

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
LIANE KATZENSTEIN LY, Esq. (SBN 259230)
liane@kingsleykingsley.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

JOSE GARAY, APLC
Jose R. Garay, Esq., Cal. Bar No. 200494
jose@garaylaw.com
249 E. Ocean Blvd. #814
Long Beach, CA 90802
Telephone: (949) 208-3400
Fax: (562) 590-8400

Attorneys for Plaintiff and all aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

GUSTAVO DIAZ, an individual, on behalf of
the State of California, as a private attorney
general,

PLAINTIFF,

v.

TFORCE FINAL MILE, LLC; BEAVEX,
INC.; TFORCE LOGISTICS, LLC; TFORCE
CRITICAL; and DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. 30-2021-01209725-CU-OE-CXC

[Case Assigned for All Purposes to Hon.
William Claster in Dept. CX104]

**SUPPLEMENTAL DECLARATION OF
LIANE KATZENSTEIN LY IN
SUPPORT OF MOTION FOR
APPROVAL OF REPRESENTATIVE
ACTION SETTLEMENT**

Date: November 5, 2021

Time: 9:00 a.m.

Dept.: CX104

Reservation No.: 73590306

Complaint Filed: July 9, 2021

Trial Date: None Scheduled

1 **SUPPLEMENTAL DECLARATION OF LIANE KATZENSTEIN LY**

2 I, Liane Katzenstein Ly, declare as follows:

3 1. I am an attorney licensed to practice before all of the courts of the State of California.
4 I am the attorney of record for Plaintiff in the above-entitled action. I have personal knowledge of
5 the facts set forth herein, and if called upon as a witness, I could and would testify competently
6 thereto.

7 2. I make this supplemental declaration in support of Plaintiff's Motion for Approval
8 of Representative Action in the above-captioned case.

9 3. I graduated from Florida State University in 2005 with a degree in English. I
10 graduated from University of California, Davis School of Law in 2008. I am admitted to practice
11 before the following Courts: United States District Court, Northern, Southern, Eastern, and Central
12 of California; all of California State Courts.

13 4. I have been involved in all of the settlement discussions leading to the present
14 settlement as embodied in the Settlement and Release Agreement ("Settlement Agreement"). The
15 Parties have amended the Settlement Agreement to address the Court's changes. A true and correct
16 copy of the Amended Settlement Agreement is attached hereto as Exhibit "1".

17 **PROOF OF SUBMISSION TO THE LWDA**

18 5. As indicated on the Proof of Service, the instant Motion will be concurrently
19 uploaded to the Labor and Workforce Development Agency's ("LWDA") website on the date this
20 Motion is filed as required by Labor Code §2699(1)(2). A true and correct copy of the proof of
21 submission of Plaintiff's Motion, all related documents, and copy of the email from the LWDA
22 confirming receipt is attached hereto as Exhibit "2."

23 6. Additionally, the pre-filing letter to the LWDA that was inadvertently omitted in the
24 last filing, is attached hereto as Exhibit "3."

25 **THE PRELIMINARY APPROVAL HEARING AND THE COURT'S CHANGES**

26 7. On September 24, 2021, the Court issued a tentative ruling addressing modifications
27 and issues related to Plaintiff's Motion for Approval of the Representative Action Settlement.

28 8. This declaration and the Amended Settlement Agreement incorporates those changes

1 and attempts to address the Court's concerns.

2 **RELATED MATTERS**

3 9. The Parties are not aware of any other related matters that have been filed in any
4 Court in California. Including Plaintiff, four (4) individuals have sent pre-filing letters to the LWDA.
5 The first letter was in August 2020 and the most recent letter was on August 27, 2021. None of these
6 pre-filing letters have resulted in a filed lawsuit.

7 **THE RELATIONSHIP BETWEEN DEFENDANTS**

8 10. Defendant has provided a declaration concurrently with this filing addressing the
9 relationships between the entities.

10 11. However, the Court has it correct. The TForce entities assumed the contracts
11 between BeavEx, Inc. and JNJW Enterprises. BeavEx, Inc. and JNJW Enterprises were discharged
12 in bankruptcy, and their assets were purchased by TForce entities.

13 12. There are no other drivers who operate under the same procedures.

14 13. It makes sense to treat all of the defendants as a single entity, because the TForce
15 entities assumed the contracts of BeavEx, Inc. and JNJW Enterprises. TForce stands in the shoes of
16 those entities.

17 **THE AGGRIEVED EMPLOYEES**

18 14. There are 45 employees and 1,620 pay periods at issue.

19 15. These individuals and their pay periods were derived from Defendant's records.
20 Defendant provided an analysis of the number of contractors and the number of payments issued to
21 those contractors that were assumed by the TForce entities.

22 **CLAIMS ADMINISTRATION**

23 16. Attached as Exhibit "4" is a copy of the bid from ILYM Group.

24 **CHANGES TO THE AGREEMENT**

25 17. Paragraph 40 has been modified. Amended Settlement Agreement, ¶40.

26 18. The check cashing period has been modified to 180 days. Amended Settlement
27 Agreement, ¶53.

28 19. The Unclaimed Wage Fund has been changed to the Unclaimed Property Fund.

Amended Settlement Agreement, ¶53.

20. The Release has been narrowed. Amended Settlement Agreement, ¶41.

21. The Notice has been changed to reflect these modifications.

22. Every Labor Code provision that has been included in the Release was included in the pre-filing letter to the LWDA. Amended Settlement Agreement, ¶41.

23. Labor Code Section 210 is derivative of the Labor Code Section 204 claim. It specifically permits a penalty for a violation of Labor Code Section 204.

24. Labor Code Section 226.8 is the statute making it illegal to misclassify an employee as an independent contractor. It has no private right of action and can only be brought pursuant to PAGA.

25. Labor Code Section 1174.5 is a claim for failing to keep accurate records and it is derivative of the misclassification claim.

26. Labor Code Section 1182.12 is a claim for failure to pay minimum wages and is derivative of the other wage claims. It sets out the escalating minimum wage rates through January 1, 2023.

27. Labor Code Section 2800 is derivative of Labor Code Section 2802. Both statutes address an employer's requirement to indemnify its employees for the costs associated with doing business.

PRE-SETTLEMENT INVESTIGATION

28. The Parties litigated Plaintiff's individual case in arbitration. Defendant provided policy documents, pay documents, and contracts for Plaintiff as part of formal discovery.

29. Informally, in order to mediate this case, Plaintiff's counsel spoke with aggrieved employees to understand the procedures.

30. Defendants also informally provided data for the aggrieved employees. This is a misclassification case so there are not traditional time and pay records. However, Plaintiff reviewed the contract at issue and received data on the number of aggrieved employees and the length of time they delivered.

31. Defendant also brought documentation to mediation, and Plaintiff was able to speak

1 with corporate representatives to confirm the data.

2 **PLAINTIFF'S INDIVIDUAL SETTLEMENT**

3 32. Plaintiff arbitrated his case against Defendant. He received compensation for his
4 alleged misclassification that include an assessment of unpaid wages, overtime, and penalties.

5 33. He signed a full release of his claims.

6 34. The Gross Settlement amount is \$30,000.00.

7 **THE MERITS OF PLAINTIFF'S CASE**

8 35. Plaintiff's case stemmed from the theory that the operations of Defendants were
9 similar to those of Uber or Lyft. Essentially, Defendants matched individuals who needed deliveries
10 with those who were willing to deliver items.

11 36. Plaintiff would argue that Defendants were in the business of delivering goods and
12 the aggrieved employees were delivery drivers.

13 37. Defendant has provided a supplemental declaration that includes its position, but
14 Defendant had arguments that it merely facilitated contracts between the drivers and the customers.

15 38. Prop 22 did weigh heavily into the decision to settle. Retroactivity issues have not
16 been resolved by the Courts as of yet. It creates confusion over whether the *Borello* test applies.

17 39. Given the small size of the group, the added wrinkle of the TForce entities assuming
18 the contracts for the aggrieved employees, and the fact that TForce modified the process for these
19 contracts very quickly after assuming them, Plaintiff's counsel determined there was a large risk that
20 even of the Court awarded penalties, a reduction would be applied.

21 40. When that is also considered in light of Prop 22, Plaintiff's Counsel felt that the
22 Settlement was fair and reasonable.

23 **ATTORNEY BILLING RECORDS AND COST LEDGER**

24 41. Attached as Exhibit "5" please find Kingsley & Kingsley's billing records.

25 42. Attached as Exhibit "6" please find billing records for Jose Garay APLC.

26 43. Collectively, both firms have incurred \$143,570.00 in fees to date which amounts to
27 193.1 hours.

28 44. Attached as Exhibit "7" please find Kingsley & Kingsley's cost ledger.

45. Attached as Exhibit “8” please find Jose Garay APLC’s cost ledger.

46. The total costs incurred to date are \$7,936.30 not including the cost of filing this declaration and any future compliance reports. As such, we will exceed the \$8,000.00 allotted for costs.

EXHIBITS

47. Attached hereto as Exhibit “1” is a true and correct copy of the fully-executed Amended Settlement Agreement and Release.

48. Attached hereto as Exhibit “2” is a true and correct copy of the proof of submission of Plaintiff’s Motion for Approval of Representative Action Settlement, all related documents, to the LWDA, as well as a copy of the email from the LWDA confirming receipt.

49. Attached hereto as Exhibit “3” is a true and correct copy of the pre-filing letter sent to the LWDA.

50. Attached hereto as Exhibit “4” is a true and correct copy of the bid from ILYM for administration in this matter.

51. Attached hereto as Exhibit “5” is a true and correct copy of Kingsley & Kingsley’s redacted billing records.

52. Attached hereto as Exhibit “6” is a true and correct copy of Jose Garay APLC’s redacted billing records.

53. Attached hereto as Exhibit “7” is a true and correct copy of Kingsley & Kingsley’s Cost Ledger.

54. Attached hereto as Exhibit “8” is a true and correct copy of Jose Garay APLC’s Cost Ledger.

55. Attached hereto as Exhibit “9” is a true and correct redlined copy of the fully-executed Amended Settlement Agreement and Release.

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56. Attached hereto as Exhibit "10" is a true and correct copy of the proof of submission of this Supplemental declaration, all related documents, to the LWDA, as well as a copy of the email from the LWDA confirming receipt.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

This declaration was executed this 27th day of October, 2021, in Los Angeles, California.

Liane Katzenstein Ly

EXHIBIT "1"

SETTLEMENT AND RELEASE

This SETTLEMENT AND RELEASE is made and entered into by and between Plaintiff Gustavo Diaz (“Plaintiff”), an individual, on behalf of the State of California, as a private attorney general, on the one hand, and Defendants TForce Final Mile, LLC; TForce Logistics, LLC; TForce Critical (“Defendants” or “TForce”) (collectively “the Parties”), on the other hand.

