEL:

Dated: 2/17/2023

SUGERMAN DAHAB

DocuSigned by:
David Sugerman
1BA6F6D93FB0480...

Dated: 2/17/2023

TIM QUIENELLE PC

DocuSigned by:
tim quenelle
9A2787A1A8D743B...

DEFENDANTS:

ALBERTSONS COMPANIES, INC.

Dated: _____

By: _____

SAFEWAY INC.

Dated: _____

By: _____

DEFENDANTS' COUNSEL

APPROVED AS TO FORM:

PERKINS COIE LLP

Dated: _____

By: _____

8. EXECUTION BY THE PARTIES

The Parties hereby execute this Agreement.

CLASS REPRESENTATIVES:

Dated: _____

Dated: _____

APPROVED AS TO FORM:

CLASS COUNSEL:

SUGERMAN DAHAB

Dated: _____

TIM QUENELLE, PC

Dated: _____

DEFENDANTS:

ALBERTSONS COMPANIES, INC.

Dated: February 17, 2023

By: ^{DocuSigned by:}
Jon-Peter Kelly
4F0A5A77D6D34F0...

SAFEWAY INC.

Dated: February 17, 2023

By: ^{DocuSigned by:}
Jon-Peter Kelly
4F0A5A77D6D34F0...

DEFENDANTS' COUNSEL

APPROVED AS TO FORM:

PERKINS COIE LLP

Dated: February 17, 2023

By: ^{DocuSigned by:}
Sarah Crooks
95ABB5E68B394ED...