

SETTLEMENT AGREEMENT AND RELEASE

I. Introduction.

This Settlement Agreement and Release (“Agreement”) is hereby entered by and between Defendant Great Western Pacific, Inc. (“Great Western” or “Defendant”) and Ryan Galloway (“Plaintiff”), who is acting both individually and in his capacity as class representative for the class of employees proposed by Plaintiff (“Class”) in the case entitled *Ryan Galloway, et al. v. Great Western Pacific, Inc.*, King County Superior Court Civil Case No. 19-2-06604-1 SEA (the “Case”). Great Western and Plaintiff are referred to collectively as the “Parties.”

II. Recitals.

A. Settlement Negotiations. The Parties engaged in extended settlement negotiations. During these negotiations, substantial information was exchanged to allow the Parties to adequately assess their risks and damages. Through the Parties’ negotiations, the Parties have reached a class action settlement of this Case that they believe to be fair, adequate and reasonable, and that Plaintiff believes is in the best interests of the proposed settlement Class. This Agreement memorializes the terms of the final settlement agreed to by the Parties as the result of the negotiations just described.

B. Great Western’s Denials of Wrongdoing and Non-Admission of Allegations. Great Western does not admit liability for the claims and contentions alleged by Plaintiff on his own behalf, and/or on behalf of any members of the Class. Great Western expressly denies any wrongdoing or legal liability arising out of any of the facts or conduct alleged in this Case. Neither the Settlement, this Agreement, any document referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Great Western of any fault, wrongdoing or liability whatsoever. Great Western expressly denies any such fault, wrongdoing or liability. If the Parties had not reached the Settlement, Great Western would have continued to vigorously defend against Plaintiff’s claims.

III. Agreements.

NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, subject to the approval of the Superior Court, that this Case is hereby being compromised and settled on a class action basis pursuant to the terms and conditions outlined in this Agreement and that, if the Parties’ Settlement is approved by the Superior Court, then this Case shall be fully dismissed on the merits and with prejudice, subject to the following terms and conditions:

A. Definitions.

1. “Settlement” means the settlement reached by the Parties through the negotiation process described in Section II.A. above, as set forth in this Agreement.

2. “Class” or “Class Members” means the members of a settlement class consisting of “All servers who are or have been employed by the Great Western at the Crab Pot or Fishermans’ restaurants in Seattle, Washington and/or Bellevue, Washington from December 11, 2015 through September 20, 2019 and who have not signed a valid Arbitration Agreement.”

3. “Qualified Class Members” refers to those Class Members who do not opt out of the Settlement, including the Plaintiff.

4. “Settlement Class Period” means the period from December 11, 2015 through September 20, 2019.

5. “Class Counsel” means Jeffrey Needle and Dan Johnson, subject to the Superior Court’s approval.

6. “Settlement Administrator” means JND Legal Administration, subject to the Superior Court’s approval.

7. “Notice” or “Notice of Settlement” means the notice of this Settlement, which is attached hereto as Exhibit 1 and which the Parties intend to be mailed to Class Members following the Superior Court’s entry of an order granting preliminary approval of the Settlement.

8. The “Initial Mailing Date” is the date that JND first mails the Notice of Settlement approved by the Superior Court to all Settlement Class Members.

9. The “Notice Deadline” is forty-five (45) calendar days after the Initial Mailing Date.

10. “Valid Exclusion Request” means a request by a Class Member to opt out of the Settlement that meets the following criteria: (i) is in writing; (ii) states that individual’s current address; (iii) contains a request that he/she be excluded from the Settlement Class in the case of *Galloway, et al. v. Great Western Pacific, Inc.*; (iv) is signed; and (v) is mailed to Settlement Administrator at the address provided in the Notice and postmarked within forty-five (45) calendar days after the Initial Mailing Date.

11. “Objection” means a written objection to the Settlement by a Qualified Class Member that is mailed to the Settlement Administrator, along with any supporting documentation that the person wishes the Court to consider, no later than forty-five (45) calendar days after the Initial Notice Mailing Date.