This SETTLEMENT AND RELEASE agreement shall be binding on Plaintiff and the PAGA Participants (as defined below) whom Plaintiff purports to represent and on Defendants and its present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants, subject to the terms and conditions hereof and the approval of the Court.

REPRESENTATIONS AND DEFINITIONS

1. “PAGA Participants” or singularly “PAGA Participant” shall mean and refer to: Plaintiff and all other persons who had previously contracted to transport goods within the State of California under one or more contracts with BeavEx Incorporated and/or JNJW Enterprises, Inc (dba Conejo Courier & Cartage) and who performed deliveries under those contracts between April 25, 2019 and January 2, 2020 (both dates inclusive) after they were assumed by one or more of the defendants, but who were *not* classified as employees during that period.
2. “Counsel for Defendants” shall refer to Steven C. Rice of Marron Lawyers.
3. “Court” refers to the Orange County Superior Court.
4. “Covered Claims” shall mean: any and all claims, demands, rights, liabilities, and/or causes of action for PAGA penalties pursuant to Labor Code Section 2699, for violation of Labor Code §§ 201-204, 206, 210, 226, 226.2, 226.7, 226.8, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 (*i.e.*, all claims made in the letter sent by Plaintiffs’ counsel to the Labor and Workforce Development Agency, on January 8, 2020, as prerequisite for this claim).
5. “Covered Period” shall mean and refer to the period from April 25, 2019 to January 2, 2020, both dates inclusive.
6. “Defendants” shall mean and refer to TForce Final Mile, LLC; TForce Logistics, LLC; and

TForce Critical.

7. “Eligible Pay Periods” shall mean and refer to the total number of pay periods that each PAGA Participant received payment for services from any Defendant during the Covered Period.

8. “Effective Date” will be the date the Court has signed and entered the Approval Stipulation and Order Thereon or the Final Judgment (as defined below), whichever is sooner.

9. “Lawsuit” refers to the civil action filed in the Superior Court of the State of California for the County of Orange, entitled Gustavo Diaz, an individual, on behalf of the State of California, as a private attorney general, Plaintiff v. TForce Final Mile, LLC; TForce Logistics, LLC; TForce Critical, and Does 1 thru 50, inclusive, Defendants, Plaintiff will file within ten (10) days of the full execution of this agreement.

10. “LWDA” refers to the California Labor and Workforce Development Agency.

11. “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code §2699 et seq.

12. “PAGA Counsel” shall refer to Eric B. Kingsley and Liane Katzenstein Ly of KINGSLEY & KINGSLEY APC.

13. “Plaintiff” refers to Named Plaintiff Gustavo Diaz.

14. “Parties” shall collectively refer to Plaintiff and Defendants.

15. “Settlement” or “Settlement Agreement” shall mean the terms and conditions as set forth in this SETTLEMENT AND RELEASE agreement.

16. “Settlement Administrator” shall mean and refer to ILYM Group, Inc.

NATURE OF ACTION

17. On January 13, 2020, Plaintiff, individually and on behalf of all others similarly situated, filed a Class Action Complaint in the Superior Court for the State of California, County of Los Angeles, Case Number 20STCV01403 (the “State Action”) for (1) Failure to Pay Minimum Wages and Overtime; (2) Failure to Provide Meal and Rest Periods; (3) Failure to Timely Pay Wages Each Pay Period; (4) Failure to Reimburse Expenses; (5) Failure to Provide Accurate Itemized Wage Statements; and (6) Violation of the Unfair Competition Law pursuant to §§ 201, 202, 203, 226(a), 226.2, 226.7, 226.8, 510, 512, 1194, 1194.2, and 2802. Plaintiff has alleged that this underlying conduct gives rise to a claim pursuant to Labor Code §2699, et seq.

18. On February 14, 2020, Defendants filed a Notice of Removal, removing the State Action in the Superior Court of the State of California for the County of Los Angeles to the United States District Court for the Central District of California – Western Division, Case Number 2:20-cv-01521 JAK (AGRx).

19. Subsequently, Defendant requested that Plaintiff's *individual* claims proceed in arbitration pursuant to an arbitration agreement signed by both Parties.

20. The Parties stayed the federal action, and Defendant initiated arbitration.

21. The Parties moved forward in arbitration, stayed the federal action, and entered into a tolling agreement as to the PAGA claim that had not yet been filed in the federal action.

22. Thereafter, the Parties attended mediation with Hon. Stephen J. Sundvold (Ret.) on February 17, 2021, and a settlement was reached.

23. The Individual Action is in arbitration in front of Emily R. Boyle, Esq. ("Arbitration"), and has been settled.

24. The Parties entered into a tolling agreement and as part of this Settlement, the representative action will be filed in Orange County Superior Court within ten (10) days of the full execution of this Agreement ("the PAGA Action").

25. PAGA Counsel considered the following facts and arguments in determining that the Settlement was fair and reasonable: Plaintiff believed that Defendants may persuasively argue that the Court should exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under PAGA. Pursuant to Labor Code §226.3, the Labor Commissioner has the discretion to "decide not to penalize an employer for a first violation when that violation was due to ... inadvertent mistake." And in accordance with PAGA, the court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (Labor Code § 2699(e)(1) and (e)(2)). In addition, Defendants have presented evidence and argument which they believe would be sufficient to establish non-employee status of plaintiff and the PAGA Participants, showing lack of control by Defendants over the work environment of the PAGA Participants, establishing that the PAGA

Participants (including Plaintiff) operated as bona fide independent businesses, and further establishing that the PAGA Participants did not operate in the same business as the Defendants. In light of these arguments and the potential risks on the merits and manageability of the PAGA claims, PAGA Counsel determined that the Settlement was fair and reasonable.

26. This Settlement relates solely to the PAGA claim on behalf of all PAGA Participants whom Plaintiff purports to represent in the Lawsuit.

27. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit, denies liability for the Covered Claims, and further denies that this action is appropriate for representative treatment for any purpose other than settling this Lawsuit. Defendants contend, among other things, that it has complied at all times with the California *Labor Code*, the related California Wage Orders and the California Business & Professions Code, all other state and federal wage laws, and further contend that each PAGA Participant (including Plaintiff) was, throughout the Covered Period, properly classified and properly paid, and that the Lawsuit is without merit. Defendants have denied and continue to deny each and every material factual allegation and alleged claim asserted against them in the Lawsuit.

28. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Nothing herein shall constitute an admission by Defendants that the Lawsuit was properly brought as a class or representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of either Defendants or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification or administration other than for purposes of administering this Settlement; and (d) shall not constitute or be deemed a waiver of Defendants' right to compel arbitration of

any dispute with PAGA Participants that is not the subject of the releases in the Settlement.

29. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

30. Plaintiff and PAGA Counsel have diligently pursued an investigation of the PAGA Participants' claims against Defendants.

31. Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and is in the best interests of Plaintiff, the PAGA Participants, and Defendants in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the PAGA Participants and that the settlement for each PAGA Participant is fair, reasonable, and adequate given the inherent risk of litigation.

32. The purpose of this Settlement is to settle and compromise the Lawsuit, all Covered Claims by Plaintiff and the PAGA Participants that Plaintiff and the PAGA Participants have against Defendants and the Releasees (as defined below).

TERMS OF SETTLEMENT

33. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff, on behalf of himself, the State of California, and all PAGA Participants, and Defendants agree to settle and compromise the Lawsuit and the Covered Claims.

The Amount of Settlement

34. As consideration for the settlement described herein and the release contained in this Settlement, Defendants agree to pay a total settlement of \$225,000.00 ("Gross PAGA Settlement"). The Gross PAGA Settlement will include:

- a) \$2,500.00 litigation enhancement to Plaintiff; and
- b) Settlement Administrator costs of \$7,500.00; and

- c) PAGA Counsel will request Court approval of a 33.33% fee in the amount of \$75,000.00 and cost reimbursement of up to \$8,000.00; and
- d) \$132,000.00 allocated as “PAGA Penalties” to be split between the LWDA and the PAGA Participants as required by Labor Code §2699(i) with \$99,000.00 (75%) going to the LWDA and \$33,000.00 (25%) going to the PAGA Participants.

35. Except as provided in paragraph 68 and 69 herein, under no Circumstances will the total amount of the Gross PAGA Settlement exceed \$225,000.00.

Allocation and Calculation of the PAGA Penalties.

36. Each PAGA Participant shall receive a portion of the Gross PAGA Settlement on a pro-rata basis. The actual amount paid will be calculated through a two-step process. First, the \$132,000.00 allocated as “PAGA Penalties” will be divided by the total number of Eligible Pay Periods paid by Defendants to all PAGA Participants during the Covered Period (the “Pay Period Amount”) and then the Pay Period Amount will be multiplied by the number of Eligible Pay Periods worked by the individual PAGA Participant as determined by the Settlement Administrator. The resulting number is the “Individual PAGA Payment.” Second, once the total Individual PAGA Payment is calculated, 75% of the Individual PAGA Payment will be paid to the LWDA as is required by PAGA. The remaining amount, which is 25% of the Individual PAGA Payment, shall be paid to the PAGA Participants in the form of a payment check (“Individual Settlement Check”).

PAGA Counsel’s Fees and Costs.

37. As part of the request for approval of this Settlement, PAGA Counsel will request court approval of 33.33% of Plaintiff’s representative and individual payments, which is \$75,000.00 and cost reimbursement of already-incurred costs of up to \$8,000.00. Any attorneys’ fees and costs awarded to PAGA Counsel, hereinafter referred to as “PAGA Counsel Fees & Costs,” shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit.

38. Should PAGA Counsel request a lesser amount for attorneys’ fees and costs and/or the court approve a lesser amount, the difference shall be divided among the participating PAGA Participants pursuant to the allocation described above.

39. Payment of PAGA Counsel Fees and Costs will be reflected in a Form 1099 to PAGA Counsel

who shall assume full responsibility and liability for the payment of taxes due on such payments.

Tax Treatment of Individual Settlement Checks to PAGA Participants.

40. The Parties agree that Individual Settlement Checks sent to PAGA Participants will be characterized 100% as penalties and Form 1099s will be issued. Nothing in this Settlement is intended to constitute legal advice regarding federal, state and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from Defendants and that neither Defendants nor Counsel for Defendants have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement. The Gross PAGA Settlement and any Individual Settlement Check paid to Plaintiff and the PAGA Participants pursuant to this Settlement are not intended to count as earnings by Plaintiff or the PAGA Participants.

