

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made and entered into by Jenna Crenshaw, Andrew Brickley, Cristiano Dutra, Shauntay King, Krystle Strangis, and Kristin Morency (hereinafter “Lead Plaintiffs”) on behalf of the Settlement Class (as defined below in paragraph 2) on the one hand, and Texas Roadhouse, Inc., Texas Roadhouse Management Corp., Texas Roadhouse Holdings, LLC, and Texas Roadhouse of Everett, LLC (referred to throughout this Agreement as “Texas Roadhouse”), on the other hand, to voluntarily and completely settle and resolve the matter of Jenna Crenshaw, et al. v. Texas Roadhouse, Inc. et al., D. Mass. Civil Action No. 11-10549-JLT. (Lead Plaintiffs and Texas Roadhouse are collectively referred to as the “Parties”).

The Parties hereby agree as follows:

1. **Background:** The Lead Plaintiffs filed this lawsuit against Texas Roadhouse on January 19, 2011, alleging that they and others similarly situated in Massachusetts were denied tips and wages in violation of the Massachusetts Tips Law, Mass. Gen. Laws c. 149 §152A, Massachusetts Minimum Wage Law, Mass. Gen. Laws c. 151 §§ 1 and 7, Massachusetts Payment of Wages Law, Mass. Gen. Laws c. 149 § 148, and in violation of various contracts and common law obligations. The Parties have conducted substantial investigation of the facts and law relevant to both the claims and defenses asserted, including both formal and informal discovery. The Parties are sufficiently familiar with the facts of this case to warrant settlement now. On February 28, 2012, the Parties attended mediation before Mark Irvings, an independent mediator with significant experience in employment matters, including wage and hour class actions. This Agreement is a product of that mediation and such follow up communications between the Parties and Mr. Irvings. At all times, the Parties’ negotiations were non-collusive and at arm’s length. Taking into consideration the expense and length of the proceedings that would be necessary to continue this lawsuit through trial, and the uncertainty and risk of further litigation, the Parties have determined that the Settlement set forth in this Agreement is fair, adequate and reasonable, and is in the best interest of the Settlement Class.

2. **Settlement Class Defined:** Solely for the purposes of this settlement, the Parties agree to Fed. R. Civ. P. 23 class action treatment with respect all claims raised in the Lawsuit. The Settlement Class is defined as all individuals who have worked in the position of SERVER, including head wait, at any of Defendants’ restaurants in Massachusetts at any time from January 18, 2005, up to the date of final Court approval of the settlement.

3. **Court Approval of Settlement:** The Parties agree to cooperate to seek Court approval of this proposed class action settlement as follows:

- a. The Parties have requested and obtained a date from the Court for a Preliminary Class Settlement Approval Hearing – April 30, 2012;

- b. Lichten & Liss-Riordan, P.C. ("Plaintiffs' Counsel") will be responsible for drafting the Motion for Preliminary Class Settlement Approval and proposed Class Notice and Claim Form (to be reviewed and approved by Littler Mendelson, P.C., defense counsel);
- c. In the Motion for Preliminary Class Settlement Approval, the Parties will request a date for a Final Class Settlement Approval Hearing that, consistent with the Class Action Fairness Act ("CAFA"), is at least 100 days from the date this Agreement is filed with the Court (as part of the Motion for Preliminary Settlement Approval, which is to be filed on or about April 23, 2012);
- d. Within ten days of the Agreement being filed with the Court, defense counsel will send notice of the settlement to the appropriate state Attorneys General, as required by CAFA;
- e. Within one week after the date that Preliminary Class Settlement Approval is granted, defense counsel will provide to Plaintiffs' Counsel names and last known addresses of class members, and payroll records showing hours worked as servers by class members and applicable pay rates (from which data settlement shares may be calculated);
- f. Plaintiffs' Counsel will be responsible for drafting a Motion for Final Class Action Settlement Approval, which will be sent to defense counsel for review and approval prior to being filed with the Court.

