

SETTLEMENT AGREEMENT

Plaintiff Jeffrey Little (“Plaintiff”), on behalf of himself and the “Settlement Class” as this term is defined in paragraph II.A. and Defendant Wendy’s International, LLC (“Defendant,” and with Plaintiff, the “Parties”), through their respective counsel, hereby enter into this settlement agreement (“Agreement”) to resolve claims asserted by Plaintiff individually and on behalf of all Settlement Class Members against Defendant in the action referred to below in paragraphs II.B and II.F.

I. DEFINITIONS

The terms set forth below shall have the meanings defined in this Section wherever used in this Agreement and in all its exhibits.

- A. “Agreement” means this Settlement Agreement.
- B. “Attorneys’ Fees and Costs” means the amount of attorneys’ fees and costs and expenses to be requested by Class Counsel subject to District Court approval in accordance with paragraph V.D.2 of this Agreement.
- C. “Claim” means any claim submitted by a Settlement Class Member by way of a Claim Form.
- D. “Claim Form” means the Settlement Claim Form attached hereto as Exhibit 2, which has been agreed to by the Parties, subject to Court approval, as the method by which Settlement Class Members may submit Claims. Only those Settlement Class Members who submit a timely and valid Claim Form are eligible to recover a share of the Settlement proceeds.
- E. “Claims Period” means the forty-five (45) calendar day period of time beginning on the date the Settlement Administrator initially sends the Notice as provided in paragraph V.B.2 within which a Settlement Class Member must submit his or her timely and valid Claim Form to become a Participating Class Member.
- F. “Class Counsel” means The Law Offices of Brian D. Gonzales, PLLC and Hood Law Office, PLLC.
- G. “Class Period” means October 25, 2014 up to the date that the court enters a preliminary approval order.
- H. “Defendant” means Wendy’s International, LLC.
- I. “Defense Counsel” means Squire Patton Boggs (US) LLP.
- J. “Effective Date” means the date after the Court enters an order granting final approval of the Settlement and either: (1) the time for filing an appeal from the final approval order has expired without the filing of any notice of appeal, or (2) if a timely appeal is filed, the final resolution of that appeal (including, but not limited to, any requests for rehearing or a petition for

certiorari), resulting in the final judicial approval of the Agreement without any material modification or withdrawal of such appeal.

K. “Execution” refers to the signing of this Agreement by all signatories hereto.

L. The “Gross Settlement Amount” means the fund of Three Million Nine Hundred Fifty Thousand U.S. Dollars (\$3,950,000.00), which is the maximum potential total amount to be paid, on a claims made basis, by Defendant to Plaintiff, all Participating Class Members, Class Counsel, and the Settlement Administrator in accordance with the terms of this Agreement.

M. The “Minimum Settlement Amount” means the combined total of any Attorneys’ Fees and Costs approved by the Court plus Plaintiff’s Class Representative Enhancement payment approved by the Court, and Notice and Administration Costs (up to \$135,000), plus fifty percent (50%) of the Net Settlement Amount as defined in paragraph I.N.

N. “Net Settlement Amount” means the Gross Settlement Amount minus the combined aggregate of the Attorneys’ Fees and Costs approved by the Court, Plaintiff’s Class Representative Enhancement payment approved by the Court, and Notice and Administration Costs (up to \$135,000).

O. “Notice” means a document substantially in the form of the Notice of Wage/Hour Class Action Settlement, Settlement Hearing and Claims Procedure attached hereto as Exhibit 1 which has been agreed to by the Parties subject to Court approval and which the Settlement Administrator will provide access on the settlement website to each Settlement Class Member explaining the terms of the Settlement and the Claim, Opt-Out Letter, and objection process.

P. “Notice and Administration Costs” or “Administration Costs” means the costs, of administering the settlement, subject to Court approval, for the services of the Settlement Administrator described in Section V.

Q. “Opt-Out Letter” refers to a written request to opt-out or exclude oneself from the Settlement sent by any Settlement Class Member who elects to be excluded from the Settlement Class. A Settlement Class Member must submit an Opt-Out Letter to exclude himself or herself from the Settlement and from the release of claims pursuant to this Settlement. Those who submit a valid and timely Opt-Out Letter will no longer be considered part of the Settlement Class after their valid and timely Opt-Out Letter is received by the Settlement Administrator.

R. The “Opt-Out Period” means the forty-five (45) calendar day period beginning on the day after the last day on which the Settlement Administrator initially sends the Notice as described in paragraph V.B.4.

S. “Opt-Outs” refers to the Settlement Class Members who have timely opted out of the Settlement Class in accordance with the procedures set forth in paragraph V.B.4.

T. “Participating Class Members” refers to each Settlement Class Member who submits a timely and valid signed Claim Form.

U. “Parties” means Plaintiff, the Settlement Class Members, and Defendant.

V. “Plaintiff” means Jeffrey Little.

W. “Released Claims” means all claims of any Settlement Class Members alleged against Defendant, or that could have been alleged against Defendant or Released Parties, at any point during the Class Period based on the facts alleged in the action, including but not limited to, claims under the Colorado Wage Claim Act (“CWCA”), C.R.S. §§ 8-4-101, *et seq.*, the Colorado Minimum Wage Act (“CMWA”), C.R.S. §§ 8-6-101, *et seq.*, as implemented by the Colorado Minimum Wage Order and/or the Colorado Overtime and Minimum Pay Standards Order, Colorado’s civil theft statute, C.R.S. § 18-4-405, and any and all claims, obligations, demands, actions, rights, causes of action and liabilities, whether known or unknown, against Released Parties for alleged unpaid wages, the provision of any breaks, including meal breaks or rest periods, liquidated or other damages, unpaid costs, penalties, interest, attorneys’ fees, litigation costs, restitution and any and all other compensation or relief of any kind arising under the CWCA and CMWA, Fair Labor Standards Act (FLSA), or any other federal, state or local wage/hour claims that are based on the facts alleged in the action.