RELEASE

Release By All PAGA Participants.

41. Upon the final approval by the Court of this Settlement, each PAGA Participant (including Plaintiff), shall, for the Covered Period, fully release and forever discharge Defendants, BeavEx Incorporated, and JNJW Enterprises, Inc., as well as their respective present, future and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, including any individual or entity that could alleged to be jointly liable with Defendants (the foregoing are collectively referred to hereafter as the "Releasees") from the Covered Claims, from all claims that were asserted or could have been asserted based on the facts alleged in the Lawsuit, and from any and all claims, causes of action, damages, wages, benefits, expenses, penalties, interest, debts, liabilities, demands, obligations, attorneys' fees, costs, and any other form of relief or remedy in law, equity, or whatever kind or nature that were asserted or could have been asserted pursuant to Labor Code §2699 for violation of Labor Code §§ 201-204, 210, 226, 226.2, 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 based on the facts alleged in the Lawsuit. Notwithstanding the above, this Release is limited to PAGA claims based on Labor Code violations that were pled in the complaint or could have been pled based on the facts alleged therein. This Release does not apply to substantive (non-PAGA) Labor Code claims, nor does it apply to release PAGA claims that could not have been pled based on the factual allegations of the complaint.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

42. The Parties recognize in accordance with Labor Code §2699(1)(2) that Court approval is required in the event of any settlement of a PAGA action [“The superior court shall review and approve any settlement of any civil action filed pursuant to this part.”]. However, as explained in *Arias v. Superior Court* (2009) 46 Cal.4th 969, the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for primary or final approval. Instead, in order to comply with the requirements of Labor Code §2699, promptly upon execution of this Settlement, Plaintiff shall file a motion for approval of the Settlement with the Court identifying the key terms of the Settlement and requesting that the Court approve the PAGA Penalties provided for in this Settlement Agreement (“Approval Stipulation”). The Parties shall concurrently apply to the Court for the entry of an order approving the PAGA Penalties provided for in this Settlement.

43. At the same time the Parties submit the Motion for Approval and order thereon, Plaintiff shall submit a Proposed Final Judgment in the amount of \$225,000.00 which requests that the Court: (1) enter judgment in the Lawsuit and permanently bar all members of the PAGA Participants from prosecuting any of the Covered Claims released in this Settlement against Defendants and the Releasees; and (2) waive all rights to appeal.

44. If the Court should fail to approve the Settlement as agreed upon by the Parties, the Parties shall coordinate efforts to address the Court’s questions or concerns and resubmit the Motion for Approval. If, after the Parties make a second attempt to obtain approval of the terms of the Settlement, unless the Parties specifically agree to continue with their coordinated efforts to obtain Court approval, (a) the Court fails to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys’ fees or costs requested and/or the allocation or distribution of the Gross PAGA Settlement), or (b) the Court’s approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Settlement shall be considered null and void; (ii) neither this Settlement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Invalidity of any material portion of this Settlement, except for the amount of attorneys’ fees and costs, shall invalidate this Settlement in its entirety.

unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

**DUTIES AFTER COURT APPROVAL AND ADMINISTRATION
OF THE SETTLEMENT**

45. Within thirty (30) calendar days after the Effective Date, Defendants will compile and send a list of all PAGA Participants to the Settlement Administrator containing: (1) name; (2) last known home address and telephone number; (3) number of pay periods as a PAGA Participant during the Covered Period; and (4) social security number, *if known* (“Group List”). The format and transmittal of the list shall be in a format reasonably requested by the Settlement Administrator.

46. Within thirty (30) calendar days after the Effective Date, Defendants shall transmit the entire Gross PAGA Settlement due under this Agreement to the Settlement Administrator. All obligations of Defendants under this Agreement shall be deemed satisfied upon such transmittal. The Settlement Administrator shall release the PAGA Counsel Fees & Costs to PAGA Counsel upon receipt of the Gross PAGA Settlement.

47. Within three (3) days of receipt of the Group List, the Settlement Administrator shall send an email to the Parties confirming receipt of the Group List and indicating the number of PAGA Participants and the number of Eligible Pay Periods included in the data.

48. Within thirty (30) calendar days after the Effective Date, the Settlement Administrator shall run all the addresses provided in the Group List through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information.

49. Within forty-five (45) calendar days after the Effective Date, the Settlement Administrator shall mail via U.S. First Class mail each Individual Settlement Check to the last known address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that a PAGA Participant’s Individual Settlement Check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check. The date of the initial mailing of the payment check, shall be conclusively determined according to the records of the Settlement Administrator.

50. A letter approved by the Parties in advance of Plaintiff filing the Approval Stipulation explaining this Settlement will be included in the mailing of each PAGA Participant's Individual Settlement Check. The letter will notify all PAGA Participants of the binding nature of the release and the Parties agree that such shall have the same force and effect as if this Settlement were executed by each PAGA Participants. (See Exhibit "A" hereto).

51. Settlement Administrator shall ensure that 75% of each participating PAGA Participant's Individual Gross PAGA Settlement is paid to the LWDA.

52. Settlement checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. If there are uncashed checks following this period, the uncashed funds shall escheat to the Controller's Office Unclaimed Property Fund in the name of the PAGA Participants who did not cash their checks.

PARTIES' AUTHORITY

53. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

MUTUAL FULL COOPERATION

54. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement, PAGA Counsel shall, with the assistance and cooperation of Defendants and its counsel, take all necessary steps to secure the approval of this Settlement from the Court.

NO PRIOR ASSIGNMENTS

55. The Parties hereto 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 herein.

NO ADMISSION

56. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense.

NON-EVIDENTIARY USE

57. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendants or any other of the Releasees, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Releasees of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Releasees in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendants to establish that a PAGA Participant has resolved any of his/her claims released through this Agreement.

ATTORNEYS' FEES, COSTS AND EXPENSES

58. Except as specifically set forth herein, each party shall bear its/his/her own attorneys' fees, costs and expenses, taxable or otherwise, incurred by him/her/it/them arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Stipulation.

CONSTRUCTION

59. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff and Defendants regarding actual or potential PAGA claims asserted by Plaintiff against Releasees. Excluding the Arbitration and Confidentiality Agreements executed by Plaintiff with Defendants, both of which will remain in full force and effect, this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims, no other agreement, statement, or promise made by one Party to another as to any claims addressed in this

Agreement shall be binding or valid.

CAPTIONS AND INTERPRETATIONS

60. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

61. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

MISCELLANEOUS

62. This Settlement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's released claims, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

63. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

64. This Settlement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (PDF) or by facsimile.

65. Upon full execution of this Agreement, the Parties agree that based upon Code of Civil Procedure §583.310 ("the 5 year rule"), the Lawsuit shall be stayed in its entirety except for the submission of documents needed to obtain approval of the PAGA Penalties provided for in this Settlement. Should the Court fail to grant approval of this Settlement, the stay will be lifted five (5) days thereafter and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

66. The Parties agree that upon approval by the Court, this Settlement shall be enforceable by the Court, and the Court shall retain exclusive and continuing equity jurisdiction pursuant to California Code of

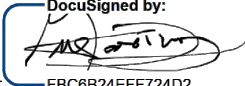
Civil Procedure §664.6 of this action over all Parties and PAGA Participants to interpret and enforce the terms, conditions, and obligations set forth in this Settlement. The Parties agree that if any immaterial provision of this Settlement is determined to be invalid, the invalid portion shall be deemed severed and the remaining Settlement deemed enforceable.

67. It was represented to Plaintiff that there were a maximum of 1390 Eligible Pay Periods at issue. As detailed in Paragraph 48 above, upon receipt of the Group List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the extent the number of itemized wage statements at issue increases beyond 1390 by more than 5%, Defendants shall have the option to increase the Gross PAGA Settlement by a proportionate amount. If Defendants fails to increase the Gross PAGA Settlement proportionately, Plaintiff shall have the right to terminate this Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

68. It was represented to Plaintiff that there are 45 PAGA Participants in regard to this settlement. As detailed in paragraph 48 above, upon receipt of the Group List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the extent the number of PAGA Participants increases beyond that number to the point that it will result in an increase of the cost of claims administration beyond the amount that has been approved by the Court, Defendants shall separately bear the increased cost of claims administration outside of the Gross PAGA Settlement. If Defendants fails to remit payment of the increased cost of claims administration, Plaintiff shall have the right to terminate this Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

I HAVE READ THE FOREGOING SETTLEMENT AND RELEASE. I ACCEPT AND AGREE TO THE PROVISIONS IT CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

DATED: October 27, 2021

By: 
FBC6B24EFF724D2...
GUSTAVO DIAZ

67. It was represented to Plaintiff that there were a maximum of 1390 Eligible Pay Periods at issue. As detailed in Paragraph 48 above, upon receipt of the Group List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the extent the number of itemized wage statements at issue increases beyond 1390 by more than 5%, Defendants shall have the option to increase the Gross PAGA Settlement by a proportionate amount. If Defendants fails to increase the Gross PAGA Settlement proportionately, Plaintiff shall have the right to terminate this Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

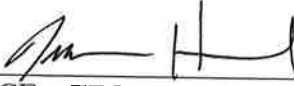
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I HAVE READ THE FOREGOING SETTLEMENT AND RELEASE. I ACCEPT AND AGREE TO THE PROVISIONS IT CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

DATED: _____

By: _____
GUSTAVO DIAZ

DATED: 10/27/21

By:  _____
TFORCE FINAL MILE, LLC; TFORCE LOGISTICS, LLC

DATED: _____

By: _____
TFORCE FINAL MILE, LLC; TFORCE LOGISTICS, LLC

APPROVED AS TO FORM AND CONTENT:

DATED: October 26, 2021

KINGSLEY & KINGSLEY APC

By: _____
Eric B. Kingsley
Liane Katzenstein Ly
Attorneys for Plaintiff and the PAGA Participants

DATED: _____

MARRON LAWYERS, APC

By: _____
Steven C. Rice

Attorneys for Defendants TFORCE FINAL MILE, LLC and TFORCE LOGISTICS,

LLC **EXHIBIT "A"**

[Mailing Date]

NOTICE OF SETTLEMENT

Re: *Gustavo Diaz, an individual on behalf of the State of California, as a private attorney general, Plaintiff v. TForce Final Mile, LLC; Beavex Incorporated; TForce Logistics, LLC; TForce Critical, and Does 1 thru 50, inclusive, Defendants*, Orange County Superior Court, Case No. XX filed on XX.