12. “Effective Date” means the date that is the later of: (1) 31 calendar days following the Superior Court’s entry of the Final Approval Order, or (2) if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial approval of the Settlement.

13. “Final Approval Order” refers to an order by the Court that grants final approval of the Settlement and that includes a final judgment dismissing this Case, including all the Plaintiff’s individual claims and any class claims with prejudice in accordance with the terms of this Agreement.

B. Releases. As of the Effective Date, the Settlement and this Agreement will constitute a full and final settlement and release of all Qualified Class Member Released Claims, as defined below (the “Releases”). For purposes of the Releases, “Defendant” means Great Western, and their respective past and present parents, subsidiaries, owners, shareholders, officers, directors, employees, agents, representatives, attorneys, insurers, successors, and assigns.

Qualified Class Member Released Claims. “Qualified Class Member Released Claims” shall mean all claims or causes of action that were or could have been asserted by or on behalf of Qualified Class Members, including but not limited to plaintiff Ryan Galloway, against any Defendant based on the facts alleged in the Complaint, including failure to provide rest or meal breaks, failure to pay for missed rest or meal breaks, overtime violations for failure to provide or pay for missed rest or meal breaks, and any other claims relating to missed rest or meal breaks, including claims relating to missed rest or meal breaks that seek penalties, interest, fees, costs, and/or attorneys’ fees.

C. Conditions Precedent to Settlement Taking Effect. The Parties enter into this Agreement and the Settlement on a conditional basis. This Agreement and Settlement is contingent upon, and will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement, consistent with the terms described in this Agreement (or as otherwise agreed upon in writing by the Parties);
2. The Court enters the Final Approval Order; and
3. The Effective Date occurs, and any challenge to the Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement.

In the event the Agreement is not given preliminary or final approval in all material respects and consistent with the terms of this Agreement, or if the Court's Final Approval Order is reversed on appeal, the Agreement shall become null and void.

D. Consequences of Settlement Not Becoming Effective. This Agreement is contingent upon each of the conditions precedent in Paragraph III.C. occurring and is entered into voluntarily by the Parties for settlement purposes only. If the Court does not grant preliminary or final approval of this Settlement or, if appealed, the Settlement is not affirmed, or if for any other reason the Effective Date does not occur:

1. The Parties will take all steps necessary to return the Case to the "status quo" as it existed prior to the Parties seeking approval of the Settlement from the Court;
2. Defendant Great Western does not waive, and, instead, expressly reserves its rights to challenge all claims and allegations in the Case upon all procedural, factual and legal grounds, including, without limitation, the ability to challenge class treatment on any grounds, as well as asserting any and all other potential defenses or privileges;
3. Plaintiff and Class Counsel waive any argument that, based on this Agreement or any negotiations or understandings related to this Agreement, Defendant cannot contest class certification on any grounds available at the time of the Settlement or assert any and all other potential defenses and privileges then available if this action were to proceed.
4. All matters covered by this Agreement and the releases contained herein shall be null and void.
5. Nothing in this Agreement or any draft thereof, or of the discussion, negotiation, documentation, or other aspect of the Parties' settlement discussions, or any document submitted to the Court related to this Agreement, shall have any effect or be admissible in evidence for any purpose in the action or in any other proceeding or forum, nor shall any such matter be used or construed by or against any Party as a determination, admission, or concession of any issue of law or fact, and the Parties do not waive, and instead expressly reserve, their respective rights with respect to the prosecution and defense of the action as if this Agreement never existed.