X. “Released Parties” means Defendant and its previous and present parents, subsidiaries, corporate affiliates (which does not include franchises), predecessors, successors, representatives, officers, owners, investors, insurers, directors, agents, attorneys, accountants, assigns, and employees, in their personal, individual, official, and/or corporate capacities, including any party that was or could have been named as a defendant in this litigation.

Y. “Settlement” means the compromise and settlement of this litigation as contemplated by this Agreement.

Z. “Settlement Administrator” means Optime Administration, the entity agreed to by the Parties subject to Court approval which will perform the settlement administration duties described in Section V.

AA. “Settlement Class” means the class to be certified for settlement purposes in accordance with this Agreement.

BB. “Settlement Class Member” means all individuals of the Settlement Class who do not timely opt out of the Settlement Class as set forth in the opt-out procedures in paragraph V.B.4.

CC. “Total Settlement Payout” means an amount no less than the Minimum Settlement Amount and no greater than the Gross Settlement Amount that Defendant actually pays under the terms of the Settlement, taking into account Attorneys’ Fees and Costs approved by the Court, settlement payments to Participating Class Members, Plaintiff’s Class Representative Enhancement payment approved by the Court, Notice and Administration Costs up to \$135,000, plus the employer portion of all payroll taxes.

II. RECITALS

A. From May 24, 2018, to September 9, 2020, Plaintiff intermittently worked at several of Defendant’s restaurants in Colorado;

B. On October 25, 2021, Plaintiff filed *Little v. Wendy's International, LLC*, No. 2020CV33621, in the District Court, City & County of Denver, Colorado. On January 19, 2021, Plaintiff filed the operative First Amended Complaint, alleging that Defendant failed to provide its employees all required meal and rest breaks during their shifts. Defendant denied, and continues to deny, all of Plaintiff's allegations.

C. Plaintiff asserted the following claims for relief: 1) failure to pay wages in violation of the Colorado Wage Claim Act ("CWCA"), C.R.S. §§ 8-4-101, *et seq.*; 2) failure to pay wages in violation of the Colorado Minimum Wage Act ("CMWA"), C.R.S. §§ 8-6-101, *et seq.*; and 3) civil theft in violation of C.R.S. § 18-4-405.

D. On May 12, 2022, after the Parties engaged in discovery for the purposes of class certification, Plaintiff filed his Motion for Class Certification pursuant to C.R.C.P. 23. Defendant opposed Plaintiff's Motion for Class Certification in its entirety.

E. On October 31, 2023, the state court conditionally granted Plaintiff's Motion for Class Certification.

F. On November 17, 2023, Defendant, pursuant to the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4, removed this case to the United States District Court for the District of Colorado. The case was directly assigned to Magistrate Judge Michael E. Hegarty. The Parties consented to Magistrate Judge Hegarty's jurisdiction.

G. On December 15, 2023, Plaintiff moved to remand the case to state court.

H. On January 2, 2024, Magistrate Judge Hegarty granted the Parties' request to stay all proceedings in this action pending mediation scheduled for March 6 and 7, 2024.

I. On March 6, 2024, the Parties participated in a full-day, private mediation with Ms. Anne Marie Estevez, a highly experienced mediator from Miami, Florida. That mediation proved to be unsuccessful.

J. On March 28, 2024, Defendant filed its opposition to Plaintiff's Motion to Remand.

K. On April 12, 2024, Magistrate Judge Hegarty granted Plaintiff's Motion to Remand, remanding this action to the Denver County District Court.

L. Following the remand order, on April 22, 2024, Defendant filed a Petition for Permission to Appeal under 28 U.S.C. § 1453(c) with the Tenth Circuit, requesting leave to appeal the District Court's remand decision. Plaintiff opposed Defendant's request.

M. On May 23, 2024, the Tenth Circuit granted Defendant's petition.

N. On June 7, 2024, Defendant filed its Opening Brief with the Tenth Circuit. On June 21, 2024, Plaintiff filed his response, to which Defendant replied.

O. During the pendency of Defendant's appeal, counsel for the Parties remained in frequent contact and continued a dialogue both directly and through mediator Estevez, in an

attempt to see if settlement could be reached. Through this dialogue, the Parties agreed to participate in another full-day mediation with mediator Estevez on July 29, 2024.

P. On July 11, 2024, the Parties filed a motion to extend the Tenth Circuit's statutory decision deadline by 30 days, through August 21, 2024, to preserve this action's posture while the Parties engaged in the upcoming mediation. The Clerk of Court, per the Court's direction, granted this request.

Q. On July 29, 2024, the Parties participated in a second mediation with mediator Estevez. While the Parties did not reach a settlement on this date, the Parties, with mediator Estevez's assistance, continued settlement negotiations for the next two weeks, ultimately reaching an agreement in principle on August 12, 2024.

R. After reaching an agreement in principle, the Parties filed a motion with the Tenth Circuit to grant a limited remand to the United States District Court for the District of Colorado and to stay the Tenth Circuit's mandate for the purpose of finalizing the Parties' settlement. The Court granted this motion on October 21, 2024.

S. The Parties desire to compromise, finally settle, and fully release the Released Claims.

T. Each of the forgoing Recitals are incorporated into this Agreement as if fully set forth in the body of the Agreement.

III. DEFINITION OF SETTLEMENT CLASS

A. The "Settlement Class" includes all current and former nonexempt restaurant employees on record who worked for any week or more as a nonexempt employee at one of Wendy's corporate restaurants in Colorado during the Class Period. The Settlement Class list shall be provided to the Settlement Administrator no later than fourteen (14) days after the Court enters an order preliminarily approving this Agreement. The list includes for each Settlement Class Member: their name, date of birth, last-known U.S. mailing address, last known personal mobile number (if maintained in Defendant's HRIS database), social security or tax identification number, and total number of weeks employed during the Class Period. Such list shall be treated confidentially by Class Counsel and the Settlement Administrator and used only for purposes of administering the settlement under this Agreement. Notwithstanding the above, nothing in this Agreement shall be construed to prevent Class Counsel from communicating with Settlement Class Members as permitted and required by the Colorado Rules of Professional Conduct, or other applicable legal ethics codes.