4. Settlement Fund: The total amount to be paid by Texas Roadhouse in settlement of the claims resolved by this Agreement is \$5,000,000 inclusive of all payments to class members and attorneys' fees and costs, but not including the employers' share of payroll taxes ("Settlement Fund"). The Parties agree that Plaintiffs will propose (and Defendants will not contest) the following allocation of the Settlement Fund in the Motion for Final Settlement Approval to be filed with the Court:

- a. Incentive payments for the named plaintiffs in the following amounts (to be paid as 1099 non-wage income): \$25,000 each for Jenna Crenshaw, Andrew Brickley, and Cristiano Dutra, and \$15,000 each for Shauntay King, Krystle Strangis, and Kristin Morency. These payments are to be made in consideration of the Lead Plaintiffs' agreement to the provisions in paragraphs 7, 9, and 10. However, the Parties recognize that the Court makes the final decision on the amounts of incentive payments, and the Agreement is not contingent on the Court approving incentive payments in these amounts;
- b. \$3,213,334, less third-party administration fees in the estimated amount of \$15,000, to be paid to class members who submit timely claim forms to participate in the class action settlement (to be paid as W2 wage income);

- c. \$1,666,666 in attorneys' fees and costs, to be paid as 1099 income by check payable to Lichten & Liss-Riordan, P.C.
5. Payment of Settlement Funds/Claims Administration:
- a. Claims Administration: Plaintiffs' Counsel will be responsible for: mailing out class notices and claim forms to class members; following up on any undeliverable claim forms, including making reasonable attempts to locate class members where the first notice is returned as undeliverable at the address provided; responding to class members' inquiries; collecting claim forms from class members; and calculating class members' settlement payments based on data provided by Texas Roadhouse. In the event that a claim form is timely, but not complete, Plaintiffs' Counsel shall immediately notify the class member of the deficiency and the class member shall have 15 days following the notice of the deficiency to cure the deficiency. During the claim period, Plaintiffs' Counsel shall provide periodic updates at defense counsel's request of total notices mailed and claim forms and opt-outs and objections received.
 - b. Claims Administrator: The Parties will mutually agree upon and engage a claims administrator ("Claims Administrator") for the purposes of issuing the checks to Lead Plaintiffs, Plaintiffs' Counsel, and class members, including making any and all necessary tax deductions and performing all necessary tax reporting and tax paying obligations. The Parties anticipate that the cost of this service, which shall come out of the Settlement Fund, will not exceed \$15,000. The Claims Administrator will also calculate the additional amounts to be paid by Texas Roadhouse for the employers' share of payroll taxes (which amount is separate and in addition to the \$5,000,000).
 - c. Calculation of Settlement Shares: For all restaurants other than North Dartmouth, class members' settlement shares shall be calculated as follows: each class member shall receive a share proportional to hours worked as a server during the applicable time period, but hours worked during the period before January 18, 2008 will be weighted at 1/6 as compared with hours after January 18, 2008. Additionally, class members who submit claim forms will receive minimum payments of at least \$75. Class members from the North Dartmouth restaurant will be entitled to a maximum payment of \$500.
 - d. Division of Funds between Wages and Other Income: Each class member's settlement share will be paid out 1/3 as W2 wages and 2/3 as penalties to be reported as 1099 other income. Class members will be required to complete claim forms, W4 forms and W9 forms in order to receive their settlement shares. Texas Roadhouse does not make any representations regarding the consequences of any amounts received by class members pursuant to the Settlement. Class members will be

required to pay any and all federal or state taxes that are required by law to be paid with respect to the Settlement and the characterization of the payments to class members set forth in this paragraph does not in any way affect class members' independent judgments regarding the payment of taxes under applicable law. Nothing in this Settlement shall be construed to require Texas Roadhouse to make any payments to compensate class members for any adverse tax effect associated with any payments or benefits or for any failure to deduct or withhold from any payments or benefits.

- e. Initial Distribution: Within forty-five (45) days of final Court approval, Texas Roadhouse shall deposit the Settlement Fund of \$5,000,000 into a Settlement Account established and administrated by the Claims Administrator. Additionally, after being informed by the Claims Administrator of the additional amount owed for the employer's share of payroll taxes, Texas Roadhouse shall deposit that amount into the Settlement Account as well. Within sixty (60) days of final Court approval of the settlement (and contingent on Court approval), the Claims Administrator will make the following payments: the incentive payments to the Lead Plaintiffs; payments to class members who have claimed as of that date; and the payment of attorneys' fees and costs to Plaintiffs' Counsel.
- f. Second Distribution: Approximately three months after the Initial Distribution, Plaintiffs' Counsel shall send a second notice to class members who have not submitted claims giving them another opportunity to submit claims. Forty-five (45) days after the mailing of the second notice to class members, the remainder of the Settlement Fund shall be distributed by the Claims Administrator as follows: late claimants shall get their initial payments; and the residual funds shall be distributed to all claimants (from the first and second distribution) in an amount proportional to the amount of their initial distribution, except that those individuals whose second distribution would be less than \$50 will not receive a second distribution. Additionally, after being informed by the Claims Administrator of the additional amount owed for the employer's share of payroll taxes for the second distribution, Texas Roadhouse shall deposit that amount into the Settlement Account as well.