[Settlement Administrator's info]

Dear Beavex and/or JNJW Enterprises, Inc. Contractor:

A settlement was reached between Plaintiff Gustavo Diaz ("Plaintiff") and Defendants TForce Final Mile, LLC; TForce Logistics, LLC; and TForce Critical ("Defendants") (collectively "the Parties"). On XXXX, the Court issued an Order approving settlement of the claim Plaintiff brought against Defendants pursuant to the Private Attorneys General Act of 2004 ("PAGA") alleging failure to pay minimum wages and overtime, failure to provide meal and rest periods, failure to timely pay wages each pay period, failure to reimburse expenses, failure to provide accurate itemized wage statements, and violation of state labor laws and unfair competition law. These allegations stem from Plaintiff's position that he and the other aggrieved employees were misclassified as independent contractors by Defendants and should have been classified as employees. Defendants deny these allegations and deny any wrongdoing of any kind associated with these allegations.

After accounting for Court approved deductions from the Settlement amount for things such as attorney's fees and costs, administration of the settlement and a payment to Plaintiff for his work in bringing the lawsuit, the remainder is \$132,000.00. Of the remainder, the law requires that 75% is allocated to the State of California and 25% is allocated to the eligible employees (described below). Therefore, the State of California will receive \$99,000.00 (75% of the penalties) and the eligible employees will each receive a pro rata share of the remaining \$33,000.00 (25% of the penalties).

The employees eligible to receive a payment under this Settlement are defined as: Plaintiff and all persons who were contracted with BeavEx Incorporated and/or with JNJW Enterprises, Inc. to deliver goods in the State of California and who delivered goods under such contracts between April 25, 2019 and January 2, 2020 (hereafter "PAGA Participants" or individually "PAGA Participant").

The settlement and enclosed check represents your pro-rata share of the penalties and is based on a formula that took into account the total number of wage statements that were issued to you in relation to the number of wage statements issued to all eligible contractors during the time period from April 25, 2019 to January 2, 2020.

This settlement releases TForce, Beavex, Inc., and JNJW Enterprises, Inc., from any and all claims that otherwise might have been brought, by you or the state of California, for PAGA penalties pursuant to Labor Code Section 2699 for violation of §§ 201-204, 210, 226, 226.2, 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802, based on the facts alleged in the Lawsuit. Notwithstanding the above, this Release is limited to PAGA claims based on Labor Code violations that were pled in the complaint or could have been pled based on the facts alleged therein. This Release does not apply to substantive (non-PAGA) Labor Code claims, nor does it apply to release PAGA claims that could not have been pled based on the factual allegations of the complaint

Your check is valid for 180 days from the date of issuance. Funds attributable to any uncashed checks will be sent to the Unclaimed Property Fund administered by the California Division of Labor Standards Enforcement in the name of the PAGA Participant who did not cash the check within 180 days.

If you have any questions concerning this Settlement, please contact ILYM Group, Inc. at XXXX.

EXHIBIT "2"

LWDA CASE NO.: 765353-20
TFORCE FINAL MILE LLC; BEAVEX, INC.; TFORCE LOGISTICS, LLC; TFORCE CRITICAL ADV. DIAZ, GUSTAVO
MTN FOR APVL OF REP ACTION SETTLEMENT; DECL OF LY ISO MTN FOR APVL OF REP ACT SETTLEMENT; [PROPOSED] FINAL JUDGMENT;
[PROPOSED] ORDER GRANTING APVL OF REP ACT SETTLEMENT

Michelle Tanzer

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Wednesday, August 18, 2021 10:25 AM
To: Service Email
Subject: Thank you for your Proposed Settlement Submission

08/18/2021 10:24:58 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".

[Search for PAGA Case number](#)

The timing of the deposit of settlement checks is governed by the provisions of the State Administrative Manual. This ministerial, administrative act of depositing a settlement check mandated by state procedures should not be construed as nor does it constitute an unconditional, voluntary and/or absolute acceptance of settlement proceeds or approval of the terms of any settlement agreement or judgment related to that check.

Your Information (Person Who is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Court and Hearing Information

Court *

Court Case Number *

Hearing Date (if any)

Hearing Time

Hearing Location

Number of aggrieved employees *

Gross settlement amount *

225,000

Gross penalty amount *

132,000

Penalties to LWDA *

99,000

Date of proposed settlement *

06/01/2021

Proposed Settlement and Other Documents

Proposed Settlement *

 PAGA Motion- TForce_.pdf

Other Attachment (if any)

 LKL Decl ISO P...- TForce_.pdf

Other Attachment (if any)

 Proposed Orde... - TForce_.pdf[Remove](#)

Other Attachment (if any)

 Proposed Fina...- TForce_.pdf[Remove](#)[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

EXHIBIT "3"



JOSE GARAY, APLC

249 E. Ocean Blvd. #814 | Long Beach, CA 90802 | B. 949.208.3400 | Gen F. 562.590.8400
www.garaylaw.com

January 8, 2020

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
Private Attorneys General Act (PAGA) – Filing
<https://dir.tfaforms.net/207>

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Beavex Incorporated
2120 Powers Ferry Rd., Ste. 300
Atlanta, GA 30339

TForce Final Mile, LLC
5429 LBJ Freeway, Ste. 900
Dallas, TX 75240

TForce Logistics, LLC
5429 LBJ Freeway, Ste. 1000
Dallas, TX 75240

TForce Critical
14881 Quorum Drive, Ste. 700
Dallas, TX 75254

Re: *Diaz v. TForce Final Mile, LLC; Beavex Incorporated; TForce Logistics, LLC; TForce Critical*

To: California Labor and Workforce Development Agency, TForce Final Mile, LLC, Beavex Incorporated, TForce Logistics, LLC, and TForce Critical

From: Gustavo Diaz on behalf of himself and all other aggrieved employees as set forth below

Please be advised that this firm, Jose Garay, APLC, represents the interests of Gustavo Diaz ("Mr. Diaz"), on behalf of himself and all other aggrieved employees, who intends on filing a lawsuit against TForce Final Mile, LLC, Beavex Incorporated, TForce Logistics, LLC, and TForce Critical (collectively "Employers") alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*

("PAGA"). Please allow this correspondence to serve as written notice as required by Labor Code section 2699.3(a)(1) of the specific provisions of the Labor Code allegedly violated by Employers, and the facts and theories in support of said allegations.

Theories of Labor Code Violations and Supporting Allegations

Employers operate a delivery service that delivers items such as medical supplies, medicine, alcohol, electronics, and other items to customers throughout California. Mr. Diaz and other aggrieved employees worked or currently work for Employers as delivery drivers in California and were or are misclassified as independent contractors. Employers employed Mr. Diaz within the past year. As a delivery driver, Mr. Diaz and other aggrieved employees' job duties were to, *inter alia*, pick up items from local businesses and deliver them to customers in California. Mr. Diaz alleges that Employers violated various sections of the Labor Code, including sections 201-204, 206, 210, 226, 226.2, 226.3, 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802, by failing to provide Mr. Diaz and all other aggrieved employees wages for all hours worked, including, but not limited to, minimum, regular, and overtime wages, failing to provide meal and rest periods or compensation in lieu thereof, failing to reimburse business expenses, failing to provide accurate wage statements, failing to maintain accurate records of hours worked, and failing to pay all compensation due upon separation of employment, among other things. Mr. Diaz and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employers as delivery drivers that were misclassified as independent contractors during the Liability Period (defined as one year prior to the submission of this letter to the Labor and Workforce Development Agency and certified mailing to Employers until resolution of these claims).

Employers willfully misclassified Mr. Diaz and other aggrieved employees as independent contractors in violation of Labor Code section 226.8 in order to avoid compliance with the various sections of the Labor Code outlined in this correspondence. Mr. Diaz and other aggrieved employees should have been classified as non-exempt employees since (A) they were not free from the control and direction of Employers in connection with the performance of the work, both under the contract for the performance of the work and in fact, (B) they did not perform work that is outside the usual course of Employers' business, and (C) they were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed. For example:

- Employers directly and indirectly exercised control over the wages, hours, and working conditions of Mr. Diaz and the aggrieved employees since they were required to purchase, maintain, and wear Employers' uniforms, required to answer calls throughout the day from Employers regarding deliveries, required to use Employers' phone application to complete deliveries and provide status updates, were encouraged to work certain hours, were disciplined by Employers if they did not properly complete deliveries, were required to make deliveries pursuant to Employers' instructions, procedures, and schedules, were required to remain available throughout the day, were provided work locations, and were otherwise controlled by Employers and/or subject to its direct or indirect control;

- Employers retained the right to terminate Mr. Diaz and the aggrieved employees' working relationship at its discretion;
- Mr. Diaz and the aggrieved employees were required to undergo background screenings and maintain all licenses and other requirements before they could perform delivery driver duties.
- Mr. Diaz and aggrieved employees were engaged in providing delivery services, an integral and entirely essential aspect of Employers' regular business;
- Mr. Diaz and aggrieved employees' job duties of picking up and delivering items and other perishable goods did not require special skills;
- Mr. Diaz and aggrieved employees commonly worked for Employers for lengthy periods of time;
- Mr. Diaz and the aggrieved employees were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed by Employers; and
- The customers are and/or were Employers' customers, and not those of Mr. Diaz and the aggrieved employees.

During the Liability Period, Employers failed to pay Mr. Diaz and other aggrieved employees minimum, regular, and overtime wages for all hours worked at the legally mandated rates. Specifically, Employers paid Mr. Diaz and aggrieved employees according to the number of deliveries completed and/or miles driven, regardless of how many hours they worked. Employers also failed to pay minimum wages to Mr. Diaz and the aggrieved employees for non-productive time and time spent during rest breaks if they were able to take a rest break. As such, Employers failed to pay Mr. Diaz and other aggrieved employees minimum, regular, and overtime wages for all hours worked, in violation of Labor Code sections 226.2, 510, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

During the Liability Period, Employers failed to provide 30-minute meal periods within the appropriate time intervals to Mr. Diaz and other aggrieved employees even though they worked in excess of five (5), 10, and/or 12 hours per workday. Specifically, Employers lacked a compliant meal period policy and never told Mr. Diaz and other aggrieved employees that they could take a meal period. As such, Mr. Diaz and other aggrieved employees missed their meal periods or had them interrupted or shortened due to orders and calls from Employers, among other reasons. Employers failed to compensate Mr. Diaz and other aggrieved employees with an additional hour of pay at their regular rate of pay to Mr. Diaz and other aggrieved employees for every day in which they suffered a meal period violation. Accordingly, Employers failed to provide Mr. Diaz and other aggrieved employees with meal periods or compensation in lieu thereof in violation of Labor Code sections 226.7 and 512, and the applicable Industrial Welfare Commission ("IWC") Wage Orders.