B. Nothing herein will be considered an admission or acknowledgment by the Parties that any class is either proper or improper in this action, except for purposes of Settlement. Neither the Agreement nor approval by the Court of the Agreement will be admissible in any other proceeding regarding the propriety of class action treatment.

C. In the event this Agreement is not approved in full, is terminated, or fails to be enforceable, the Parties will not be deemed to have waived in this action their claims, positions, or defenses, including their positions on whether this action is appropriate for class treatment.

IV. COMPROMISE ACKNOWLEDGMENT

A. The Parties and their respective counsel agree that this Agreement is entered into solely upon the basis of a compromise of disputed claims, and that the Agreement is not, and is not to be construed as, an admission by Defendant of any liability or violation of any federal, state, local, or common law, or of any statute, ordinance, regulations, or order. Nor is the Agreement to be construed as an admission by Plaintiff and his counsel that any of the defenses asserted in this litigation by Defendant are meritorious. Neither this Agreement nor anything in it, nor any part of the negotiations that occurred in connection with the creation of this Settlement, shall constitute evidence with respect to any issue or dispute in any lawsuit, legal proceeding, or administrative proceeding, except for legal proceedings concerning the enforcement or interpretation of this Agreement.

B. The Parties have conducted discovery and investigation of the claims and defenses during this litigation. The Parties have analyzed the facts and relevant law.

C. Plaintiff and Class Counsel believe this litigation is meritorious based on applicable law or an extension thereof. Class Counsel represents that they have conducted a thorough investigation into the facts of this case, and have diligently pursued an investigation of the Plaintiff and Settlement Class's claims against Defendant, including but not limited to: (i) conducting depositions of Defendant representatives and employees; (ii) defending the deposition of Plaintiff; (iii) researching, drafting, and filing an opposition to Defendant's brief on discovery issues; (iv) reviewing thousands of pages of relevant documents; (v) analyzing the survey results of potential members of the Settlement Class; (vi) reviewing and analyzing payroll and related compensation data provided by Defendant; (vii) hiring and consulting with an expert; (viii) researching, drafting, and filing a comprehensive motion for class certification; (ix) researching, drafting, and filing a motion to remand; (x) researching, drafting, and filing an opposition to Defendant's petition to appeal the remand order; and (xi) researching, drafting, and filing an opposition to Defendant's appeal before the Tenth Circuit.

D. Defendant has also actively investigated the facts surrounding Plaintiff and the Settlement Class's claims and actively defended itself, including, but not limited to: (i) reviewing voluminous documents for production to Plaintiff; (ii) interviewing fact witnesses; (iii) conducting depositions; (iv) researching, drafting, and filing a brief on various discovery issues; (v) researching, drafting, and filing an opposition to Plaintiff's motion for class certification; (vi) researching, drafting, and filing a notice of removal; (vii) researching, drafting, and filing an opposition to Plaintiff's motion to remand; (viii) researching, drafting, and filing a petition for permission to appeal to the remand decision; and (ix) researching, drafting, and filing an appeal with the Tenth Circuit. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged. Defendant further asserts that it has complied with all applicable provisions of federal law and Colorado statutory and common law and had a good faith belief based on existing law that its practices were and are in compliance.

E. Plaintiff and Class Counsel believe that the claims asserted have merit. However, they recognize the significant cost to prosecute the litigation against Defendant through trial and possible appeals and the uncertain outcome and risk of loss in any litigation, especially in a complex action such as this, and the problems and delays inherent in such complex litigation. In

addition, Plaintiff and Class Counsel recognize the potential problems of proof and possible defenses to the asserted claims, including the risk of decertification.

F. Relying on their fact investigations and analyses, as well as the completeness and accuracy of the payroll information provided by Defendant, the Parties engaged in arm's length settlement negotiations, including two private mediation sessions, over the course of several months.

G. Plaintiff believes that this Agreement confers substantial benefits on the Settlement Class and that it is fair, reasonable, adequate, and in the best interest of himself and the Settlement Class.

H. Class Counsel has independently determined that the terms of this Agreement are fair, reasonable, adequate, and in the best interests of the defined Settlement Class, and that settlement and dismissal of this action with prejudice are proper under the circumstances of this action.

I. Defendant believes the claims asserted by Plaintiff on behalf of himself and the Settlement Class are without merit and deny all the claims and charges alleged by Plaintiff including any alleged violations arising from any of the acts, omissions, facts, transactions, or occurrences alleged or that could have been alleged in this action.

J. Defendant denies this action is proper for class treatment, except for settlement purposes, because of intractable management problems that would have been associated with a class trial and the individualized inquiry required to resolve the claim of each Settlement Class member. Defendant has contested the asserted claims but has determined that further defense of this action would be protracted, expensive, and contrary to Defendant's best interests and that it is desirable that the action be completely and finally settled upon the terms and conditions set forth herein. In addition, Defendant has taken into account the uncertainty and risks inherent in litigation, particularly in a complex action like this.

K. Nothing in the Agreement or any action taken to implement it or any statements, discussions, communications, or materials prepared or used during the course of settlement negotiations will be used or considered evidence in any other proceeding involving an alleged violation of any federal, state, local law, duty, or obligation. Nonetheless, this Agreement may be used in a proceeding involving the interpretation or enforcement of the Agreement.

V. TERMS OF THE SETTLEMENT AGREEMENT

A. Appointment Of Settlement Administrator

1. Optime Administration will serve as the settlement administrator ("Settlement Administrator") to: (a) provide notice of the settlement and agreed-upon claims forms to the Settlement Class; (b) set up and administer claims made by the Settlement Class as well as any opt-out requests and objections to the settlement; (c) set up and administer a qualified settlement fund to disburse all settlement payments; (d) calculate settlement amounts for each Settlement Class member and pre-taxes and other withholdings; (e) calculate and make all payroll tax and other withholdings, including the employer's share of such taxes and withholdings; (f)

distribute settlement checks; (g) transmit all necessary IRS forms and any other required tax paperwork; (h) maintain reasonably detailed records of its activities under this Agreement; (i) maintain all such records as required by applicable law in accordance with its business practices and such records shall be made available to Class Counsel and Defendant's Counsel upon request; (j) provide Class Counsel and Defendant's Counsel with information concerning the Notice, any requests for exclusion, any objections to this Agreement, and the administration and implementation of this Agreement upon request; (k) employ reasonable procedures to confirm the identity of individuals who submit Claim Forms in order to mitigate the risk of fraudulent claims; and (l) perform any other duties that are necessary to effectuate the Agreement.

