

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and between Plaintiff Krystal Pratt, individually and as representative of a putative class (“Plaintiff”), and Defendants Pacific Pie, Inc., Liberty Pizza, LLC, and Shane Anderson (“Defendants”) in the case entitled *Pratt v. Pacific Pie, et al.*, Case Number 18-202516-2 (“Lawsuit”) currently pending in Spokane County Superior Court. Together, Plaintiff and Defendants are referred to here as “the Parties.”

WHEREAS, this Lawsuit arises from allegations that Plaintiff and the putative class were deprived of meal periods and wages for wait time and off-the-clock work;

WHEREAS, Defendants deny the claims and contentions by Plaintiff and deny any wrongdoing or liability arising out of the Lawsuit;

WHEREAS, the Parties are represented by counsel, are familiar with the law and facts at issue in the Lawsuit, and have engaged in arms-length, good faith negotiations resulting in a settlement they believe to be fair, adequate, and reasonable;

WHEREAS, this Agreement memorializes the terms of settlement reached by the parties at the conclusion of such negotiations;

NOW, THEREFORE, in consideration of the covenants and promises set forth below, the Parties agree as follows:

- 1) **Cooperation:** The Parties agree to cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of the documents and filings necessary to do so.
- 2) **Court Approval:** The Parties understand that the terms of this Agreement are subject to approval by the Spokane County Superior Court.
- 3) **Definitions:**
 - a) “Claim Form” means the form provided with the Notice to the Settlement Class and made available online by the Settlement Administrator.
 - b) “Class Counsel” means the law firm of Schroeter Goldmark & Bender.
 - c) “Class Period” means the period between June 1, 2015 through August 30, 2020.
 - d) “Complaint” means the First Amended Class Complaint filed by Plaintiff on June 17, 2020.

- e) "Distribution Date" means 10 days after the Effective Date.
- f) "Effective Date" means the date by which the Settlement is finally approved by the Court, meaning the later of: (i) thirty (30) days after entry of the Final Order dismissing the Lawsuit if no appeal of that Order is filed, or (ii) the date the Court's Final Order becomes final and binding after final resolution of any appeals.
- g) "Final Order" means the Court's order approving the terms of the parties' settlement and dismissing the lawsuit with prejudice.
- h) "Incentive Award" means the proposed payment specified below for Plaintiff Krystal Pratt and putative class member Catherine Wirth.
- i) "Individual Settlement Payment" means the amount of wages and interest due to individual Settlement Class Members who submit a timely Claim Form.
- j) "Maximum Settlement Fund" means the sum of \$480,000.
- k) "Net Settlement Amount" means the portion of the Maximum Settlement Fund that is allocated to satisfy the claims of participating Settlement Class Members, after accounting for payment of any Court-approved attorneys' fees, costs, Incentive Awards and TPA fees.
- l) "Notice" means the document that will be sent to Settlement Class Members following preliminary approval of the parties' settlement.
- m) "Released Party" means: (i) Defendants Pacific Pie, Inc. and Liberty Pizza, LLC, and their parents, subsidiaries, affiliates, insurers, past and present officers, directors, agents, employees, equity holders (shareholders, holders of membership interests, etc.), representatives, administrators, fiduciaries, predecessors, successors, transferees, and assigns; and (ii) Defendant Shane Anderson and his heirs and assigns.
- n) "Settlement" means the compromise and settlement embodied in this Agreement.
- o) "Settlement Class" means all current and former employees of Defendants who worked as hourly-paid pizza delivery drivers during the Class Period.
- p) "Settlement Class Member" means any individual in the Settlement Class who does not seek to be excluded from this Settlement.
- q) "TPA" or "Settlement Administrator" means a mutually agreed to third-party who will issue the Notice and Claims Forms (both hard copy and electronic), process claims, and make payments and distributions.

