

The Parties (Plaintiff Gabriel Turcios (“Named Plaintiff”), on his own behalf and on behalf of all members of the Settlement Class and PAGA Group, on the one hand, and Defendants RPM Harbor Services, Inc., and Shawn Duke (collectively the “Defendants”), on the other hand), by and through their respective counsel, hereby stipulate and agree to amend the Settlement Agreement executed on September 16, 2021 pursuant to Paragraph XI.H (based on the Parties inability to obtain approval of the Settlement Agreement in Bankruptcy Court because that Court declined jurisdiction regarding the Plaintiff’s post-confirmation claims in the Action), by replacing certain paragraphs in the Settlement Agreement with the following amended paragraphs. The remainder of the Settlement Agreement executed on September 16, 2021 remains unaltered and fully effective as originally agreed.

The Parties agree that the following specific subparagraphs (identified by Section Number and Letter) will replace the existing subparagraphs in the Settlement Agreement:

I. DEFINITIONS

E. Class Period. The term “Class Period” means the period from April 17, 2016 through September 16, 2021.

F. Court. The term “Court,” for purposes of Settlement Approval based on the stipulated remand of Plaintiff’s post-confirmation claims to state court, means the Superior Court of the State of California for the County of Los Angeles.

V. PAGA Period. The term “PAGA Period” means the period from January 10, 2019 through September 16, 2021.

VI. SETTLEMENT AMOUNT, COMPUTATION, AND DISTRIBUTION OF PAYMENTS

A. Settlement Amount.

Defendants agree to pay in full and final settlement of the Litigation and the claims of the

Settlement Class and PAGA Group as set forth in this Agreement the Gross Settlement Amount of Two Hundred Thirteen Thousand One Hundred Eighty Dollars (\$213,180.00). The Gross Settlement Amount is inclusive of all Attorneys' Fees/Cost Awards; Incentive Awards; Administrative Costs; LWDA payments; taxes associated with the payments to the Settlement Class (but not employer-side payroll taxes); and any other fees or costs associated with settlement of the Litigation. Defendants will not be responsible for making any other payment of any kind to the Named Plaintiff, the Settlement Class, PAGA Group, Class Counsel, LWDA, or otherwise in connection with this matter. Defendants will provide the Gross Settlement Amount to the Settlement Administrator by wire or check within fifteen (15) calendar days following the Effective Date.

XV. TAXATION AND ALLOCATION

Each Settlement Class Member's pro-rata share of the NSA will be allocated, for tax, withholding, and all other purposes, and paid as follows:

- (1) 20% for unpaid wage claims, subject to payroll taxes and withholdings at the supplemental rate;
- (2) 40% as penalties; and
- (3) 40% interest.

The Settlement Administrator will pay applicable payroll taxes and withholdings to relevant taxing authorities and distribute relevant tax forms, including IRS Forms W-2 and/or Forms 1099, at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and California law, and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law changes after the date of this Agreement, the processes set forth in this section may be modified in a manner to bring Defendants into full compliance with any such changes.

Defendants will be responsible for payment of the employer's share of payroll taxes due on the portion allocated to wages in addition to the gross settlement fund.

XVII. MISCELLANEOUS PROVISIONS

I. Pro Rata Increase/Escalator Clause.

This settlement is based on data provided by Defendants, which shows that, for the period of April 2016, through approximately July 15, 2021, there were 7,254 workweeks during the class period. If it is determined that the number of workweeks through September 16, 2021 exceeds 7,254 by more than 15%, the Gross Settlement Amount will be increased by the same number of percentage points by which the actual number of workweeks exceeds 7,254. For instance, if the actual number of workweeks is determined to be 20% higher than 7,254, the Gross Settlement Amount will be correspondingly increased by 20%.

Gabriel Turcios, Plaintiff

Date _____

Daniel Srourian
Patrick White
Srourian Law Firm, P.C.
Attorneys for Plaintiff

Date _____

Shawn Duke
RPM Harbor Services, Inc.; Shawn Duke,
Defendants

Date _____

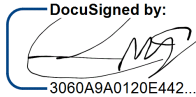
Todd L. Nunn
Michael Lubic
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K&L Gates, LLP
Attorneys for Defendants

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Gabriel Turcios, Plaintiff
3/16/2022

Date _____



Daniel Srourian
Patrick White
Srourian Law Firm, P.C.
Attorneys for Plaintiff

Date 3/16/22

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RPM Harbor Services, Inc.; Shawn Duke,
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