2. The Parties will cooperate to resolve any issues identified by the Settlement Administrator.

B. Preliminary Approval And Notice To Class Members

1. Class Counsel agrees to file a Motion Requesting Preliminary Approval of the Settlement and Proposed Order, as agreed by Defendant, within seven (7) days of execution of this Agreement assuming proper jurisdiction has been established for the purposes of settlement approval. Class Counsel's Motion Requesting Preliminary Approval of the Settlement and Proposed Order shall include, among other provisions, a request that the Court: (a) appoint Plaintiff as Class representative of the Settlement Class; (b) appoint Class Counsel to represent the Settlement Class; (c) certify the Settlement Class in accordance with Section III of this Agreement for settlement purposes only; (d) preliminarily approve this Settlement Agreement for purposes of disseminating Notice to the Settlement Class; (e) approve the form and contents of the Notice and Claim Form; (f) schedule a final approval hearing to review any comments and/or objections regarding this Settlement Agreement, to consider its fairness, reasonableness and adequacy, to consider the application for attorneys' fees and costs and Plaintiff's enhancement payment, and to consider whether the Court shall enter a final approval order approving this Settlement Agreement and dismissing this action with prejudice.

2. The Settlement Administrator shall send a text including a URL to every Settlement Class Member for whom a mobile number is available on the class list that will take the Settlement Class Member to a website that provides access to the Notice and Claim Forms attached hereto as Exhibits 1 & 2. The text language shall be substantially similar to the following: "This text is from a court-authorized settlement administrator, Optime Administration. You may be a member of a class of current/former Wendy's hourly employees, who worked at Wendy's corporate restaurants in Colorado, and can receive money from a court settlement for unpaid/unprovided breaks in Colorado. You can learn more and make a claim on the settlement fund here: [insert URL]." The Parties shall work jointly to select the URL. The website versions of the Notice and Claim Forms shall be substantially similar to Exhibits 1 & 2, with deviations in formatting only to account for them being provided on a website. For those Settlement Class Members who do not have a mobile number maintained in Defendant's HRIS database, the Settlement Administrator shall mail via first class U.S. mail a postcard containing a summary description of the Settlement and providing the URL to the website containing the Notice and Claim Forms. The proof of the postcard is attached as Exhibit 3. The texting and mailing described in this paragraph shall occur within fifteen (15) business days of the Settlement Administrator being provided with the class list. If the texts or postcards are returned as undeliverable, the

Settlement Administrator shall seek to update the mobile numbers or mailing addresses for those Settlement Class Members and resend the texts and postcards using the updated information. If no updated mobile number can be obtained for a Settlement Class Member's undeliverable text, the Settlement Administrator will send a postcard to that Settlement Class Member.

3. The Settlement Administrator alone is responsible for the texting and mailing described in this section to Settlement Class Members.

4. The Notice will explain that members of the Settlement Class may opt-out of the settlement, in accordance with Federal Rules of Civil Procedure 23(c)(2)(B) and 23(e)(4), by emailing or mailing an Opt-Out Letter to the Settlement Administrator. Opt-Out Letters must be sent to the Settlement Administrator within forty-five (45) days of the initial issuance of the texting and mailing described in this section. The Settlement Administrator will provide copies of Opt-Out Letters to all counsel and Class Counsel will promptly file any Opt-Out Letters with the Court.

5. The Notice will inform the Settlement Class Members that all objections to the Settlement must be submitted to the Settlement Administrator no later than forty-five (45) days after the initial issuance of the texting and mailing described in this section. Such objections must state the basis and, if the objector intends to appear at the final approval hearing, he or she must state such fact and the purpose of the appearance. The Settlement Administrator will provide copies of all objections to all counsel and Class Counsel will promptly file any objections with the Court. The Parties will be permitted to respond to objections prior to any final approval or fairness hearing. Settlement Class Members who fail to serve timely objections will be deemed to have waived objections to the Settlement and will be foreclosed from making objections. By failing to make timely objections to the Settlement, Settlement Class Members will be bound to this Settlement and also be foreclosed from appealing any aspect of the Settlement after the Court's final approval.

6. No later than ten (10) days prior to the end of the Claims Period, the Settlement Administrator shall send reminder texts and postcards to Settlement Class Members that have not yet made a claim or opted-out of the Settlement. The texts and postcards shall be substantially similar to the texts and postcards sent for the original notice, changed only with language to indicate that they are reminders of the original notice. In general, reminder texts shall be sent to Settlement Class Members that originally received text notices, and reminder postcards shall be sent to Settlement Class Members that originally received postcards. However, if a Settlement Class Member was sent a text notice that ultimately could not be delivered, that Settlement Class Member may receive a reminder postcard. The Settlement Administrator shall not be required to send a reminder text or postcard to a Settlement Class Member whose notice postcard was not deliverable.

7. At the end of the 45-day opt-out period, the Settlement Administrator will report to the Parties the number of (i) text notices and postcard notices returned as undeliverable and (ii) Settlement Class Members who have opted-out of the Settlement. For those Settlement Class Members with a personal mobile number maintained in Defendant's HRIS database, it shall be conclusively presumed that if the text message sent to a Settlement Class Member's phone number is not returned as undeliverable, the Settlement Class Member received the text message.

For those Settlement Class Members without a personal mobile number maintained in Defendant's HRIS database, it shall be conclusively presumed that if the postcard is not returned as undeliverable, the Settlement Class Member received the postcard. The Settlement Administrator will use existing databases in an effort to find Settlement Class Members whose postcards were not delivered and will then re-mail the postcard within ten (10) days of obtaining a more current address. The Settlement Administrator will conduct only a single re-mailing. If a postcard is returned after re-mailing, it shall be presumed that the Settlement Class Member cannot be located.