- 2) **Settlement Fund.** On or before the Distribution Date, Defendants shall deposit funds with the Settlement Administrator sufficient to pay the amounts described below. In no event shall Defendants be required to deposit more than the Maximum Settlement Fund of \$480,000.
- a) Individual Settlement Payments. Defendants agree to deposit funds sufficient to cover all Individual Settlement Payments.
 - b) Attorneys' Fees and Costs. Defendants agree to deposit funds sufficient to cover the attorneys' fees and costs approved by the Court. Defendants will not oppose an application by Class Counsel for an award of costs, TPA Fees, and up to twenty-five percent (25%) of the Maximum Settlement Fund (or, \$120,000) as payment for attorneys' fees.
 - c) Incentive Award. Defendants agree to deposit funds sufficient to cover the Incentive Awards approved by the Court. Defendants will not oppose a request by Class Counsel for Incentive Awards of up to \$5,000 to Plaintiff Krystal Pratt and \$500 to Catherine Wirth, separate and apart from any Individual Settlement Payment.
- 3) **Distribution of Settlement Moneys.** The Settlement Administrator will be responsible for making all distributions required by this Agreement. Within five (5) days of the Distribution Date, the Settlement Administrator will make the following disbursements: (i) Individual Settlement Payments (one check for wages; one check for interest); (ii) Court-approved attorneys' fees and costs (excluding TPA Fees) to Class Counsel in one check made out to "Schroeter Goldmark & Bender"; and (iii) and Court-approved Incentive Awards in checks made out to "Krystal Pratt" and "Catherine Wirth" and delivered to Class Counsel.
- 4) **Preliminary Approval.** Class Counsel shall move the Court for entry of an order that: (i) preliminarily approves the Parties' Settlement; (ii) certifies the Settlement Class for purposes of settlement only; (iii) sets a date for a final fairness hearing at least 90 days out; (iv) approves the proposed Notice and Claim Form; and (v) appoints a Settlement Administrator to issue the Notice and administer claims. Class Counsel shall provide Defendants' counsel with a draft of the motion at least five (5) calendar days before filing. The Parties will attempt in good faith to agree on the form of the proposed Notice and Claim Form in advance. If an impasse is reached, the Parties will request that the Court resolve such dispute at the time of preliminary approval.
- 5) **Class Certification.** Solely for purposes of this Agreement, the parties stipulate and agree to class certification for purposes of settlement. Should the settlement not become final for any reason, the parties will be returned to their pre-certification status prior to this Agreement.
- 6) **Notice.** Within five (5) days of entry of the Court's order preliminarily approving the parties' settlement, Defendants will provide the Settlement Administrator their most current mailing addresses, phone numbers, and SSNs for each member of the Settlement Class in Excel

format. Within fifteen (15) days of receiving such information, the Settlement Administrator will then mail the Notice to all individuals in the Settlement Class via first class regular mail. If any Notice is returned as undeliverable within thirty (30) days of mailing, the Settlement Administrator will attempt one trace to locate a better address and, if found, will make a second attempt at mailing the Notice. If the Notice is again returned as undeliverable, no further attempts at delivery will be necessary.

- 7) **Exclusion.** Any individual in the Settlement Class may elect to be excluded from the Settlement. To be effective, such election must contain the information specified in the Notice and be submitted to the Settlement Administrator on or before the deadline set forth in the Notice. Any individual who timely requests exclusion from the Settlement Class will not be considered a Settlement Class Member and shall not have any rights under this Agreement nor be bound by its terms. Neither the Parties nor any person acting on their behalf, shall seek to solicit, influence, or otherwise encourage anyone to exclude themselves from this Agreement.
- 8) **Objection.** Any Settlement Class Member may object to any term of this Agreement provided that such objection is made in writing, filed with the Court, and received by Class Counsel no later than thirty (30) days after the date the Notice is mailed. Failure to comply with this requirement will be deemed a waiver of the right to object or to be heard at a final hearing.
- 9) **Claims-Made Process.** The parties agree that Individual Settlement Payments will be on a claims-made basis. That is, only individuals who submit a timely Claim Form to the Settlement Administrator using either the hard copy Claim Form provided with the Notice or the online version of such Claim Form shall be entitled to an Individual Settlement Payment. Class Counsel and their expert will calculate the individual wage and interest amounts for all individuals in the Settlement Class based on time records already produced in the Litigation and will make such figures available to Defendants' counsel for review and verification. Such figures will be provided to the Settlement Administrator within thirty (30) days of the Court's order granting preliminary approval.

Once the claims process is complete (i.e., 60 days from the initial Notice mailing) the Settlement Administrator will notify the Parties' counsel whether the total sum of the claimed Individual Settlement Payments exceeds the Net Settlement Amount. If it does, the Settlement Administrator will adjust the Individual Settlement Payments so that each participating Settlement Class Member receives a proportionate share of the Net Settlement Amount. Otherwise, the Individual Settlement Payments will remain as initially calculated by Class Counsel's expert.