E. Settlement Consideration. Subject to the settlement taking effect and the Effective Date occurring, Great Western agrees to pay a total of One Hundred Eighteen Thousand Seven Hundred Fifty Dollars and 00/100 Cents (\$118,750.00) (the "Maximum Settlement Amount") for

purposes of settling this lawsuit. The Maximum Settlement Amount shall be "all inclusive," meaning that it shall be used to satisfy all of the following: (1) the settlement awards to be paid to Qualified Class Members (hereafter, the "Settlement Awards"), (2) the employee portions of payroll taxes and withholdings associated with the Settlement Awards, (3) the service award to be paid to the Plaintiff (hereafter, the "Service Award"), (4) the award of attorneys' fees to Class Counsel (hereafter, the "Attorneys' Fees Award"), (5) the expenses and costs of litigation to be paid to Class Counsel (hereafter, the "Cost Payment"), and (6) an award of settlement administration expenses (hereafter, the "Settlement Administration Expenses Award") to be paid to the Settlement Administrator, all as approved by the Superior Court. Notwithstanding any other provision of this Agreement, in no event shall Defendant be obligated to pay more than \$118,750.00 in settlement of the Case, other than for its portion of payroll taxes and withholdings and its attorneys' fees and costs.

F. Calculation of Settlement Awards.

1. Subject to approval by the Superior Court, the calculations of gross (pre-tax) estimated Settlement Awards will be made by Class Counsel based on data to be submitted to Class Counsel by Great Western, which data will be certified, under oath by a person with direct knowledge, to be complete and accurate to the best of Great Western's ability.

2. Great Western has provided Class Counsel with sufficient information to calculate awards for the Class Members. Class Counsel will provide this data to the Settlement Administrator to allow the Settlement Administrator to calculate potential awards. The Parties will provide other data, upon request from the Settlement Administrator, as reasonably necessary to complete their settlement administration duties under this Agreement, including the Social Security Numbers or ITINs that Great Western uses or used for paying each Class Member. All such data shall be treated as private and confidential, and the Settlement Administrator shall not use or disclose any such data to any persons or entities except as required by law or Court order. Notwithstanding the foregoing, the Settlement Administrator may disclose individual Class Member data to the individual Class Member to whom the data applies.

3. The Settlement Administrator shall be responsible for calculating the gross amounts of estimated Settlement Awards in conformity with this Agreement. The Settlement Administrator will use the data provided by Great Western and instructions from Class Counsel to calculate an estimated Settlement Award for each Class Member.

4. Final Settlement Awards will be calculated after the Notice Deadline to determine the appropriate award for each Qualified Class Member. The Settlement Administrator shall prepare an electronic report setting forth the results of these calculations and calculating and deducting appropriate tax withholdings in compliance with the terms of this Agreement.

5. Proportional Distribution of the Net Settlement Fund. Each Qualified Class Member will be allocated a proportional amount of the Net Settlement Fund. Each Qualified Class

Member's share of the Net Settlement Fund will be proportional to the member's estimated missed breaks in Washington during the Claims Period in relation to the total estimated missed breaks by all Qualified Class Members in Washington during the Claims Period. The total number of Qualified Class Member estimated missed breaks during the Statutory Claims Period by all Qualified Class Members will be the denominator, and each Qualified Class Member's individual number of estimated missed breaks during the Statutory Claims Period will be the numerator. The resulting percentage will be multiplied by the Net Settlement Fund to arrive at each Qualified Class Member's Settlement Award.

6. Allocation of Settlement Awards Between Wages and Non-Wages. Twenty-Five Percent (25%) of each Qualified Class Member's proportional share of the Net Settlement Fund will be allocated to wage claims, and the other Seventy-Five Percent (75%) of each Qualified Class Member's proportional share of the Net Settlement Fund will be treated as non-wages (prejudgment interest and exemplary damages).

7. After the Parties have agreed to each Qualified Class Member's gross proportional share of the Net Settlement Fund, the Settlement Administrator will calculate and deduct *employee* payroll tax amounts, including income tax withholding and any other required deductions, from the wage allocation of each such share. The Class Administrator will issue checks to Qualified Class Members for the proper amounts after these deductions are made.

G. Attorneys' Fees Award and Costs Payment. As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for attorneys' fees of no more than \$62,750, plus costs of litigation.

H. Service Awards. In addition to a Settlement Award computed as described above, Class Counsel will request that Plaintiff Ryan Galloway be given a Service Award in the amount of Three Thousand Dollars (\$3,000.00) to be paid from the Maximum Settlement Amount.