8. If a combined total of five (5) percentage or more Settlement Class Members properly opt-out of the settlement or submit timely objections, Defendant will have the right to withdraw from the Agreement in its entirety and the Agreement will be null and void for all purposes should Defendant decide to do so. The right to withdraw can be exercised only by a writing stating that Defendant is withdrawing from the Agreement, which is sent to Class Counsel by e-mail and regular U.S. mail, no later than twenty (20) days after the expiration of the opt-out period.

9. If necessary pursuant to 28 U.S.C. § 1715(b), within ten (10) days after the Motion Requesting Preliminary Approval of the Settlement and Proposed Order is filed, Defendant, at Defendant's expense, will serve a notice of the proposed settlement on the appropriate federal and state officials.

10. Neither the Parties nor their counsel will make any effort to solicit or otherwise persuade Settlement Class Members to participate or not participate in, opt-out of, or object to the Settlement. Class Counsel will not make any effort to solicit or otherwise persuade Settlement Class Members who opt out of the Settlement to bring or participate in separate litigation against Defendant. Notwithstanding the above, nothing in this Agreement shall be construed to prevent Class Counsel from communicating with Settlement Class Members as permitted and required by the Colorado Rules of Professional Conduct, or other applicable legal ethics codes.

C. Waiver And Release

1. In consideration of the payment in paragraph V.D.3, Plaintiff, on his own behalf, and on behalf of his heirs, descendants, dependents, executors, successors, assigns, and administrators (collectively, "Releasers"), fully release and discharge Defendant and its previous and present parents, subsidiaries, corporate affiliates, predecessors, successors, representatives, officers, owners, investors, insurers, directors, agents, attorneys, accountants, assigns, and employees, in their personal, individual, official, and/or corporate capacities (collectively, the "Released Parties"), from any and all claims arising from any and all manner of claims, actions, causes of action, rights, judgments, debts, contracts, promises, allegations, demands, obligations, duties, suits, expenses, assessments, penalties, charges, injuries, losses, costs, damages, liabilities, and attorneys' fees, including, but not limited to, those claims asserted or that could have been asserted prior to the execution of this Agreement of every kind and manner whatsoever concerning, regarding, or arising in law or in equity, administrative or judicial, exclusive of the obligations under this Agreement, which Releasers had or now have against Released Parties, whether or not now known, claimed, asserted, suspected, or discoverable by Releasers, based on any actions or events occurring on or before the date of Plaintiff's execution of this Agreement.

2. In consideration of the release provided by Plaintiff, Defendant, on its own behalf, and on behalf of its, descendants, dependents, executors, successors, assigns, and administrators (collectively, “Defendant Releasers”), fully release and discharge Plaintiff and his agents, attorneys, accountants, assigns, in their personal, individual, official, and/or corporate capacities (collectively, the “Plaintiff Released Parties”), from any and all claims arising from any and all manner of claims, actions, causes of action, rights, judgments, debts, contracts, promises, allegations, demands, obligations, duties, suits, expenses, assessments, penalties, charges, injuries, losses, costs, damages, liabilities, and attorneys’ fees, including, but not limited to, those claims asserted or that could have been asserted prior to the execution of this Agreement of every kind and manner whatsoever concerning, regarding, or arising in law or in equity, administrative or judicial, exclusive of the obligations under this Agreement, which Defendant Releasers had or now have against Plaintiff Released Parties, whether or not now known, claimed, asserted, suspected, or discoverable by Defendant Releasers, based on any actions or events occurring on or before the date of Defendant’s execution of this Agreement.

3. Settlement Class Members (except any Settlement Class Member who opts-out of the Settlement under paragraph V.B.4), and their respective heirs, descendants, dependents, executors, successors, assigns, and administrators, fully release and discharge the Released Parties from the Released Claims.

4. Nothing in this Agreement shall be construed as an attempt to waive any claim which is not waivable as a matter of law. Furthermore, nothing in this Agreement will be considered a waiver of any claims by Settlement Class Members that may arise after the Effective Date.

5. The Parties acknowledge that the above waiver and release was separately bargained for and is a material element of the Agreement.

5. By not opting out of this Settlement under paragraph V.B.4, Settlement Class Members will be deemed to have released their Released Claims. When finally approved by the Court, execution of the Agreement by Class Counsel will effectuate the release provisions herein to which each Settlement Class Member is bound, even if each such person does not submit a valid and timely Claim Form or endorse or negotiate a settlement check.

D. Settlement Amounts

1. Gross Settlement Amount: In full consideration for the terms, conditions, and promises in this Agreement, Defendant agrees to pay up to the Gross Settlement Amount, which amount includes all amounts to be paid by Defendant under this Agreement including settlement payments to Participating Class Members, Plaintiff’s Class Representative Enhancement, Notice and Administration Costs up to \$135,000, and Attorneys’ Fees and Costs. The Gross Settlement Amount is the maximum amount Defendant is obligated to pay under the Agreement; in no event will Defendant be required to pay more than the Gross Settlement Amount.

2. Attorneys’ Fees and Litigation Expenses

a. Defendant agrees not to oppose a request by Class Counsel for reasonable attorneys’ fees and litigation costs and expenses in an amount not to exceed 40

percent of the Gross Settlement Amount. Class Counsel will not request fees and expenses in excess of this amount. Class Counsel must file their request for fees and expenses on the same day as their motion for final approval of the Settlement. These amounts will be paid only from the Gross Settlement Amount. The Settlement is not contingent on approval of the above amount. Accordingly, even if the Court approves a lesser amount, this Agreement will remain enforceable.

b. Within the later of twenty (20) days after (i) the Effective Date or (ii) an order approving attorneys' fees and litigation costs and expenses and the expiration of the time for appealing such order or, if appealed, exhaustion of such appeal, Class Counsel will provide Defendant and the Settlement Administrator with a signed IRS form W-9.

c. Within ten (10) days after the later of (i) the receipt of the signed IRS form W-9 described in paragraph V.D.2.b.; (ii) the Effective Date; or (iii) an order approving Attorneys' Fees and Costs and expiration of the time to appeal such an order or, if appealed, exhaustion of the appeal, the Settlement Administrator will transmit the funds for such Attorneys' Fees and Costs by check or wire transfer (if requested) to Class Counsel.