6. Residual Funds: After the distributions described in paragraph 5 above, any remaining funds (e.g., from uncashed checks) will be held for an additional ninety (90) days and may be used to resolve any disputes which may arise. After the ninety (90) days have elapsed, all remaining unclaimed funds will be distributed on a cy pres basis to the charity of Texas Roadhouse's choosing, Andy's Outreach, a 501(c)(3) charitable organization.

7. Non-Publicity: Neither party, including the Lead Plaintiffs, Texas Roadhouse, Plaintiffs' Counsel and defense counsel, will initiate any publicity, including

print, television, internet (including social media), about the lawsuit or the settlement of the lawsuit. Texas Roadhouse will have the right to inform those within its business who have a need-to-know in order to effectuate the settlement, its Board of Directors, its franchisees, and its shareholders as it determines prudent and appropriate or as otherwise required by law. Texas Roadhouse will also have the right to comment in response to any media inquiry, indicating the matter has been resolved and disclaiming any admission of liability. The Lead Plaintiffs and Plaintiffs' Counsel will respond to any media inquiries by stating, "the matter has been resolved."

8. Release of Claims for Plaintiff Class: Upon final approval by the Court, the Lead Plaintiffs and each Class Member who does not opt out of the settlement shall hereby release, dismiss and forever discharge Texas Roadhouse and Texas Roadhouse's present and former parent companies, subsidiaries, related or affiliated companies, and their respective shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Texas Roadhouse, ("Released Parties"), from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, action or causes of action for, or which relate to or arise from the allegations pled in the Complaint, including all claims, known or unknown, for alleged unlawful tip practices, wage violations, contractual breaches and common law violations pled in the Complaint, including, without limitation, claims under the Massachusetts Tips Law, Mass. Gen. Laws c. 149 §152A, Massachusetts Minimum Wage Law, Mass. Gen. Laws c. 151 §§ 1 and 7, Massachusetts Payment of Wages Law, Mass. Gen. Laws c. 149 § 148, breach of contract, unjust enrichment, and any all claims, interest, penalties and remedies thereon, including without limitation all claims for restitution and other equitable relief, liquidated damages, treble damages, punitive damages, attorneys' fees and costs, and all other claims alleged in the Complaint or which could have been alleged in the Complaint based on the facts alleged therein, whether known or unknown, from January 18, 2005 through the date of Final Class Settlement Approval.

9. Lead Plaintiffs' General Release: Lead Plaintiffs further agree to be bound by a general release, by which Lead Plaintiffs agree to release and discharge the Released Parties generally from all charges, complaints, claims, promises, agreements, causes of action, damages, and debts of any nature whatsoever, known or unknown ("Claims"), which Lead Plaintiffs have, claim to have, ever had, or ever claimed to have had against Released Parties through the date of execution of this Agreement. This general release of Claims includes any releasable Claims under contract law, the regulations and the statutory and common law of any state, including the Commonwealth of Massachusetts, and any federal or state statute, including, without implication of limitation, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Fair Labor Standards Act, the Massachusetts Fair Employment Practices Act, Massachusetts General Laws (including Chapter 151B), Massachusetts' wage and hour laws, the Family and Medical Leave Act, and the Employee Retirement Income Securities Act. That said, nothing contained in this Agreement prevents Lead Plaintiffs from filing a charge, cooperating with or participating in any investigation or proceeding before any federal or state Fair Employment Practices Agency, including, without limitation, the Equal Employment Opportunity Commission, except that they

acknowledge that they may not be able to recover any monetary benefits in connection with any such claim, charge or proceeding, except for any claim they may have under the Massachusetts Workers Compensation Act. The Lead Plaintiffs and Texas Roadhouse agree that this waiver and release does not apply to any rights or claims that, by law, cannot be waived.

10. No Reemployment and Non-Patronization: In consideration of the incentive payments described in paragraph 4.a, supra, all Lead Plaintiffs who are no longer employed by Texas Roadhouse agree not to apply for re-employment at any Texas Roadhouse restaurant in Massachusetts and not to patronize any Texas Roadhouse restaurant in Massachusetts.