In the event the Settlement Administrator believes an otherwise timely Claim Form is deficient for any reason, the Settlement Administrator shall immediately advise the parties' Counsel so they may have an opportunity to confer regarding how such Claim Form will be handled.

Any portion of the Net Settlement fund that is not claimed shall remain the property of Defendants, with the following exception: the sum of any checks that are returned as undeliverable or are not cashed within 90 days of mailing, shall be split 50/50 as between Defendants and the Legal Foundation of Washington.

- 10) **Taxes and Withholdings.** The Settlement Administrator will be responsible for calculating the required taxes and withholdings on the Individual Settlement Payments. The Parties agree to cooperate fully with the Settlement Administrator as necessary to facilitate such calculations, payment, and documentation. Individual Settlement Payments will be subject to payroll taxes and withholdings required by law and allocated as follows: 50% will be treated as wages (reported on a Form W-2) and 50% as interest (reported on a Form 1099). The employers' share of taxes on any such payments will not be drawn from the Maximum Settlement Fund and will instead be calculated by the Settlement Administrator and funded separately by Defendants. Any Incentive Awards approved by the Court will not be subject to withholdings and shall be reported on a Form 1099.
- 11) **Release by the Settlement Class Members.** As of the Effective Date, this Agreement constitutes a full and final settlement and release of wage and hour claims arising out of missed breaks (including both meal breaks and rest breaks), off-the-clock work, and being prevented from clocking in at the start of scheduled shifts, that were or could have been asserted in the Complaint against Defendants or any other Released Party during the Class Period. This release expressly includes statutory claims (including under the Fair Labor Standards Act and RCW Chapters 49.12, 49.46, 49.52) and contractual and common law claims for wages, along with exemplary damages, interest, penalties, attorneys' fees, costs and other damages associated with such claims. This provision expressly excludes any claims that may not be released by law or claims that accrue after the Class Period.
- 12) **Final Approval and Dismissal.** On the date established by the Court's order issuing preliminary approval, Class Counsel shall file a motion and proposed Final Order that seeks: (i) final approval of the Settlement, including an order that directs funding and disbursement of the Individual Settlement Payments, attorneys' fees and costs, Incentive Awards, and TPA fees, and (ii) dismissal of the Lawsuit with prejudice. Class Counsel shall provide Defendants with a draft of the motion and proposed Final Order at least five (5) calendar days before filing.
- 13) **Appellate Review.** Except to the extent a member of the Settlement Class presents a timely objection to the terms of this Agreement, Settlement Class Members waive their right to seek any form of appellate review over any order issued consistent with the terms of this Settlement Agreement.
- 14) **Voiding the Settlement Agreement.** In the event the Court fails to finally approve the fairness of the Settlement or scope of the Release, this Agreement shall be rendered void and unenforceable as to all Parties herein. If the Settlement becomes void, this Agreement shall have no force or effect; all negotiations, statements and proceedings related thereto shall be

without prejudice to the rights of any party, all of whom shall be restored to their respective positions in the Lawsuit prior to the Settlement; and neither this Settlement Agreement nor any ancillary documents, actions or filings shall be admissible or offered into evidence in the Lawsuit.

- 15) **No Admission of Liability.** The Parties do not admit any liability or wrongdoing of any kind associated with the claims asserted in the Lawsuit. This Agreement and any documents executed or filed in connection with this Agreement are not admissions and may not be used or admitted as evidence against any Party.
- 16) **Authority.** Each signatory to this Agreement states that they have the authority to sign on behalf of the person or entity for which they are signing.
- 17) **Dispute Resolution.** Any dispute over any term of this Agreement, or enforcement of this Agreement, shall be brought on an expedited basis to the Spokane County Superior Court for resolution. Pursuant to CR 23, the Court shall have continuing jurisdiction to consider and resolve such disputes. The Parties agree that the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs. The laws of the State of Washington govern this Agreement.
- 18) **Modification.** This Agreement may not be changed, altered, or modified, except in writing and signed by the Parties, and, if changed after preliminary court approval, approved by the Court.
- 19) **Integration Clause.** This Agreement constitutes the entire understanding between the Parties relating to the settlement contemplated.
- 20) **No Prior Assignments.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, and successors. The Parties 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 except as set forth in the Agreement.
- 21) **Counterparts.** This Agreement may be executed in counterparts, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding on and effective as to all Parties. Scanned or electronic signatures shall have the same force and effect as an original ink signature.
- 22) **Severability.** If any term, clause, or provision of this Agreement is held invalid by a court of competent jurisdiction, such invalidity will not affect the validity or operation of any other term, clause, or provision and will be deemed to be severed from the Agreement or amended so as to comply with Washington law.