During the Liability Period, Employers failed to authorize or permit ten-minute (10) rest periods for every four (4) hours or major fraction thereof worked because Mr. Diaz and other aggrieved employees were not authorized or permitted to take their rest periods at the appropriate time intervals. Similar to meal periods, Employers lacked a compliant rest period policy and never

told Mr. Diaz and other aggrieved employees that they could take a rest period. Further, when Mr. Diaz and other aggrieved employees took a rest break, Employers failed to compensate them for the time spent during rest breaks in violation of minimum wage requirements. Employers also failed to compensate Mr. Diaz and other aggrieved employees with an additional hour of pay at the regular rate of pay to Mr. Diaz and other aggrieved employees for every day in which they suffered a rest period violation. As such, Employers violated Labor Code section 226.7 and the applicable IWC Wage Orders.

During the Liability Period, Employers failed to reimburse Mr. Diaz and other employees for all business expenses incurred for Employers' benefit, including requiring them to use their personal vehicles to carry out their duties. As such, Mr. Diaz and other aggrieved employees incurred expenses in relation to the use, mileage, maintenance, and wear and tear of their personal vehicles to carry out their duties for Employers, including, but not limited to, insurance expenses and car repairs or services without reimbursement. Employers also required Mr. Diaz and the aggrieved employees to be responsible for purchasing and supplying all other necessary items such as a smartphone and related monthly data plan to communicate with Employers via phone, GPS and Employers' phone applications, emails, text messages, and internet without reimbursement. In addition, Employers required Mr. Diaz and the aggrieved employees to purchase and maintain uniforms bearing Employers' logos without reimbursement. Accordingly, Employers violated Labor Code section 2800 and 2802.

As a result of, and in addition to, the aforementioned Labor Code violations, Employers failed to provide accurate itemized wage statements that accurately reported, among other things, the gross and net wages earned, the total hours worked, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, all deductions, the inclusive dates of the pay period, the employee's name and the last four digits of his or her Social Security number (or employee identification number), and the name and address of the legal entity that is the employer. As a result, Employers violated Labor Code sections 226 and 226.3.

Similarly, Employers failed to maintain accurate and complete records showing the hours worked daily by and the wages paid to Mr. Diaz and the aggrieved employees as a result of the same underpayment of wages referenced above. Consequently, Employers violated Labor Code sections 1174 and 1174.5.

As a result of, and in addition to, the above referenced Labor Code violations, Employers failed to timely pay all wages owed throughout Mr. Diaz and the aggrieved employees' employment and following the end of their employment. Accordingly, Employers violated Labor Code sections 201-204, 206, and 210.

Based on these violations, Mr. Diaz will seek attorneys' fees, costs, interest, and penalties under the Labor Code on behalf of himself and all other aggrieved employees who were employed by Employers during the liability period. Please advise if the Labor and Workforce Development Agency has any objection to Mr. Diaz including PAGA claims in his lawsuit against Employers. Should you have any questions, comments, or concerns, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Jose Garay", with a stylized flourish at the end.

JOSE GARAY, APLC

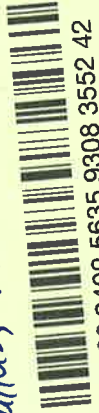
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Force critical
14881 Quorum Dr. Ste 700
Dallas, TX 75254



9590 9402 5635 9308 3552 42

2. Article Number (Transfer from service label)

7019 2280 0001 2868 5283

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
☒ Addressee

B. Received by (Printed Name) ☐ Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
 - ☐ Adult Signature Restricted Delivery
 - ☒ Certified Mail®
 - ☐ Collect on Delivery
 - ☐ Collect on Delivery Restricted Delivery
 - ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
 - ☒ Return Receipt for Merchandise
 - ☐ Signature Confirmation™
 - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL®

Jaray, APLC
249 E. Ocean Blvd. #814
Long Beach, CA 90802



7019 2280 0001 2868 5283



1000



75254

U.S. POSTAGE PAID
FCM LETTER
IRVINE, CA
92619
JAN 08 20
AMOUNT

\$6.85

R2303S102767-13

TForce Critical
14881 Quorum Drive, Ste. 700
Dallas, TX 75254

**RETURN RECEIPT
REQUESTED**

7525437069 0020



EXHIBIT "4"

Case Name: Tforce PAGA Settlement

Requesting Attorneys Name:	Liane Katzenstein Ly
E-Mail:	liane@kingsleykingsley.com
ILYM Contact:	Jonathan Paul
E-Mail:	Jonathan@ilymgroup.com
Contact Number:	310.948.7117

Assumptions: PAGA Settlement

ASSUMPTIONS	
Total Estimated # of Class Members	45
Estimated Percentage of Remails	10%
NCOA	Yes
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	5	\$750.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	10	\$1,200.00
NCOA	Flat Rate	\$500.00	1	\$500.00
Toll-Free Call Center	Flat Rate	\$419.85	1	\$419.85

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$2,869.85

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$10.00	45	\$450.00
USPS First Class 1oz Postage	Per Piece	\$0.55	45	\$24.75
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.00	3	\$5.40
Preparation of Taxes	Hourly	\$125.00	8	\$1,000.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal \$4,080.15

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	3	\$300.00
Declaration	Hourly	\$125.00	2	\$250.00

Subtotal \$550.00

TOTAL CASE COST - FLAT FEE: \$7,500.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT "5"

Date	Timekeeper	Client	Matter Id	Matter	Description	Hours		Hours	Rate	Total
3/20/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1				
3/20/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.6	Attorney: Eric Kingsley	22.40	\$850.00	19,040.00
3/20/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.6	Liane Katzenstein Ly	43.40	\$625.00	27,125.00
3/23/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.2	David Penner	14.50	\$400.00	5,800.00
3/26/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.6	Zachary Greenberg	9.00	\$375.00	3,375.00
3/26/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5	Total:	89.3		55,340.00
3/26/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.6				
3/26/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.6				
4/7/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4				
4/7/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4				
4/10/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
4/10/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
4/14/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.7				
4/15/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5				
4/15/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
4/15/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
4/16/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
4/27/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
4/27/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.5				
5/4/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4				
5/4/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1				
5/12/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
5/13/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
5/13/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
5/14/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
5/14/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
6/1/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
6/1/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
6/18/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
6/24/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
6/24/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
6/25/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
6/25/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
6/30/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
6/30/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
6/30/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
7/13/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5				
7/13/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
7/21/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
8/3/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.7				
9/1/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.9				
9/4/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3				
9/8/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
9/8/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3				
9/8/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
9/8/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
9/8/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
9/8/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3				
9/8/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
9/9/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4				
9/9/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4				
9/14/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
9/14/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
9/14/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
9/23/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
9/23/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				
9/24/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2				
10/15/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1				

Date	Timekeeper	Client	Matter Id	Matter	Description	Hours
10/22/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
10/23/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.5
10/23/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
10/23/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
10/26/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
10/26/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.7
10/27/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
10/27/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.7
10/27/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.7
10/28/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.3
10/30/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
11/5/2020	ZG	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
11/9/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
11/17/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
11/19/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
11/23/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
12/4/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
12/9/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
12/11/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.7
12/21/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
12/21/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
12/28/2020	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
12/28/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
12/29/2020	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3
1/4/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
1/5/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
1/12/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
1/13/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
1/19/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
1/27/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		3
1/28/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		3
1/29/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2
2/1/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1
2/1/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2
2/2/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
2/2/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.5
2/2/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
2/8/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
2/9/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2
2/9/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2
2/10/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4
2/17/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		8.3
2/17/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		8.3
2/23/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
2/23/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
2/26/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3
3/2/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.7
3/15/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2.5
3/16/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
3/16/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
4/13/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
4/26/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
5/4/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3
5/4/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
5/19/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
5/20/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1
5/27/2021	DP	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
5/27/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3
6/28/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3

Date	Timekeeper	Client	Matter Id	Matter	Description	Hours
7/6/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
7/7/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
7/8/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
7/9/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
7/9/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
7/12/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.7
7/14/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
7/14/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2.6
7/30/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
8/2/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
8/4/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
8/10/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
8/10/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3
8/11/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
8/11/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.5
8/11/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
8/12/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.2
8/17/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.8
9/6/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
9/6/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
9/6/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
9/7/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.3
9/8/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
9/10/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.1
9/23/2021	Eric Kingsley	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		0.4
9/24/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		1.5
9/29/2021	Liane Katzenstein Ly	Diaz, Gustavo	40.09	TForce adv. Diaz, Gustavo		2

EXHIBIT "6"

Jose Garay, APLC
Jose Garay, Esq.
Hourly Rate: \$850

DATE	TIME
5/9/2019	0.9
	0.3
	0.5
	1.4
	0.5
5/16/2019	0.9
	1.1
5/22/2019	0.4
6/4/2019	0.7
	0.4
6/6/2019	0.5
	0.3
6/11/2019	0.8
	0.4
6/24/2019	0.3
	0.3
7/3/2019	0.2
	0.2
7/9/2019	0.2
7/10/2019	0.2
	0.4
7/12/2019	0.2
	0.5
7/20/2019	0.2
9/10/2019	0.6
	0.3
11/13/2019	0.3
	0.2
11/17/2019	0.5
	0.4
12/11/2019	0.7
	0.6
	0.2
12/12/2019	0.3
1/7/2020	0.9
	1.1
1/8/2020	3.2
	1.3
	0.9

1/13/2020

0.5

5.3

1.4

0.2

1/15/2020

0.3

1/23/2020

0.4

2/6/2020

0.2

2/7/2020

0.4

2/13/2020

0.2

2/18/2020

1.1

2/19/2020

0.9

0.4

2/20/2020

0.6

2/21/2020

0.4

2/25/2020

0.3

0.4

0.2

2/26/2020

0.7

0.4

0.5

2/27/2020

0.2

0.3

2/28/2020

0.2

0.2

3/3/2020

0.4

3/4/2020

0.2

3/6/2020

0.9

0.2

3/9/2020

0.5

0.6

0.4

0.3

0.6

3/10/2020

2.4

0.5

0.4

3/11/2020

0.5

3/12/2020

0.4

0.3

0.4

3/13/2020

0.8

0.2

3/19/2020		0.6
		0.4
		0.3
3/20/2020		0.3
3/24/2020		0.6
		0.4
		0.2
3/25/2020		0.2
3/26/2020		0.2
3/28/2020		0.2
		0.2
4/3/2020		0.5
		0.3
4/6/2020		0.4
		0.2
4/9/2020		0.6
4/10/2020		0.2
		0.2
4/13/2020		0.3
		0.3
4/14/2020		0.3
		0.3
4/15/2020		0.4
		0.3
		0.4
		0.2
4/16/2020		0.2
4/17/2020		0.2
4/20/2020		0.2
4/21/2020		0.2
		0.3
		0.2
		0.2
		0.2
4/23/2020		0.2
		0.2
4/24/2020		0.4
4/27/2020		0.2
4/28/2020		0.2
		0.8
4/30/2020		0.2
		0.2
		0.2