11. Non-Admissions: Texas Roadhouse has denied and continues to deny each and all of the claims and contentions alleged by Lead Plaintiffs in the Action. Texas Roadhouse also contends, among other things, that it has complied with the Massachusetts Tips Law, Massachusetts Payment of Wages Law and Massachusetts Minimum Wage Law at all times. Nonetheless, Texas Roadhouse has concluded that further defense of the Action would be protracted, expensive, a distraction to management, and a drain on Texas Roadhouse's resources, and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement. Texas Roadhouse also has taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Action. Texas Roadhouse has, therefore, determined that it is desirable and beneficial to it that the Action be settled in the manner and upon the terms and conditions set forth in this Agreement.

12. Opt-Outs: Any class member other than the Lead Plaintiffs may elect to opt-out, or be excluded from, the settlement class. To be effective, any such election must timely comply with the procedures set forth in the Notice of Proposed Class Action Settlement. Named Plaintiffs, Texas Roadhouse and counsel for both Parties agree not to encourage any class members to opt out of the settlement. Any class member who timely requests exclusion in compliance with these requirements:

- a. shall not have any rights under this Agreement;
- b. shall not be eligible to receive a settlement allocation; and
- c. shall not be bound by this Agreement, the Final Approval Order, or the Judgment.

13. Binding Effect on Class Members: Except for those class members who exclude themselves in accordance with the procedures set forth in the Notice of Proposed Class Action Settlement, all class members (i) will automatically be deemed to be members of the final settlement class for all purposes and be eligible for a settlement allotment under this Agreement, (ii) will be bound by the terms and conditions of this Agreement, the Final Approval Order, the Judgment, and the release set forth herein, and, (iii) except as provided in Section 13, infra, will be deemed to have

waived all objections and opposition to the fairness, reasonableness, and adequacy of the settlement.


14. Right to Object: Any class member other than the Lead Plaintiffs may object to this Agreement and settlement, provided that such objection is timely made in accordance with the procedures set forth in the Notice of Proposed Class Action Settlement. Any class member who fails to comply with the objection procedures set forth in the Notice of Proposed Class Action Settlement will be deemed to have waived any right to object and any objection to this Agreement or the settlement.

15. Grounds for Termination: In accordance with the procedures specified below, this Agreement may be terminated on only the following grounds:

- a. Any Party may terminate the Agreement within twenty (20) business days if the Court declines to enter the Preliminary Approval Order, Final Approval Order or Judgment in substantially the form submitted by the Parties, or the settlement as agreed does not become final for any other reason.
 - b. However, the Parties agree that, prior to terminating the Agreement, if the settlement provided for herein is not approved by the Court in accordance with the terms of this Agreement, the Parties shall continue to negotiate in good faith an agreement with terms that are acceptable to the Court.
 - c. Texas Roadhouse may elect to terminate the Agreement if more than five percent (5%) of the potential class members request to opt-out, or be excluded from, the settlement, except that any opt-outs from the North Dartmouth location shall not be counted toward the 5%. Texas Roadhouse must inform both the Court and Plaintiffs' Counsel of its election to terminate the Agreement within twenty (20) business days of Texas Roadhouse being informed of the final number of class members requesting to opt-out. Lead Plaintiffs, Plaintiffs' Counsel, Defendants and defense counsel agree not to encourage any class members to opt out.
16. Effect of Termination: Termination shall have the following effects:
- a. The Agreement shall be terminated and shall have no force or effect, and neither of the Parties shall be bound by any of its terms;
 - b. Texas Roadhouse shall have no obligation to make the settlement payments, as outlined herein, to any party, class member or Plaintiffs' Counsel in the event the Agreement is terminated;
 - c. The Preliminary Approval Order, Final Approval Order and/or Judgment, including any order of conditional class certification, shall be void and vacated;

- d. The Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the settlement except as enumerated herein;
- e. The Parties agree that the certification of the Class shall be void *ab initio* and that, if necessary, they shall stipulate to decertification of the Class without prejudice to the propriety of class certification being adjudicated on the merits;
- f. Neither this Agreement, nor any ancillary documents, actions, statements nor filings in furtherance of settlement (including all matters associated with the mediation and/or settlement negotiations) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever except as enumerated herein; and
- g. If the Agreement is terminated, the Parties agree to work cooperatively to request jointly that the Court enter a reasonable schedule, including new deadlines for the completion of discovery, class certification briefing, expert reports, and dispositive motion briefing.

17. Dismissal: Upon final Court approval of the settlement, and the expiration of any right of appeal, the Lead Plaintiffs shall effectuate a dismissal of the Complaint with prejudice.