3. Plaintiff's Class Representative Enhancement: In recognition of his leadership role on behalf of the Settlement Class, time and effort in pursuing this action, and delay in receiving payment on his individual claim, Plaintiff will receive an enhancement in the amount of \$30,000 ("Plaintiff's Class Representative Enhancement"). The enhancement payment will be treated as non-wage income and will be included on the IRS form 1099 to be issued to Plaintiff.

4. Payroll Taxes, Deductions, and Withholdings: Independent of the Gross Settlement Amount, Defendant shall pay the employer-share of all applicable payroll taxes, including, but not limited to the employer's share of FICA, FUTA, SUTA, Medicare and any other applicable employer-side payroll taxes. All other payroll taxes will be deducted from the Gross Settlement Amount.

5. Notice and Administration Costs: Defendant will pay up to \$135,000 for Notice and Administration Costs, which is intended to cover all costs of settlement administration, including payment for all services and mailings. Additional Notice and Administration Costs, if any, will be deducted from the Attorneys' Fees and Costs approved by the Court. The allocation of Notice and Administration Costs is to be determined as follows:

a. Class Counsel shall obtain an estimate from the Settlement Administrator as to the estimated Notice and Administration Costs. Defendant agrees to pay these reasonably anticipated Notice and Administration Costs based on the estimate, up to \$135,000. If the actual Notice and Administration Costs exceed \$135,000, such costs in excess of \$135,000 will be deducted from the Attorney's Fees and Costs approved by the Court. Initial payments of the reasonably anticipated Notice and Administration Costs shall be made to the Settlement Administrator within seven (7) days after the date an order preliminarily approving the Settlement is entered.

b. The Notice and Administration Costs shall be counted against the Minimum Settlement Amount, the Total Settlement Payout, and the Gross Settlement Amount. In the event the Effective Date does not occur, any unused Notice and Administration Costs that Defendant has paid to the Settlement Administrator shall be returned to Defendant within fourteen (14) days of the exhaustion of all appeals of an order denying the final approval of the Settlement

6. Unapproved Amounts: To the extent that the Court approves lesser amounts than provided in this Agreement for Attorneys' Fees and Costs, or for the Plaintiff's Class Representative Enhancement, the unapproved amounts will be allocated to Participating Class Members on the same pro rata basis as described in paragraph V.D.7.b. and subtracted from the Total Settlement Payout as set forth in paragraph V.D.8.b.

7. Payment Amounts To The Settlement Class Members

a. Subject to the other terms and conditions of this Agreement, and in consideration of the releases and dismissals set forth in the Agreement, and subject to Court approval, Defendant agrees that the Gross Settlement Amount shall be comprised of a maximum payment of Three Million Nine Hundred Fifty Thousand U.S. Dollars (\$3,950,000), the payment of which shall depend upon the participation by Settlement Class Members. In no event, however, shall Defendant pay less than the Minimum Settlement Amount, as defined in paragraph I.M.

b. Settlement Class Members' Pro Rata Shares: Each Settlement Class Member who submits a timely and valid signed Claim Form ("Participating Class Members") shall be paid a share of the Net Settlement Amount. Each Participating Class Member's share shall be determined by dividing the Participating Settlement Class Member's "Work Weeks" during the Class Period into the number of "Work Weeks" by all Settlement Class Members during the Class Period and applying the resulting fraction to the Net Settlement Amount. A "Work Week" is any week from Monday to the following Sunday during the Class Period in which a Settlement Class Member was employed as a nonexempt employee at one of Wendy's corporate restaurants in Colorado. Work Weeks will be calculated based on Defendant's records. The Settlement Administrator shall prepare a calculation of the pro rata shares for Participating Class Members by this formula and provide the calculation to Defendant's Counsel for Defendant's review and approval before processing. Defendant agrees to this formula. If application of the Minimum Settlement Amount requires a greater amount to be paid to Participating Class Members, that greater amount will be distributed on the same pro rata basis. At Defendant's additional and own expense, Defendant's Counsel may designate a knowledgeable person or third-party vendor to review and approve the calculations, provided that such designee shall not unreasonably withhold or delay approval. Any unresolved dispute between the Parties as to the basis, calculations, or final payments thereby derived, after reasonable efforts to meet and confer by counsel, shall be submitted to the Court for ultimate determination.

c. Only Participating Class Members shall be eligible to recover a share of the Net Settlement Amount.

d. Each Settlement Class Member may only submit one Claim Form, and there is no requirement to file separate claim forms for different periods of employment. Submission of more than one Claim Form shall render the second, and any subsequent, Claim Form invalid. The Settlement Administrator shall within ten (10) business days of the receipt of an incomplete Claim Form, provide the Settlement Class Member with a reasonable opportunity to correct an incomplete Claim Form, but in no event shall any correction of an incomplete Claim Form be accepted more than 30 days after the Settlement Administrator notified the Settlement Class Member of such incomplete Claim Form. A Settlement Class Member who, despite such opportunity, fails to timely correct an incomplete Claim Form will render the Claim Form submitted by that Settlement Class Member invalid.

e. For a Settlement Class Member to be eligible to recover by way of a Claim Form, the Claim Form must be timely and valid. To be timely, it must be submitted by the date designated in the Notice as the deadline by which Settlement Class Members must submit their completed Claim Form. To be valid, it must be completed in full and signed. A valid Claim Form shall include the last 4 digits of the Settlement Class Member's social security or tax i.d. number to minimize fraud risks.

f. The Net Settlement Amount will be allocated among the Settlement Class Members on a pro rata basis as set forth in paragraph V.D.7.b.

g. The Settlement Administrator will calculate the amounts to be paid to each Participating Class Member as described in paragraph V.D.7.b.

h. Opt-Outs (i.e., those who have timely opted out of the Settlement Class in accordance with the procedures set forth in paragraph V.B.4), will be ineligible to receive a payment.