I. Settlement Administration.

1. The Settlement Administrator shall be responsible for notice mailings to the Settlement Class, tracing undeliverable mailings, recording and tracking responses to the mailings to the Settlement Class Members, tracking and responding to any inquiries made by Settlement Class Members, calculating Settlement Awards (using the information provided by Parties), and any other related tasks mutually agreed to by the Parties.

2. The Settlement Administrator shall be responsible for issuing the necessary checks for all Settlement Awards, the Service Award, the Attorneys' Fees Award, the Cost Payment, and the Settlement Administration Expenses Award, and for issuing all required tax documents to Qualified Class Members (such as Forms W-2s and 1099s), as well as performing all related tax reporting to taxing authorities.

3. Within five (5) calendar days after the Notice Deadline, the Settlement Administrator shall provide the Parties with an electronic report setting forth the names and identities of any Settlement Class Members who submitted a Valid Exclusion Request in conformity with this Agreement and copies of any Exclusion Requests returned.

4. In the event the number of Settlement Class Members who have timely requested exclusion from the Settlement Class exceeds 15 percent (15%) of the total number of potential members of the Settlement Class, Great Western has the right in its sole discretion to terminate or not to terminate the Settlement. If Great Western chooses to exercise this right, it shall give written notice to Class Counsel within ten (10) calendar days after receiving the report from Class Counsel required by Section III.J.3. In that event, Great Western shall pay the reasonable expenses of the Settlement Administrator.

5. As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for a Settlement Administration Expenses Award. The costs, fees and expenses incurred by the Settlement Administrator in administering this Settlement shall be paid from the Settlement Administration Expenses Award approved by the Court.

J. Notice/Approval of Settlement Agreement. As part of this Settlement, the Parties agree to the following procedures for obtaining preliminary Superior Court approval of the Settlement, certifying the Settlement Class, notifying the Settlement Class Members, obtaining final Superior Court approval of the Settlement, and implementing payment of Settlement Awards to Qualified Class Members:

1. Plaintiff shall file a motion with the Superior Court to obtain preliminary approval of the Settlement in conformity with this Agreement. Plaintiff shall provide Great Western with a draft of the motion for preliminary approval and the proposed Preliminary Approval Order (defined below) for review and comment at least five (5) calendar days before the motion is filed. Plaintiff agrees not to file the motion without Great Western's prior review and not to file the proposed Preliminary Approval Order without Great Western's prior review.

2. For purposes of this Settlement, Plaintiff will ask the Superior Court to enter an order conditionally certifying the Settlement Class, conditionally certifying Plaintiff's attorneys as Class Counsel for the Settlement Class, preliminarily approving the Settlement and this Agreement, approving the form of the Notice and its mailing to the Settlement Class, and setting a date for a Fairness Hearing to determine whether the Court will grant final approval of the Settlement and this Agreement (the "Preliminary Approval Order"). Defendant reserves the right to oppose or otherwise respond to Plaintiff's motion, including but not limited to on the basis that it contains any misrepresentations, material omissions, or distortions, or that is in whole or part inconsistent with the terms and/or intent of the Parties' Settlement and/or this Agreement.

3. Great Western has provided or will provide current or last known contact information for all Settlement Class Members for notice purposes to Class Counsel. Great Western agrees it will continue to assist Class Counsel and the Settlement Administrator in finding addresses for those Settlement Class Members whose last known addresses are incorrect or no longer valid. The Settlement Administrator will also provide the parties with any updated address information obtained for Qualified Class Members, as well as any phone numbers and/or email addresses in its possession.