5/4/2020		0.3
5/5/2020		0.3
		0.2
5/12/2020		0.3
5/13/2020		0.2
5/14/2020		0.2
		0.3
5/19/2020		0.2
5/21/2020		0.2
		0.2
6/2/2020		0.2
6/8/2020		0.2
		0.2
6/10/2020		0.2
6/16/2020		0.2
		0.2
		0.2
		0.2
6/17/2020		0.2
6/18/2020		0.2
6/25/2020		0.4
		0.2
		0.2
7/1/2020		0.6
		0.2
7/9/2020		0.3
		0.3
		0.4
		0.5
7/10/2020		0.3
		0.2
7/13/2020		0.3
		0.7
		0.5
7/24/2020		0.4
		0.4
		0.2
7/26/2020		0.2
7/27/2020		0.5
		0.2
8/7/2020		0.3
		0.3
8/10/2020		0.2
8/12/2020		0.4

		0.3
8/18/2020		0.2
		0.2
		0.3
9/8/2020		0.3
9/22/2020		0.2
		0.3
10/15/2020		0.4
		0.2
		0.6
10/19/2020		0.4
		0.3
10/21/2020		0.9
10/22/2020		0.7
		0.2
10/23/2020		0.3
		0.2
		0.5
10/29/2020		0.2
		0.5
10/30/2020		0.2
		0.4
10/31/2020		0.5
11/2/2020		0.2
		0.2
11/5/2020		0.2
		0.2
		0.9
11/17/2020		0.2
11/24/2020		0.3
		0.3
12/10/2020		0.2
		0.2
12/11/2020		0.2
12/14/2020		0.2
12/15/2020		0.2
12/17/2020		0.2
12/18/2020		0.3
12/19/2020		0.3
12/21/2020		0.2
12/22/2020		0.2
12/24/2020		0.2
12/28/2020		0.3
12/29/2020		0.4

12/30/2020		0.2
12/31/2020		0.2
1/2/2021		0.3
1/5/2021		0.4
1/11/2021		0.3
1/13/2021		0.2
2/2/2021		0.2
2/4/2021		0.2
2/17/2021		0.2
2/24/2021		0.2
3/1/2021		0.3
3/11/2021		0.2
3/12/2021		0.2
3/15/2021		0.2
4/15/2021		0.3
5/6/2021		0.2
5/19/2021		0.3
5/26/2021		0.3
6/16/2021		0.2
6/17/2021		0.2
6/21/2021		0.2
		0.2
6/22/2021		0.9
		0.2
8/4/2021		0.3
8/9/2021		0.3
8/11/2021		0.3
8/19/2021		0.2
8/26/2021		0.3
9/10/2021		0.2
9/29/2021		0.3
		0.2
9/30/2021		0.2
10/6/2021		0.9
		0.3
10/15/2021		0.4
10/16/2021		0.2
10/18/2021		2.9
		2.4
Total Hours		103.8
Lodestar		\$88,230

EXHIBIT "7"

Printed from **TForce adv. Diaz, Gustavo**

Gustavo Diaz

(tel: [REDACTED]) • [REDACTED]

\$ Historic Cost

\$6,120.80

Mediation Cost

\$4,369.16*Created: 1/4/2021 at 8:19 AM***Trialworks TaskCode**

Mediation Costs

Date Incurred

1/4/2021

Payee

JAMS

Description

JAMS INV#5526242 TForce

Docs JAMS INV5526242 TForce paid 1.4.21.pdf

Postage Cost

\$47.04*Created: 6/22/2021 at 12:54 PM***Trialworks TaskCode**

FedEx

Date Incurred

6/22/2021

Payee

FedEX

Description

Documents shipped to client and returned by client

Notes

Ship date: 5/24/21

Ship date: 6/1/21

Filing Fee

\$14.67*Created: 8/10/2021 at 8:33 AM***Trialworks TaskCode**

Filing Fee

Date Incurred

7/9/2021



Payee

One Legal

Description

OLINV#03399126 TF 7.9.21

Docs OLINV#03399126 TF 7.9.21.pdf**Filing Fee**

\$1,492.00

*Created: 8/10/2021 at 9:30 AM***Trialworks TaskCode**

Filing Fee

Date Incurred

7/12/2021

Payee

One Legal

Description

OLINV#03402305 TF 7.12.21

Docs OLINV#03402305 TF 7.12.21.pdf**Filing Fee**

\$40.67

*Created: 9/3/2021 at 12:25 PM***Trialworks TaskCode**

Filing Fee

Date Incurred

8/5/2021

Payee

One Legal

Description

OLINV#03457337 TF 8.5.21

Docs OLINV#03457337 TF 8.5.21.pdf**Filing Fee**

\$19.82

*Created: 9/3/2021 at 12:19 PM***Trialworks TaskCode**

Filing Fee

Date Incurred

8/5/2021

Payee

One Legal

Description

OLINV#03454556 TF 8.5.21

Docs OLINV#03454556 TF 8.5.21.pdf

Filing Fee

\$82.62

Created: 9/8/2021 at 12:56 PM

Trialworks TaskCode filing fee	Description OLINV#03482192TForce 8.18.21
Date Incurred 8/18/2021	Docs  OLINV#03482192TForce 8.18.21.pdf
Payee One Legal	

Filing Fee

\$54.82

Created: 9/8/2021 at 1:22 PM

Trialworks TaskCode filing fee	Description OLINV#03486613TF 8.19.21
Date Incurred 8/19/2021	Docs  OLINV#03486613TF 8.19.21.pdf
Payee One Legal	



EXHIBIT "8"

10/19/2021
Accrual Basis

Jose Garay, APLC
Transaction Detail By Account
All Transactions

Date	Number	Payee	Case	Memo	Amount
01/13/2020		LWDA	Diaz v. TForce	PAGA notice fee	75.00
01/15/2020	12226576	One Legal LLC	Diaz v. TForce	Filing/court fees	1,555.00
07/10/2020	2	WHW Creative	Diaz v. TForce	Research purchases	150.00
10/18/2021			Diaz v. TForce	Cumulative print, copy, mileage, and postage	35.50
Total Expenses					1,815.50

EXHIBIT "9"

SETTLEMENT AND RELEASE

This SETTLEMENT AND RELEASE is made and entered into by and between Plaintiff Gustavo Diaz (“Plaintiff”), an individual, on behalf of the State of California, as a private attorney general, on the one hand, and Defendants TForce Final Mile, LLC; TForce Logistics, LLC; TForce Critical (“Defendants” or “TForce”) (collectively “the Parties”), on the other hand.

This SETTLEMENT AND RELEASE agreement shall be binding on Plaintiff and the PAGA Participants (as defined below) whom Plaintiff purports to represent and on Defendants and its present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants, subject to the terms and conditions hereof and the approval of the Court.

REPRESENTATIONS AND DEFINITIONS

1. “PAGA Participants” or singularly “PAGA Participant” shall mean and refer to: Plaintiff and all other persons who had previously contracted to transport goods within the State of California under one or more contracts with BeavEx Incorporated and/or JNJW Enterprises, Inc (dba Conejo Courier & Cartage) and who performed deliveries under those contracts between April 25, 2019 and January 2, 2020 (both dates inclusive) after they were assumed by one or more of the defendants, but who were *not* classified as employees during that period.

2. “Counsel for Defendants” shall refer to Steven C. Rice of Marron Lawyers.

3. “Court” refers to the Orange County Superior Court.

4. “Covered Claims” shall mean ~~and refer to:~~ any and all claims, demands, rights, liabilities, and/or causes of action for PAGA penalties pursuant to Labor Code Section 2699, for violation of Labor Code §§ 201-204, 206, 210, 226, 226.2, 226.7, 226.8, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 (i.e., all claims made in the letter sent by Plaintiffs’ counsel to the Labor and Workforce Development Agency, on January 8, 2020, as prerequisite for this claim).

5. “Covered Period” shall mean and refer to the period from April 25, 2019 to January 2, 2020, both dates inclusive.

6. “Defendants” shall mean and refer to TForce Final Mile, LLC; TForce Logistics, LLC; and TForce Critical.

7. “Eligible Pay Periods” shall mean and refer to the total number of pay periods that each PAGA Participant received payment for services from any Defendant during the Covered Period.

8. “Effective Date” will be the date the Court has signed and entered the Approval Stipulation and Order Thereon or the Final Judgment (as defined below), whichever is sooner.

9. “Lawsuit” refers to the civil action filed in the Superior Court of the State of California for the County of Orange, entitled Gustavo Diaz, an individual, on behalf of the State of California, as a private attorney general, Plaintiff v. TForce Final Mile, LLC; TForce Logistics, LLC; TForce Critical, and Does 1 thru 50, inclusive, Defendants, Plaintiff will file within ten (10) days of the full execution of this agreement.

10. “LWDA” refers to the California Labor and Workforce Development Agency.

11. “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code §2699 et seq.

12. “PAGA Counsel” shall refer to Eric B. Kingsley and Liane Katzenstein Ly of KINGSLEY & KINGSLEY APC.

13. “Plaintiff” refers to Named Plaintiff Gustavo Diaz.

14. “Parties” shall collectively refer to Plaintiff and Defendants.

15. “Settlement” or “Settlement Agreement” shall mean the terms and conditions as set forth in this SETTLEMENT AND RELEASE agreement.

16. “Settlement Administrator” shall mean and refer to ILYM Group, Inc.

NATURE OF ACTION

17. On January 13, 2020, Plaintiff, individually and on behalf of all others similarly situated, filed a Class Action Complaint in the Superior Court for the State of California, County of Los Angeles, Case Number 20STCV01403 (the “State Action”) for (1) Failure to Pay Minimum Wages and Overtime; (2) Failure to Provide Meal and Rest Periods; (3) Failure to Timely Pay Wages Each Pay Period; (4) Failure to Reimburse Expenses; (5) Failure to Provide Accurate

Itemized Wage Statements; and (6) Violation of the Unfair Competition Law pursuant to §§ 201, 202, 203, 226(a), 226.2, 226.7, 226.8, 510, 512, 1194, 1194.2, and 2802. Plaintiff has alleged that this underlying conduct gives rise to a claim pursuant to Labor Code §2699, et seq.