i. For the purpose of tax treatment, one-half of the amount paid to any Participating Class Member shall be treated as W-2 wages with appropriate withholding and tax reporting with respect to applicable Federal, State, and Local wage withholding tax requirements. The remaining half shall be paid as liquidated damages and treated as 1099 income. Plaintiff's Class Representative Enhancement shall be treated as 1099 income.

j. The appropriate withholding of federal, state, and local income taxes, each Participating Class Member's share of FICA, FUTA, SUTA, Medicare, and any other payroll taxes including backup withholding or any other withholding, if required, will be made from the settlement payments to each Participating Class Member. The Settlement Administrator shall be responsible for calculating, withholding from the settlement checks addressed at V.F.2, and remitting to the tax authorities all payroll taxes for payments to Participating Class Members. The Settlement Administrator shall be responsible for calculating the Participating Class Members and employer's portion of the taxes. Defendant will pay the employer's portion of the taxes. All Participating Class Members shall be solely responsible for paying all "employee-sided" taxes, which, if required by law, will be deducted by the Settlement Administrator from their pro rata share. In addition, the Settlement Administrator shall be responsible for calculating the employer-

side taxes that are Defendant's responsibility. The Settlement Administrator shall be responsible for notifying Defendant fifteen (15) business days prior to a distribution of the employer's portion of the taxes due. Defendant will then deposit the amount of employer's taxes into the escrow fund established by the Settlement Administrator for the Settlement Administrator's payment to the appropriate taxing authorities. The Settlement Administrator shall issue to Plaintiff and each Participating Class Member receiving payment a W-2 and a Form 1099, for the year they receive the monies. If the Internal Revenue Code, regulations issued thereunder, or other relevant tax laws change after the Effective Date, the content of this paragraph may be modified to ensure compliance with any such changes. Defendant will be solely responsible for other withholdings, in addition to those referred to above.

8. Final Settlement Amount

a. At least five (5) days before Class Counsel files their motion for final approval of the Settlement, the Settlement Administrator will provide the Parties with a final list of Participating Class Members, as described in section V.F.1. Within twenty (20) days after the Effective Date, Defendant will provide the Minimum Settlement Amount to the Settlement Administrator to disseminate under this Agreement. Within twenty (20) days after providing the Minimum Settlement to the Settlement Administrator, Defendant will provide the additional amounts from the Gross Settlement Amount, if any, needed to fund the Total Settlement Payout.

b. The Total Settlement Payout will be used to make all required payments under this Agreement. Defendant will not be required to pay more than the Gross Settlement Amount under any circumstances.

E. Final Approval

Following the deadline for Settlement Class Members to submit Claim Forms, Class Counsel will file a motion for final approval of the settlement, as agreed by Defendant, requesting that the Court, among other things: (a) find that it has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Settlement Agreement, including any attached exhibits; (b) approve the Settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members; (c) direct the Parties and their counsel to implement and consummate the Settlement according to its terms and conditions; (d) find that the Notice implemented pursuant to the Settlement Agreement (i) constitutes the best practicable notice under the circumstances, (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this action and their rights to object to or exclude themselves from this Settlement Agreement and to appear at the final approval hearing, and (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; (e) find that Plaintiff and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement; (f) dismiss the action on the merits and with prejudice, without fees or costs to any Party except as provided in this Settlement Agreement; (g) incorporate the release set forth herein, make the release effective as of the Effective Date, and forever discharge the Released Parties as set forth herein; (h) authorize the Parties, without further approval from the Court, to agree to and adopt

such amendments, modifications and expansions of the Settlement and its implementing documents (including all exhibits to this Settlement Agreement) that (i) shall be consistent in all material respects with the Final Approval Order, and (ii) do not limit the rights of Settlement Class Members; and (i) without affecting the finality of the final approval order for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the final approval order, and for any other necessary purpose. This motion will be filed within seven (7) days after the conclusion of the opt-out period or as otherwise directed by the Court. The Parties will take all actions as may be reasonably necessary to secure final approval of the Agreement.

F. Delivery Of Settlement Checks

1. At least five (5) days before Class Counsel files their motion for final approval of the Settlement, the Settlement Administrator will provide a final list of Participating Settlement Class Members agreed on by the Parties that are eligible to receive payments under the Settlement. The list will include for each member of the Participating Settlement Class their full name and pro rata share of the Net Settlement Amount prior to applicable taxes and withholdings, as determined by this Settlement Agreement and any modifications resulting from the Court's preliminary approval order.

2. The Settlement Administrator will mail all settlement checks within twenty-one (21) days of receiving the Minimum Settlement Amount from Defendant or, if the combined total of the payment amounts to the Participating Class Members exceeds 50% of the Net Settlement Amount, within ten (10) days of receiving additional funds from the Gross Settlement Amount, as described in section V.D.8.a. For any Participating Settlement Class member whose settlement check is returned as undelivered, the Settlement Administrator will re-mail the check to a forwarding address, if one is available. Class Counsel and the Settlement Administrator may, at their discretion, communicate with Participating Class Members as necessary to facilitate the delivery of settlement checks.

3. Each payment issued to a Participating Class Member will state on the face of the check that it will become null and void unless cashed within one hundred eighty (180) calendar days after the date of issuance. The amount of settlement checks that cannot be delivered or are not presented for payment after one hundred and eighty (180) days of issuing will be voided. In that event, any uncashed checks shall be returned to Defendant. Participating Class Members who contact Class Counsel or the Settlement Administrator within the 180-day period and establish that they have not received and executed their checks to the satisfaction and certification of Defense Counsel shall be reissued checks and given an additional sixty (60) calendar days to cash the reissued checks.

4. The Settlement Administrator will issue an IRS form 1099 for each Participating Class Member showing the amount of additional compensation paid, and IRS form W-2 showing the amount of back pay in the year it was paid.