The undersigned have duly executed this Settlement Agreement as of the date indicated below:

Individually:

Date: 6/10/21

Krystal Pratt
Plaintiff, Krystal Pratt

For Class Counsel:

Date: 6/10/2021

L. Halm
Lindsay L. Halm
SCHROETER GOLDMARK & BENDER

For Defendants Pacific Pie, Inc., Liberty Pizza, LLC, and Shane Anderson:

Date: _____

Name: _____
Title: _____

For Defendants' Counsel:

Date: _____

Kelly E. Konkright
Jack G. Zurlini, Jr.
LUKINS & ANNIS, PS

Individually:

Date: _____

Plaintiff, Krystal Pratt

For Class Counsel:

Date: _____

Lindsay L. Halm
SCHROETER GOLDMARK & BENDER

For Defendants Pacific Pie, Inc., Liberty Pizza, LLC, and Shane Anderson:

Date: _____

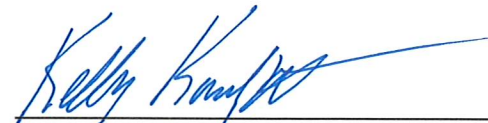
Shane H Anderson

Name: Shane ANDERSON

Title: President

For Defendants' Counsel:

Date: 6/11/21



Kelly E. Konkright
Jack G. Zurlini, Jr.
LUKINS & ANNIS, PS

SIGNATURE CERTIFICATE

**REFERENCE NUMBER**
EE57C672-6F1B-41C1-9BB1-0D974BFAA054

TRANSACTION DETAILS

Reference Number
EE57C672-6F1B-41C1-9BB1-0D974BFAA054

Transaction Type
Signature Request

Sent At
06/10/2021 15:02 EDT

Executed At
06/10/2021 17:24 EDT

Identity Method
email

Distribution Method
email

Signed Checksum
08c0a27c591611f9f27fd87e9795cc92ade2aa3cef259470cf2f96ba11cc3f7c

Signer Sequencing
Disabled

Document Passcode
Disabled

DOCUMENT DETAILS

Document Name
Settlement Agreement 02448642x9f871

Filename
settlement_agreement_02448642x9f871_.pdf

Pages
7 pages

Content Type
application/pdf

File Size
140 KB

Original Checksum
2a0d9aaed0d1f261be8c9b2db9cb34ad7d64b42d72200cce6c636bbe3e138d1

SIGNERS

SIGNER	E-SIGNATURE	EVENTS
Name Shane Anderson	Status signed	Viewed At 06/10/2021 17:22 EDT
Email 06bmwm5@gmail.com	Multi-factor Digital Fingerprint Checksum 0735313aa933818877186cd727942eacfe4763d2c42e7b7d83551b75a25805d0	Identity Authenticated At 06/10/2021 17:24 EDT
Components 2	IP Address 173.160.171.102	Signed At 06/10/2021 17:24 EDT
	Device Chrome via Windows	
	Typed Signature <i>Shane H Anderson</i>	
	Signature Reference ID F8A31735	

AUDITS

TIMESTAMP	AUDIT
06/10/2021 15:02 EDT	Kelly Konkright (kkonkright@lukins.com) created document 'settlement_agreement_02448642x9f871_.pdf' on Chrome via Windows from 66.195.40.82.
06/10/2021 15:02 EDT	Shane Anderson (06bmwm5@gmail.com) was emailed a link to sign.
06/10/2021 16:10 EDT	Shane Anderson (06bmwm5@gmail.com) was emailed a reminder.
06/10/2021 17:22 EDT	Shane Anderson (06bmwm5@gmail.com) viewed the document on Chrome via Windows from 173.160.171.102.
06/10/2021 17:24 EDT	Shane Anderson (06bmwm5@gmail.com) authenticated via email on Chrome via Windows from 173.160.171.102.
06/10/2021 17:24 EDT	Shane Anderson (06bmwm5@gmail.com) signed the document on Chrome via Windows from 173.160.171.102.