4. Subject to the Superior Court's approval, the Notice shall be provided using the following procedures:

- a. Within fourteen (14) calendar days of the date the Superior Court issues the Preliminary Approval Order, the Settlement Administrator shall mail the Notice to all Settlement Class Members ("Initial Mailing Date") in the form attached as Exhibit 1 hereto and shall provide the Parties with a copy of the documents sent to the Settlement Class Members.
- b. The Notice shall provide that Settlement Class Members who do not opt out and who wish to object to the Settlement must submit to the Settlement Administrator a written statement objecting to the Settlement on or before the Notice Deadline ("Objection"). If a person wishes to have the Court consider the written statement objecting to the Settlement, the person (i) must not exclude himself or herself from the Settlement Class and (ii) must mail the Settlement Administrator the written objection, along with any supporting documentation that the person wishes the Court to consider, by no later than forty-five (45) calendar days after the Initial Notice Mailing Date. The Settlement Administrator will provide any such objections to the parties, and Class Counsel shall file them with their motion for Final Approval. If such Objection is overruled by the Court, the objecting member of the Settlement Class shall remain fully bound by the terms of the Settlement, including the release of all Qualified Class Member Released Claims, so long as the Settlement is granted final approval by the Court. The Parties shall submit any responses to objections with the Final Approval Motion. Any Settlement Class Member who does not appear individually or through counsel and who does not challenge or comment upon the fairness and adequacy of the Settlement or Class Counsel's request for attorneys' fees and costs

shall waive and forfeit any and all rights to appear separately or object. All Qualified Class Members shall be bound by all the Settlement and by all proceedings, orders and judgments in this Action.

- c. The Notice shall also provide that Settlement Class Members who wish to exclude themselves (*i.e.*, opt out) from the Settlement Class must send a request to the Settlement Administrator requesting exclusion from the Settlement Class on or before the Notice Deadline. An exclusion request must: (i) be in writing; (ii) state that individual's current address; (iii) request that he/she be excluded from the Settlement Class in the case of *Galloway v. Great Western Pacific, Inc.*; (iv) be signed; and (v) be mailed to the Settlement Administrator at the address provided in the Notice and postmarked within forty-five (45) calendar days after the Initial Mailing Date. Each individual who properly files a timely written request for exclusion shall be excluded from the Settlement Class and shall have no rights under the Settlement Agreement. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the Notice Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Case if the Settlement is approved by the Superior Court, regardless of whether they have objected to the Settlement and regardless of whether they receive a Settlement Award under this Agreement. An exclusion request shall be deemed timely if it is postmarked no later than forty-five (45) calendar days after the Initial Mailing Date.
- d. Any supplemental correspondence or other written communications to Settlement Class Members concerning the Notice, the exclusion process, and/or other aspects of settlement administration shall be coordinated in advance between and agreed to by Class Counsel and Great Western counsel. Notwithstanding the foregoing, Class Counsel and the Settlement Administrator may answer inquiries about the Settlement from individual Settlement Class Members without advance coordination with Great Western counsel. All responses Class Counsel or the Settlement Administrator provides will be consistent with the terms of this Agreement and the Notice.

5. The Parties agree that neither they nor their counsel will solicit or otherwise encourage any of the Settlement Class Members to opt out or object to the Settlement and will not appeal from the Superior Court's final order approving the Settlement, provided that this Final Approval Order is fully consistent with the terms of this Agreement.

6. Should any Notice be returned as undeliverable, the Settlement Administrator shall attempt one trace to locate a good address and, if located, shall make a second attempt at mailing the Notice. If such Notice is again returned as undeliverable, no further attempts at delivery of the Notice are required to be made. Notwithstanding the foregoing, the Settlement Administrator may mail or email a Notice to a Settlement Class Member at an address or email address obtained by other means if the Settlement Class Member's Notice is returned as undeliverable or upon the Settlement Class Member's request for the same (*e.g.*, if Plaintiff, Great Western, or another Settlement Class Member provides the Settlement Administrator an address or email address for a Settlement Class Member not previously provided by Great Western or obtained through a trace).

7. Subject to the Superior Court's availability and direction and no earlier than twenty-one (21) calendar days after the Notice Deadline, a Fairness Hearing shall be held for the Superior Court to determine whether to enter a Final Approval Order that grants final approval of the Settlement, including Class Counsel's Attorneys' Fees Award and Cost Payment, the Settlement Administration Expenses Award, and the Service Award to the Named Plaintiff, and to enter final judgment dismissing this Case with prejudice and (except as specifically provided in this Agreement) without costs. After entry of Final Approval Order, the Superior Court shall have continuing jurisdiction solely for the purposes of enforcement of the Settlement and addressing (a) settlement administration matters, and (b) such post-judgment matters as may be appropriate under Court rules.