G. Dismissal Of Action With Prejudice

Plaintiff and Settlement Class Members accept the benefits provided herein as consideration for their full release and satisfaction of all claims asserted in this action or covered in this Agreement. Accordingly, based upon the provisions herein, Class Counsel's motion for final approval shall contain language requesting the dismissal of this action and all claims contained in this Agreement with prejudice. Class Counsel, acting on behalf of the Settlement Class Members, shall stipulate to the dismissal of this action with prejudice within seven (7) days of the funding of the Total Settlement Payout by Defendant. Following the Court's entry of the final approval order approving this Settlement Agreement, the Parties shall take any and all action necessary in the appeal before the Tenth Circuit (No. 24-1232) to ensure the implementation and effectuation of the terms of this Agreement.

H. No Re-Employment

Plaintiff understands and acknowledges that Defendant and any Released Party is not, nor ever shall be, under any obligation to re-employ him, and that the refusal of Defendant or any Released Party to re-employ him will not subject Defendant or any Released Party to liability on any grounds. Plaintiff agrees that he shall not apply for employment with Defendant or any of its affiliates, parents, subsidiaries, successors, or franchisees in the future under any name. Plaintiff agrees that in the event he becomes so employed, upon discovery, said employment may be terminated immediately, and Plaintiff will not file or attempt to file a lawsuit or pursue an individual claim for relief with any local, state or federal court or agency or union regarding termination of such employment.

Plaintiff agrees that all requests for verbal or written employment references from prospective employers shall be directed to the Company's third-party vendor The Work Number at 1-800-367-5690 (company code 33014), which will provide a neutral reference including job title and dates of employment.

I. Confidentiality

The negotiations, terms and existence of this Settlement will remain strictly confidential and shall not be discussed with anyone other than the Parties of record, their accountants and financial or tax advisors, counsel of record, or their retained consultants, unless otherwise required by law. Any confidentiality associated only with the terms of this Settlement shall expire upon the filing by Class Counsel of the motion for preliminary approval, except that the negotiations and discussions preceding submission of the Settlement to the Court for preliminary approval, and any further negotiations and discussions between the time of preliminary approval and final approval shall remain strictly confidential, unless otherwise agreed to by the Parties, ordered by the Court, or otherwise required by law.

J. Non-Disparagement

Plaintiff agrees he will not make, or cause to be made, any defamatory or untruthful statement about Defendant or any Released Party, whether by electronic, written, or oral means, to any person, other than family members and his attorneys, including but not limited to, the press or other media. Defendant agrees that its officers and directors will not make, or cause to be made, any defamatory or untruthful statement about Plaintiff or any Plaintiff Released Party, whether by

electronic, written, or oral means, to any person, including but not limited to, the press or other media.

K. Parties' Authority

1. The signatories represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions of the Agreement.

2. The Parties acknowledge that throughout negotiations they have been represented by counsel experienced in wage and hour class litigation and that this Agreement is made with the consent and approval of counsel who have prepared the Agreement.

L. Mutual Full Cooperation

The Parties agree to cooperate to implement and effectuate the terms of this Agreement including executing all necessary documents. If, however, a dispute arises out of or relates to this Agreement, or the breach thereof, each Party shall be obligated to promptly notify Class Counsel and Defense Counsel. If the dispute cannot be settled through negotiation, despite the Parties using their best efforts to settle the dispute, the parties agree to try in good faith to first settle the dispute by presenting the dispute to mediator Estevez for resolution.

M. Modification

This Agreement and its exhibits may not be changed, altered, or modified, except in writing signed by the Parties, and approved by the Court.

N. Entire Agreement

This Agreement and its exhibits constitute the entire agreement between the Parties concerning the subject matter hereof. No extrinsic evidence of any kind will modify or contradict the terms of this Agreement.

O. Voiding The Agreement

1. Defendant may void the agreement under the conditions specified in paragraph V.B.8.

2. In the event this Agreement is not approved by the Court in its entirety or is disapproved on appeal, the Agreement will be null and void in its entirety, unless expressly agreed to in writing by the Parties.

3. If judicial approval of the Agreement is otherwise denied, the Parties will attempt to reach agreement on provisions rejected by the Court for a period not less than forty-five (45) days after the date approval is denied. The Parties will file a joint motion for a stay of the action during the 45-day period.

P. Counterparts

This Agreement may be executed in counterparts, and when each Party has executed at least one counterpart, the counterpart will be deemed an original, and when considered together, will constitute one Agreement, which will be binding and effective as to all Parties. An electronic signature of this Agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement.

Q. Miscellaneous

1. The Parties agree to the stay of all proceedings in any court regarding this action, except as may be necessary to implement the terms of the Agreement, pending final approval of the Agreement.

2. The Parties shall request that the District Court for the District of Colorado maintain jurisdiction in this action to interpret and enforce this Agreement, which will be interpreted under the laws of the state of Colorado. In the event that the District Court for the District of Colorado does not maintain jurisdiction in this action, the Parties agree that the Denver County District Court has jurisdiction in this action to interpret and enforce this Agreement, which will be interpreted under the laws of the state of Colorado.

3. No party or Settlement Class Member will be considered a prevailing party for any purpose.

4. This Settlement Agreement is deemed to have been prepared by counsel for all Parties as a result of arm's-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one Party than another.


5. This Settlement Agreement and its exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

In witness hereof, the Parties' authorized representatives have executed this Agreement below.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the PARTIES and their Counsel have executed this Agreement as follows:

PLAINTIFF, FOR HIMSELF AND THE CLASS:




Jeffrey Little

11/15/2024
Date: _____, 2024

CLASS COUNSEL AS TO FORM AND AS CLASS COUNSEL:

HOOD LAW OFFICE, PLLC

DocuSigned by:


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Alexander Hood

Date: _____, 2024

THE LAW OFFICES OF BRIAN D.
GONZALES, PLLC

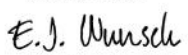
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Brian D. Gonzalez

Date: _____, 2024

FOR DEFENDANT:

WENDY'S INTERNATIONAL, LLC


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E37B45C837B649C...
E.J. Wunsch
Title: President, International

Date: _____, 2024

COUNSEL FOR DEFENDANT:

SQUIRE PATTON BOGGS (US) LLP

Signed by:


1925AD52647149A...
Jill S. Kirila

Date: _____, 2024