18. On February 14, 2020, Defendants filed a Notice of Removal, removing the State Action in the Superior Court of the State of California for the County of Los Angeles to the United States District Court for the Central District of California – Western Division, Case Number 2:20-cv-01521 JAK (AGRx).

19. Subsequently, Defendant requested that Plaintiff's *individual* claims proceed in arbitration pursuant to an arbitration agreement signed by both Parties.

20. The Parties stayed the federal action, and Defendant initiated arbitration.

21. The Parties moved forward in arbitration, stayed the federal action, and entered into a tolling agreement as to the PAGA claim that had not yet been filed in the federal action.

22. Thereafter, the Parties attended mediation with Hon, Stephen J. Sundvold (Ret.) on February 17, 2021, and a settlement was reached.

23. The Individual Action is in arbitration in front of Emily R. Boyle, Esq. ("Arbitration"), and has been settled.

24. The Parties entered into a tolling agreement and as part of this Settlement, the representative action will be filed in Orange County Superior Court within ten (10) days of the full execution of this Agreement ("the PAGA Action").

25. PAGA Counsel considered the following facts and arguments in determining that the Settlement was fair and reasonable: Plaintiff believed that Defendants may persuasively argue that the Court should exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under PAGA. Pursuant to Labor Code §226.3, the Labor Commissioner has the discretion to "decide not to penalize an employer for a first violation when that violation was due to ... inadvertent mistake." And in accordance with PAGA, the court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would

result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (Labor Code § 2699(e)(1) and (e)(2)). In addition, Defendants have presented evidence and argument which they believe would be sufficient to establish non-employee status of plaintiff and the PAGA Participants, showing lack of control by Defendants over the work environment of the PAGA Participants, establishing that the PAGA Participants (including Plaintiff) operated as bona fide independent businesses, and further establishing that the PAGA Participants did not operate in the same business as the Defendants. In light of these arguments and the potential risks on the merits and manageability of the PAGA claims, PAGA Counsel determined that the Settlement was fair and reasonable.

26. This Settlement relates solely to the PAGA claim on behalf of all PAGA Participants whom Plaintiff purports to represent in the Lawsuit.

27. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit, denies liability for the Covered Claims, and further denies that this action is appropriate for representative treatment for any purpose other than settling this Lawsuit. Defendants contend, among other things, that it has complied at all times with the California *Labor Code*, the related California Wage Orders and the California Business & Professions Code, all other state and federal wage laws, and further contend that each PAGA Participant (including Plaintiff) was, throughout the Covered Period, properly classified and properly paid, and that the Lawsuit is without merit. Defendants have denied and continue to deny each and every material factual allegation and alleged claim asserted against them in the Lawsuit.

28. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Nothing herein shall constitute an admission by Defendants that the Lawsuit was properly brought as a class or representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of either Defendants or of the truth of any of the factual

allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification or administration other than for purposes of administering this Settlement; and (d) shall not constitute or be deemed a waiver of Defendants' right to compel arbitration of any dispute with PAGA Participants that is not the subject of the releases in the Settlement.

29. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

30. Plaintiff and PAGA Counsel have diligently pursued an investigation of the PAGA Participants' claims against Defendants.

31. Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and is in the best interests of Plaintiff, the PAGA Participants, and Defendants in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the PAGA Participants and that the settlement for each PAGA Participant is fair, reasonable, and adequate given the inherent risk of litigation.

32. The purpose of this Settlement is to settle and compromise the Lawsuit, all Covered Claims by Plaintiff and the PAGA Participants that Plaintiff and the PAGA Participants have against Defendants and the Releasees (as defined below).

TERMS OF SETTLEMENT

33. In consideration of the mutual covenants, promises and representations set forth in

this Settlement, Plaintiff, on behalf of himself, the State of California, and all PAGA Participants, and Defendants agree to settle and compromise the Lawsuit and the Covered Claims.

The Amount of Settlement

34. As consideration for the settlement described herein and the release contained in this Settlement, Defendants agree to pay a total settlement of \$225,000.00 (“Gross PAGA Settlement”). The Gross PAGA Settlement will include:

- a) \$2,500.00 litigation enhancement to Plaintiff; and
- b) Settlement Administrator costs of \$7,500.00; and
- c) PAGA Counsel will request Court approval of a 33.33% fee in the amount of \$75,000.00 and cost reimbursement of up to \$8,000.00; and
- d) \$132,000.00 allocated as “PAGA Penalties” to be split between the LWDA and the PAGA Participants as required by Labor Code §2699(i) with \$99,000.00 (75%) going to the LWDA and \$33,000.00 (25%) going to the PAGA Participants.

35. Except as provided in paragraph 68 and 69 herein, under no Circumstances will the total amount of the Gross PAGA Settlement exceed \$225,000.00.

Allocation and Calculation of the PAGA Penalties.

36. Each PAGA Participant shall receive a portion of the Gross PAGA Settlement on a pro-rata basis. The actual amount paid will be calculated through a two-step process. First, the \$132,000.00 allocated as “PAGA Penalties” will be divided by the total number of Eligible Pay Periods paid by Defendants to all PAGA Participants during the Covered Period (the “Pay Period Amount”) and then the Pay Period Amount will be multiplied by the number of Eligible Pay Periods worked by the individual PAGA Participant as determined by the Settlement Administrator. The resulting number is the “Individual PAGA Payment.” Second, once the total Individual PAGA Payment is calculated, 75% of the Individual PAGA Payment will be paid to the LWDA as is required by PAGA. The remaining amount, which is 25% of the Individual PAGA Payment, shall be paid to the PAGA Participants in the form of a payment check (“Individual Settlement Check”).

PAGA Counsel's Fees and Costs.

37. As part of the request for approval of this Settlement, PAGA Counsel will request court approval of 33.33% of Plaintiff's representative and individual payments, which is \$75,000.00 and cost reimbursement of already-incurred costs of up to \$8,000.00. Any attorneys' fees and costs awarded to PAGA Counsel, hereinafter referred to as "PAGA Counsel Fees & Costs," shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit.

38. Should PAGA Counsel request a lesser amount for attorneys' fees and costs and/or the court approve a lesser amount, the difference shall be divided among the participating PAGA Participants pursuant to the allocation described above.

39. Payment of PAGA Counsel Fees and Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

Tax Treatment of Individual Settlement Checks to PAGA Participants.

~~40. —The Parties agree that Individual Settlement Checks sent to PAGA Participants will be characterized 100% as penalties and Form 1099s will be issued. Nothing in this Settlement is intended to constitute legal advice regarding federal, state and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from Defendants and that neither Defendants nor Counsel for Defendants have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement. To the extent that this Settlement or any of its attachments are interpreted to contain or constitute advice regarding any U.S. or Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendants are not responsible for any employee tax obligations regarding the allocation of the Gross PAGA Settlements. Payment Not Part of Retirement Plan(s) or Benefit(s).~~

41.40. The Gross PAGA Settlement and any Individual Settlement Check paid to Plaintiff and the PAGA Participants pursuant to this Settlement are not intended to count as earnings by

Plaintiff or the PAGA Participants.

RELEASE

Release By All PAGA Participants.

~~42.41.~~ Upon the final approval by the Court of this Settlement, each PAGA Participant (including Plaintiff), shall, for the Covered Period, fully release and forever discharge Defendants, BeavEx Incorporated, and JNJW Enterprises, Inc., as well as their respective present, future and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, including any individual or entity that could alleged to be jointly liable with Defendants (the foregoing are collectively referred to hereafter as the “Releasees”) from the Covered Claims, from all claims that were asserted or could have been asserted based on the facts alleged in the Lawsuit, and from any and all claims, causes of action, damages, wages, benefits, expenses, penalties, interest, debts, liabilities, demands, obligations, attorneys’ fees, costs, and any other form of relief or remedy in law, equity, or whatever kind or nature that were asserted or could have been asserted pursuant to Labor Code §2699 for violation of Labor Code §§ 201-204, ~~206~~, 210, 226, 226.2, 226.7, 226.8, 510, 512, ~~558~~, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 based on the facts alleged in the Lawsuit. Notwithstanding the above, this Release is limited to PAGA claims based on Labor Code violations that were pled in the complaint or could have been pled based on the facts alleged therein. This Release does not apply to substantive (non-PAGA) Labor Code claims, nor does it apply to release PAGA claims that could not have been pled based on the factual allegations of the complaint.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

~~43.42.~~ The Parties recognize in accordance with Labor Code §2699(l)(2) that Court approval is required in the event of any settlement of a PAGA action [“The superior court shall review and approve any settlement of any civil action filed pursuant to this part.”]. However, as explained in *Arias v. Superior Court* (2009) 46 Cal.4th 969, the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement thorough a motion for primary or final approval. Instead, in order to comply

with the requirements of Labor Code §2699, promptly upon execution of this Settlement, Plaintiff shall file a motion for approval of the Settlement with the Court identifying the key terms of the Settlement and requesting that the Court approve the PAGA Penalties provided for in this Settlement Agreement (“Approval Stipulation”). The Parties shall concurrently apply to the Court for the entry of an order approving the PAGA Penalties provided for in this Settlement.

44.43. At the same time the Parties submit the Motion for Approval and order thereon, Plaintiff shall submit a Proposed Final Judgment in the amount of \$225,000.00 which requests that the Court: (1) enter judgment in the Lawsuit and permanently bar all members of the PAGA Participants from prosecuting any of the Covered Claims released in this Settlement against Defendants and the Releasees; and (2) waive all rights to appeal.

45.44. If the Court should fail to approve the Settlement as agreed upon by the Parties, the Parties shall coordinate efforts to address the Court’s questions or concerns and resubmit the Motion for Approval. If, after the Parties make a second attempt to obtain approval of the terms of the Settlement, unless the Parties specifically agree to continue with their coordinated efforts to obtain Court approval, (a) the Court fails to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys’ fees or costs requested and/or the allocation or distribution of the Gross PAGA Settlement), or (b) the Court’s approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Settlement shall be considered null and void; (ii) neither this Settlement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Settlement, except for the amount of attorneys’ fees and costs, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

DUTIES AFTER COURT APPROVAL AND ADMINISTRATION OF THE SETTLEMENT

~~46.45.~~ Within thirty (30) calendar days after the Effective Date, Defendants will compile and send a list of all PAGA Participants to the Settlement Administrator containing: (1) name; (2) last known home address and telephone number; (3) number of pay periods as a PAGA Participant during the Covered Period; and (4) social security number, *if known* (“Group List”). The format and transmittal of the list shall be in a format reasonably requested by the Settlement Administrator.

