

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN J. CUNNINGHAM, et al.,

Plaintiffs,

-vs.-

WAWA, INC., et al.

Defendants,

and

WAWA, INC. EMPLOYEE STOCK
OWNERSHIP PLAN.

Nominal Defendant.

Case No. 18-03355-PD

**JOINT NOTICE OF SETTLEMENT IN PRINCIPLE AND
MOTION FOR STAY OF LITIGATION**

Pursuant to Local Rule 7.4(b), Plaintiffs John J. Cunningham, David Ciuffetelli, Benjamin DiDonato, and John Rucki, Jr. and Defendants Wawa Inc., Retirement Plans Committee of Wawa, Inc., Jared G. Culotta, Michael J. Eckhardt, James Morey, Catherine Pulos, Howard B. Stoeckel, Dorothy Swartz, Richard D. Wood, Jr., Kevin Wiggins, and Christopher D. Wright (collectively the “Parties”), by and through their undersigned counsel, respectfully jointly notify and move the Court as follows:

1. Following a private mediation session before David Geronemus of

JAMS New York on December 17, 2019, the Parties have reached a settlement in principle of this case, subject to a condition subsequent of Defendants securing funding commitments from their insurers. The Parties are currently preparing a written term sheet and also intend to draft a Settlement Agreement.

2. In addition to the Parties currently before the Court, the agreement in principle involves the resolution of claims against persons who have not yet been named as defendants in this action, and Plaintiffs expect to file an amended complaint that, among other things, names such persons as defendants. Defendants will not oppose the filing of such amended complaint.

3. Under the current case schedule, Defendants' expert reports are due January 3, 2020; expert discovery must be completed by February 14, 2020; motions for summary judgment are due March 16, 2020; and trial is set for June 9, 2020, with pretrial deadlines beginning May 6, 2020.

4. In an effort to expedite the resolution of this case, the Parties agreed to the terms of a settlement in principle among themselves and separately agreed to a 90-day period for Defendants to secure funding commitments for the cash settlement amount from Defendants' insurers. Once funding is resolved, the Parties will be in a position to promptly move for the Court's preliminary approval of the settlement.

5. The Parties wish to conserve their and the Court's resources during

the period of time necessary to finalize insurance funding of the settlement. If the case is not stayed and the Parties are obligated to continue expending resources on discovery and trial preparation, those continued expenditures could materially affect the funds available for the settlement and thus could jeopardize the Parties' ability to finalize the settlement.

6. Further, if the case before this Court is not stayed, the Parties will likewise be obligated to continue litigating the pending appeal before the United States Court of Appeal for the Third Circuit due to the impending trial date. If this case is stayed, the Parties will seek a parallel stay from the Court of Appeals to avoid further expenditure of resources on briefing and oral argument.

7. Except with respect to the filing of an amended complaint, the Parties respectfully request that the Court stay the action for a period of 90 days until March 30, 2020, and in the interim move the case to the suspense docket and hold the case deadlines in abeyance. On or before March 30, 2020, the Parties will either move for approval of the settlement terms or, if necessary, propose new case deadlines.

Dated: December 27, 2019

/s/ Dan Feinberg

R. Joseph Barton (*pro hac vice*)
Colin M. Downes (*pro hac vice*)

BLOCK & LEVITON LLP

1735 20th Street

Washington, DC 20009

Tel: (202) 734-7046

Email: joe@blockesq.com

Email: colin@blockesq.com

Daniel Feinberg (*pro hac vice*)

Nina Wasow (*pro hac vice*)

**FEINBERG, JACKSON,
WORTHMAN & WASOW LLP**

2030 Addison Street, Suite 500

Berkeley, CA 94704

Tel: (510) 269-7998

Email: dan@feinbergjackson.com

Email: nina@feinbergjackson.com

Gary L. Azorsky (PA Bar No. 38924)

Raymond M. Sarola (PA Bar No.
318164)

**COHEN MILSTEIN
SELLERS & TOLL PLLC**

3 Logan Square, 1717 Arch Street,
Suite 3610

Philadelphia, PA 19103

Tel: (267) 479 5700

Email: gazorsky@cohenmilstein.com

Email: rsarola@cohenmilstein.com

Richard E. Donahoo (*pro hac vice*)

DONAHOO & ASSOCIATES, P.C.

440 W. First Street, Suite 101

Tustin, California 92780

Tel: (714) 953-1010

Email: rdonahoo@donahoo.com

Attorneys for Plaintiffs

/s/ David I. Monteiro

Brian T. Ortelere (PA Bar No. 46464)

Christopher M. Varano (PA Bar No.
307737)

**MORGAN LEWIS & BOCKIUS
LLP**

1701 Market Street

Philadelphia, PA 19103

Tel: (215) 963-5000

brian.ortelere@morganlewis.com

christopher.varano@morganlewis.com

David I. Monteiro (*pro hac vice*)

**MORGAN LEWIS & BOCKIUS
LLP**

1717 Main Street, Suite 3200

Dallas, TX 75201

Tel: (214) 466-4000

david.monteiro@morganlewis.com

Attorneys for Defendants