 Jenna Crenshaw, Named Plaintiff
 Dated: April 26, 2012

 Andrew Brickley, Named Plaintiff
 Dated: April __, 2012

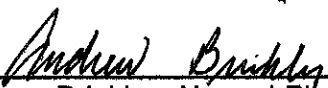
 Cristiano Dutra, Named Plaintiff

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17. Dismissal: Upon final Court approval of the settlement, and the expiration of any right of appeal, the Lead Plaintiffs shall effectuate a dismissal of the Complaint with prejudice.

Jenna Crenshaw, Named Plaintiff

Dated: April __, 2012



Andrew Brickley, Named Plaintiff

Dated: April 17, 2012

Cristiano Dutra, Named Plaintiff

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- g. If the Agreement is terminated, the Parties agree to work cooperatively to request jointly that the Court enter a reasonable schedule, including new deadlines for the completion of discovery, class certification briefing, expert reports, and dispositive motion briefing.

17. Dismissal: Upon final Court approval of the settlement, and the expiration of any right of appeal, the Lead Plaintiffs shall effectuate a dismissal of the Complaint with prejudice.

Jenna Crenshaw, Named Plaintiff

Dated: April __, 2012

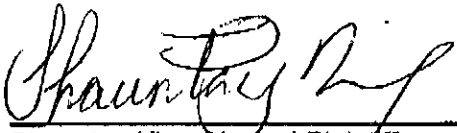
Andrew Brickley, Named Plaintiff

Dated: April __, 2012



Cristiano Dutra, Named Plaintiff

Dated: April __, 2012



Shauntay King, Named Plaintiff

Dated: April 25, 2012

Krystle Strangis, Named Plaintiff

Dated: April __, 2012

Kristin Morency, Named Plaintiff

Dated: April __, 2012

On behalf of the Plaintiff Class
Hillary Schwab, Esq.
Lichten & Liss-Riordan, P.C.
100 Cambridge Street, 20th Floor
Boston, MA 02114
(617) 994 – 5800

Dated: April __, 2012

On behalf of Defendants
Michael Mankes, Esq.
Littler Mendelson
One International Place, Suite 2700
Boston, MA 02110

Dated: April __, 2012

Dated: April __, 2012

Shauntay King, Named Plaintiff

Dated: April __, 2012



Krystle Strangis, Named Plaintiff

Dated: April 26 2012

Kristin Morency, Named Plaintiff

Dated: April __, 2012

On behalf of the Plaintiff Class
Hillary Schwab, Esq.
~~Lichten & Liss-Riordan, P.C.~~
100 Cambridge Street, 20th Floor
Boston, MA 02114
(617) 994 - 5800

Dated: April __, 2012

On behalf of Defendants
Michael Mankes, Esq.
Littler Mendelson
One International Place, Suite 2700
Boston, MA 02110

Dated: April __, 2012

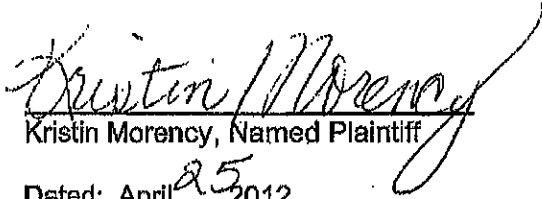
Dated: April __, 2012

Shauntay King, Named Plaintiff

Dated: April __, 2012

Krystle Strangis, Named Plaintiff

Dated: April __, 2012



Kristin Morency, Named Plaintiff

Dated: April ²⁵ __, 2012



On behalf of the Plaintiff Class
Hillary Schwab, Esq.
Lichten & Liss-Riordan, P.C.
100 Cambridge Street, 20th Floor
Boston, MA 02114
(617) 994-5800

Dated: April ³⁰ __, 2012

On behalf of Defendants
Michael Mankes, Esq.
Littler Mendelson
One International Place, Suite 2700
Boston, MA 02110

Dated: April __, 2012

Dated: April __, 2012

Shauntay King, Named Plaintiff

Dated: April __, 2012

Krystle Strangis, Named Plaintiff

Dated: April __, 2012

Kristin Morency, Named Plaintiff

Dated: April __, 2012

On behalf of the Plaintiff Class
Hillary Schwab, Esq.
Lichten & Liss-Riordan, P.C.
100 Cambridge Street, 20th Floor
Boston, MA 02114
(617) 994 – 5800

Dated: April __, 2012



Scott M. Colosi
President, Texas Roadhouse, Inc.
On behalf of Defendants

Dated: April 30, 2012

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Michael Mankes, Esq.
Littler Mendelson
One International Place, Suite 2700
Boston, MA 02110
Counsel for Defendants

Dated: April 30, 2012