8. Within fourteen (14) calendar days following the later of (a) the Effective Date, and (b) the date Class Counsel supply the Settlement Administrator with Class Counsel's federal tax ID number, the Settlement Administrator shall pay to Class Counsel the Attorneys' Fees Award and Cost Payment approved by the Court and the Settlement Administration Expenses Award approved by the Court, and shall pay any Service Award approved by the Court. These payments will not be subject to any withholdings, and each of the payments will be reported on a separate IRS Form 1099 (marked "Other Income"). Within fourteen (14) calendar days following the Effective Date, the Settlement Administrator shall also mail Settlement Award checks to Qualified Class Members. There shall be two Settlement Award checks for each Qualified Class Member: one check for wages and one check for non-wage damages.

9. Any Qualified Class Member whose Settlement Award check is returned as undeliverable shall receive his/her Settlement Award from Great Western if he/she contacts the

Settlement Administrator or Great Western and provides a correct mailing address within ninety (90) calendar days after the mailing of the Settlement Award checks.

10. Great Western will receive no reversion from the Settlement Amount. The proceeds of any uncashed checks after ninety (90) calendar days following the Distribution will be distributed to the Legal Foundation of Washington.

11. If the Superior Court does not enter an Order preliminarily or finally approving the Settlement, or if the Settlement does not become final for any other reason, this Agreement shall be null and void. In such case, the Parties shall proceed in all respects as if this Agreement had not been executed. In the event an appeal is filed from the Superior Court's Final Approval Order, or from any other appellate review that is sought prior to the Effective Date, funding and administration of the Settlement shall be stayed pending final resolution of the appeal or any other form of appellate review, except that the parties will split the reasonable expenses of the Settlement Administrator.

K. Press and Social Media. Plaintiff, Class Counsel, and Great Western shall not issue any press releases, conduct any press interviews, or do any social media postings concerning this Settlement prior to the Effective Date without prior notice to and consent from the other.

L. Miscellaneous Provisions.

1. The Parties agree to stay all further proceedings in this Case, except such proceedings as are necessary to implement and complete this Settlement and/or to implement this Agreement, pending the Fairness Hearing to be conducted by the Superior Court and the Effective Date.

2. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

3. This Agreement constitutes the entire Agreement among these Parties. No representations, warranties or inducements have been made to any Party concerning this Agreement, other than the representations, warranties and covenants contained and memorialized in this Agreement and the Notice (Exhibit 1).

4. The Parties and their counsel will cooperate with each other and use their best efforts to implement this Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement this Settlement or this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement or this Agreement, then either Party may seek assistance from a Mediator (prior to entry of the Preliminary Approval Order) or the Superior Court (following entry of the Preliminary Approval Order) to resolve such disagreement.

5. This Agreement shall be binding upon, and shall inure to the benefit of, the successors of the Parties hereto, as previously defined.

6. All terms of this Agreement shall be governed by and interpreted according to the laws of the State of Washington.

7. Plaintiff and Great Western believe that this is a fair, reasonable and adequate settlement, and have arrived at this Settlement through arm's-length negotiations, and taking into account all relevant factors, present and potential.

8. The Parties, and each of them, represent that they will not make any disclosure of the Settlement prior to Class Counsel filing the motion for preliminary approval with the exception of disclosures made to another party to this case or to those persons who are within each Party's attorney-client privilege.

IT IS SO AGREED.

**FOR THE NAMED PLAINTIFF
AND THE SETTLEMENT CLASS**

Dated: 11/19/2020

Ryan Galloway

Ryan Galloway
Named Plaintiff/Class Representative

FOR GREAT WESTERN PACIFIC, INC.

Dated: 11/13/2020

Hal Griffith

Hal Griffith
CEO