~~47.46.~~ Within thirty (30) calendar days after the Effective Date, Defendants shall transmit the entire Gross PAGA Settlement due under this Agreement to the Settlement Administrator. All obligations of Defendants under this Agreement shall be deemed satisfied upon such transmittal. The Settlement Administrator shall release the PAGA Counsel Fees & Costs to PAGA Counsel upon receipt of the Gross PAGA Settlement.

~~48.47.~~ Within three (3) days of receipt of the Group List, the Settlement Administrator shall send an email to the Parties confirming receipt of the Group List and indicating the number of PAGA Participants and the number of Eligible Pay Periods included in the data.

~~49.48.~~ Within thirty (30) calendar days after the Effective Date, the Settlement Administrator shall run all the addresses provided in the Group List through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information.

~~50.49.~~ Within forty-five (45) calendar days after the Effective Date, the Settlement Administrator shall mail via U.S. First Class mail each Individual Settlement Check to the last known address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that a PAGA Participant’s Individual Settlement Check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check. The date of the initial mailing of the payment check, shall be conclusively determined according to the records of the Settlement Administrator.

~~51.50.~~ A letter approved by the Parties in advance of Plaintiff filing the Approval Stipulation explaining this Settlement will be included in the mailing of each PAGA Participant's Individual Settlement Check. The letter will notify all PAGA Participants of the binding nature of the release and the Parties agree that such shall have the same force and effect as if this Settlement were executed by each PAGA Participants. (See Exhibit "A" hereto).

~~52.51.~~ Settlement Administrator shall ensure that 75% of each participating PAGA Participant's Individual Gross PAGA Settlement is paid to the LWDA.

~~53.52.~~ Settlement checks shall remain valid and negotiable for one hundred ~~twenty-eighty~~ (1820) calendar days from the date of their issuance. If there are uncashed checks following this period, the uncashed funds shall escheat to the Controller's Office Unclaimed ~~Wage-Property~~ Fund in the name of the PAGA Participants who did not cash their checks.

PARTIES' AUTHORITY

~~54.53.~~ The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

MUTUAL FULL COOPERATION

~~55.54.~~ The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement, PAGA Counsel shall, with the assistance and cooperation of Defendants and its counsel, take all necessary steps to secure the approval of this Settlement from the Court.

NO PRIOR ASSIGNMENTS

~~56.55.~~ The Parties hereto 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 herein.

NO ADMISSION

~~57~~56. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense.

NON-EVIDENTIARY USE

~~58~~57. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendants or any other of the Releasees, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Releasees of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Releasees in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendants to establish that a PAGA Participant has resolved any of his/her claims released through this Agreement.

ATTORNEYS' FEES, COSTS AND EXPENSES

~~59~~58. Except as specifically set forth herein, each party shall bear its/his/her own attorneys' fees, costs and expenses, taxable or otherwise, incurred by him/her/it/them arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Stipulation.

CONSTRUCTION

~~60~~59. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff and Defendants regarding actual or potential PAGA claims asserted by Plaintiff against Releasees. Excluding the Arbitration and Confidentiality Agreements executed by Plaintiff with Defendants, both of which will remain in full force and effect, this Agreement supersedes all prior agreements, written or oral, between or

among the Parties regarding those claims or potential claims and the resolution of those claims, no other agreement, statement, or promise made by one Party to another as to any claims addressed in this Agreement shall be binding or valid.

CAPTIONS AND INTERPRETATIONS

~~61.~~60. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

~~62.~~61. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

MISCELLANEOUS

~~63.~~62. This Settlement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's released claims, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

~~64.~~63. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

~~65.~~64. This Settlement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (PDF) or by facsimile.

~~66.~~65. Upon full execution of this Agreement, the Parties agree that based upon Code of Civil Procedure §583.310 ("the 5 year rule"), the Lawsuit shall be stayed in its entirety except for the submission of documents needed to obtain approval of the PAGA Penalties provided for in this Settlement. Should the Court fail to grant approval of this Settlement, the stay will be lifted five

(5) days thereafter and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

~~67.~~66. The Parties agree that upon approval by the Court, this Settlement shall be enforceable by the Court, and the Court shall retain exclusive and continuing equity jurisdiction pursuant to California Code of Civil Procedure §664.6 of this action over all Parties and PAGA Participants to interpret and enforce the terms, conditions, and obligations set forth in this Settlement. The Parties agree that if any immaterial provision of this Settlement is determined to be invalid, the invalid portion shall be deemed severed and the remaining Settlement deemed enforceable.

~~68.~~67. It was represented to Plaintiff that there were a maximum of 1390 Eligible Pay Periods at issue. As detailed in Paragraph 48 above, upon receipt of the Group List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the extent the number of itemized wage statements at issue increases beyond 1390 by more than 5%, Defendants shall have the option to increase the Gross PAGA Settlement by a proportionate amount. If Defendants fails to increase the Gross PAGA Settlement proportionately, Plaintiff shall have the right to terminate this Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

~~69.~~68. It was represented to Plaintiff that there are 45 PAGA Participants in regard to this settlement. As detailed in paragraph 48 above, upon receipt of the Group List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the extent the number of PAGA Participants increases beyond that number to the point that it will result in an increase of the cost of claims administration beyond the amount that has been approved by the Court, Defendants shall separately bear the increased cost of claims administration outside of the Gross PAGA Settlement. If Defendants fails to remit payment of the increased cost of claims administration, Plaintiff shall have the right to terminate this Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

I HAVE READ THE FOREGOING SETTLEMENT AND RELEASE. I ACCEPT AND AGREE TO THE PROVISIONS IT CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

DATED: _____

By: _____
GUSTAVO DIAZ

DATED: _____

By: _____
TFORCE FINAL MILE, LLC; TFORCE
LOGISTICS, LLC; ~~and TFORCE CRITICAL~~

APPROVED AS TO FORM AND CONTENT:

DATED: _____

KINGSLEY & KINGSLEY APC

By: _____
Eric B. Kingsley
Liane Katzenstein Ly
Attorneys for Plaintiff and the PAGA
Participants

DATED: _____

MARRON LAWYERS, APC

By: _____
Steven C. Rice
Attorneys for Defendants ~~-TFORCE FINAL~~
~~MILE, LLC and TFORCE LOGISTICS, LLC~~

EXHIBIT “A”

[Mailing Date]

NOTICE OF SETTLEMENT

Re: *Gustavo Diaz, an individual on behalf of the State of California, as a private attorney general, Plaintiff v. TForce Final Mile, LLC; Beavex Incorporated; TForce Logistics, LLC; TForce Critical, and Does 1 thru 50, inclusive, Defendants*, Orange County Superior Court, Case No. **XX** filed on **XX**.

[Settlement Administrator's info]

Dear Beavex and/or JNJW Enterprises, Inc. Contractor:

A settlement was reached between Plaintiff Gustavo Diaz ("Plaintiff") and Defendants TForce Final Mile, LLC; TForce Logistics, LLC; and TForce Critical ("Defendants") (collectively "the Parties"). On **XXXX**, the Court issued an Order approving settlement of the claim Plaintiff brought against Defendants pursuant to the Private Attorneys General Act of 2004 ("PAGA") alleging failure to pay minimum wages and overtime, failure to provide meal and rest periods, failure to timely pay wages each pay period, failure to reimburse expenses, failure to provide accurate itemized wage statements, and violation of state labor laws and unfair competition law. These allegations stem from Plaintiff's position that he and the other aggrieved employees were misclassified as independent contractors by Defendants and should have been classified as employees. Defendants deny these allegations and deny any wrongdoing of any kind associated with these allegations.

After accounting for Court approved deductions from the Settlement amount for things such as attorney's fees and costs, administration of the settlement and a payment to Plaintiff for his work in bringing the lawsuit, the remainder is \$132,000.00. Of the remainder, the law requires that 75% is allocated to the State of California and 25% is allocated to the eligible employees (described below). Therefore, the State of California will receive \$99,000.00 (75% of the penalties) and the eligible employees will each receive a pro rata share of the remaining \$33,000.00 (25% of the penalties).

The employees eligible to receive a payment under this Settlement are defined as: Plaintiff and all persons who were contracted with BeavEx Incorporated and/or with JNJW Enterprises, Inc. to deliver goods in the State of California and who delivered goods under such contracts between April 25, 2019 and January 2, 2020 (hereafter "PAGA Participants" or individually "PAGA Participant").

The settlement and enclosed check represents your pro-rata share of the penalties and is based on a formula that took into account the total number of wage statements that were issued to you in relation to the number of wage statements issued to all eligible contractors during the time period from April 25, 2019 to January 2, 2020.

This settlement releases TForce, Beavex, Inc., and JNJW Enterprises, Inc., from any and all claims that otherwise might have been brought, by you or the state of California, for PAGA penalties pursuant to Labor Code Section 2699 for violation of §§ 201-204, ~~206~~, 210, 226, 226.2, 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802, based on the facts alleged in the Lawsuit. Notwithstanding the above, this Release is limited to PAGA claims based on Labor Code violations that were pled in the complaint or could have been pled based on the facts alleged therein. This Release does not apply to substantive (non-PAGA) Labor Code claims, nor does it apply to release PAGA claims that could not have been pled based on the factual allegations of the complaint

| Your check is valid for 1~~8~~20 days from the date of issuance. Funds attributable to any uncashed checks will be
| sent to the Unclaimed Property Fund administered by the California Division of Labor Standards Enforcement
| in the name of the PAGA Participant who did not cash the check within 1~~8~~20 days.

If you have any questions concerning this Settlement, please contact ILYM Group, Inc. at XXXX.

(Proof of Submission to LWDA)

EXHIBIT "10"

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On October 27, 2021, I served all interested parties in this action the following documents described as: **SUPPLEMENTAL DECLARATION OF LIANE KATZENSTEIN LY IN SUPPORT OF MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

MARRON LAWYERS, APC

Paul Marron, Esq.

pmarron@marronlaw.com

Steven C. Rice, Esq.

srice@marronlaw.com

Paul B. Arenas, Esq.

parenas@marronlaw.com

Alexander T. Marx, Esq.

amarx@marronlaw.com

5000 E. Spring St., Suite 580

Long Beach, CA 90815

Attorneys for Defendant

JOSE GARAY, APLC

Jose R. Garay, Esq.

jose@garaylaw.com

249 E. Ocean Blvd. #814

Long Beach, CA 90802

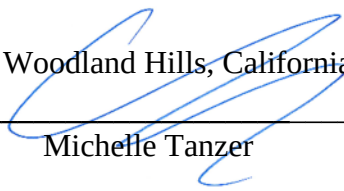
Attorneys for Plaintiff

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

[XX] (BY ELECTRONIC SERVICE): I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (STATE): I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 27, 2021, at Woodland Hills, California.



Michelle Tanzer