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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]

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

Date: September 24, 2021

Time: 9:00 a.m.

Dept.: CX104

Reservation No.: 73590306

Complaint Filed: July 9, 2021

Trial Date: None Scheduled

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

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

PROOF OF SUBMISSION TO THE LWDA

BACKGROUND OF THE CASE AND RELEVANT PROCEDURAL HISTORY

6. 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, 204,

226(a)-(e), 226.2, 226.7, 226.8, 256, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802.

7. Plaintiff alleges that this underlying conduct gives rise to a claim pursuant to Labor Code §2699, et seq.

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

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

10. 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.

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

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

13. The Parties entered into a tolling agreement and as part of this Settlement, the Parties agreed to file a representative action in Orange County Superior Court. As such, on July 7, 2021, Plaintiff submitted his Representative Action Complaint.

14. Although Defendants deny that it violated any pertinent law, it recognized the risks of litigation, and the Parties were able to reach the proposed Settlement now presented to the Court for approval.

15. Defendants operate a delivery network throughout the United States through which Defendants provide delivery services for medical supplies, medicine, alcohol, electronics, and other items from local businesses to local consumers.

16. Plaintiff worked as a driver from 2006 to the present throughout Southern California, delivering items such as medical supplies, medicine, alcohol, electronics, and other items to local California businesses, households, and other consumers.

17. Defendants operate the platform that connects drivers like Plaintiff and the PAGA Participants with customers who need the services of a delivery driver.

18. Defendants classified these individuals as independent contractors.

19. Plaintiff argued that they were employees.

THE SETTLEMENT

20. Pursuant to the Settlement Agreement, Defendants will pay the total sum of \$225,000.00 in full and final settlement of the PAGA claim alleged. Per the Settlement Agreement, the amount is allocated as follows:

Gross Settlement Amount:	\$225,000.00
Attorneys' Fees (1/3):	\$75,000.00
Requested Case Costs:	\$8,000.00
Settlement Administrator:	\$7,500.00
PAGA Penalties:	\$132,000.00
	<i>(\$99,000.00 to the LWDA; \$33,000.00 to the distributed to aggrieved employees)</i>
Named Plaintiff Enhancement:	\$2,500.00
Amount Distributed to aggrieved employees:	\$33,000.00

21. For settlement purposes, the "PAGA Participants" are defined as: "Plaintiff and all persons who had previously contracted to transport goods within the State of California under one or more contracts with BeaEx 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."

RISKS AND EVALUATION OF THE SETTLEMENT

22. To help the Court evaluate the fairness of the Settlement, a discussion of the risk evaluation and discount taken follows.

23. PAGA Counsel had to consider the arguments and defenses asserted by Defense Counsel. PAGA Counsel also had to assess the risks of moving forward to trial and what this Court would do in awarding penalties were Plaintiff to prevail at trial.

24. Defendants' strongest argument was that its classification of Plaintiff and the PAGA Participants was correct.

25. Defendants argued that they were not in the same business as the drivers and they did not have control over the working conditions.

26. Plaintiff disagreed, but the passage of Proposition 22 (app-based transportation

1 carve-out) on November 3, 2020 made succeeding on these claims less likely.

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

18 28. Class Counsel believed that the full value of the PAGA claims were \$1,035,000.00
19 based on approximately forty-five (45) PAGA Participants and one thousand six hundred and twenty
20 (1,620) pay periods.

21 29. This amounted to a \$100.00 a pay period violation for the overtime, meal break, rest
22 break, itemized wage statement, and reimbursement claims and a \$5,000 misclassification penalty
23 for a violation of Labor Code section 226.8 claim for each of the forty-five (45) PAGA Participants.

24 30. In light of these arguments and the potential risks on the merits and manageability of
25 the PAGA claims, PAGA Counsel determined that the Settlement was fair and reasonable.

26 **ATTORNEY COMPETENCE**

27 31. Kingsley & Kingsley is experienced in prosecuting employment litigation, and since
28 2000 we have focused a substantial percentage of our practice on wage, hour, and working condition

violations. My firm is well versed in class action litigation and has diligently and aggressively pursued this action. Kingsley & Kingsley currently serves as class counsel for dozens of pending class action lawsuits in Northern, Central, and Southern California. Below is a representative sampling of wage and hour class cases handled by my firm:

a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.

b. *Daniel v. Network Management Corp.* (No. BC274004, L.A. Super. Ct.) In September 2003, the court granted final approval of Settlement in the gross amount of \$475,000 and the court approved the attorneys' fee request of 30%.

c. *Sciba v. Chicago Pizza* (04CC04231, O.C. Super. Ct.) In January 2005, the court granted final approval of Settlement in the gross amount of \$900,000 and the court approved the attorneys' fees request of 30%.

d. *Schnebly v. California Amplifier* (No. CIV226265, Vent. Super. Ct.) In February 2005, the court granted final approval of Settlement in the gross amount of \$650,000 and the court approved attorneys' fees in the amount of 30%.

e. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In December 2015, Honorable Rita Miller granted final approval of Settlement in the gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.

f. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the Honorable Conrad R. Aragon granted final approval of Settlement in the gross amount of \$1,000,000 and the court granted attorneys' fees request of 30%.

g. *Chatman v. HVM LLC*, (No. BC343861, L.A. Super. Ct.) In March 2007, the Honorable Elihu M. Berle granted final approval of Settlement in the gross amount of \$957,000.00 and the court granted attorneys' fees request of 20.8%.

h. *King v. Closet World, Inc.*, (No. BC345834, L.A. Super. Ct.) In May 2007, the Honorable William H. Mackey in May 2007 granted final approval of Settlement in the gross amount of \$475,000.00 and the court granted attorneys' fees request of 30%.

i. *Gray v. Beverly Hills Steakhouse*, (No. BC357498, L.A. Super. Ct.) In December 2007, the Honorable John P. Shook granted final approval of Settlement in the gross amount of \$750,000.00, and the court granted attorneys' fees request of 30%.

j. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March 2008, the Honorable Mary Thornton House granted final approval of Settlement in the gross amount of \$1,675,000.00 and the court granted attorneys' fees request of 33 1/3%.

k. *Fowzer v. Northstar Moving Corporation*, (No. BC369338, L.A. Super. Ct.) In September 2008, the Honorable Richard L. Fruin granted final approval of Settlement in the gross amount of \$600,000.00 and the court granted attorneys' fees request of 30%.

l. *Benitez v. GRA-GAR LLC*, (No. CIVSS709965, San Bern. Super. Ct.) In February 2009, the Honorable W. Robert Fawke granted final approval of Settlement in the gross amount of \$250,000.00 and the court granted attorneys' fees request of 33 1/3%.

m. *Rollins v. Big Wangs, Inc.*, (No. BC393775, L.A. Super. Ct.) In October 2009, the Honorable Malcolm H. Mackey granted final approval of Settlement in the gross amount of \$195,000.00 and the court granted attorneys' fees request of 33 1/3%.

n. *Keene v. The Gap, Inc.*, (No. CGC-07-466574, S.F. Super. Ct.) In October 2009, the Honorable John E. Munter granted final approval of Settlement in the gross amount of \$475,000.00 and the court granted attorneys' fees request of 30%.

o. *Sevier v. Excalibur Well Service*, (No. S-1500-CV-265391-WDP, Kern Super. Ct.) In May 2010, the Honorable William D. Palmer granted final approval of Settlement in the gross amount of \$550,000.00 and the court granted attorneys' fees request of 33 1/3%.

p. *Boske v. Toys "R" Us - Delaware, Inc.*, (No. BC378328, L.A. Super. Ct.) In September 2009, the Honorable Anne I. Jones granted final approval of Settlement in the gross amount of \$1,850,000.00 and the court granted attorneys' fees request of approximately 25%.

q. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.

r. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.)

1 In March 2012, the Honorable James P. Kleinberg granted final approval of Settlement in the
2 gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.

3 s. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No.
4 BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund granted final
5 approval of Settlement in the gross amount of \$4,700,000.00, and the court granted attorneys'
6 fees request of 38%.

7 t. *Perry v. GSF Properties*, (No. 11CECG02434MWS, Fres. Super. Ct.) In
8 October 2013, the Honorable Mark W. Snauffer granted final approval of Settlement in the gross
9 amount of \$700,000.00 and the court granted attorneys' fees request of 33.3%.

10 u. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In
11 January 2014, the Honorable William F. Highberger granted final approval of Settlement in the
12 gross amount of \$1,500,000.00 and the court granted attorneys' fees request of 33.33%.

13 v. *Randell v. Tuesday Morning, Inc.*, (No. BC403298, L.A. Super. Ct.) In October
14 2014, the Honorable Richard E. Rico granted final approval of Settlement in the gross amount of
15 \$899,000.00, and the court granted attorney's fees request of 33.33%.

16 w. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda
17 Super. Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement in the
18 gross amount of \$995,000.00, and the court granted attorney's fees request of 33.33%.

19 x. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March
20 2016 after a class trial with a verdict in the class's favor, the Honorable Daniel P. Maguire,
21 awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's fees.

22 y. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super.
23 Ct.) In June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the gross
24 amount of \$2,000,000.00, and the court granted attorney's fees request of 33.33%.

25 32. Kingsley & Kingsley has also been appointed class counsel on numerous wage and
26 hour class actions that have been approved for class certification, some of which include:

27 a. *Tran v. Progressive Gaming Group*, No. BC 316988, (L.A. Super. Ct., filed
28 June 11, 2004) (court granted contested class certification and appointed Kingsley & Kingsley

1 class counsel).

2 b. *Devian v. Leegin Creative Leather Products, Inc.*, No. BC 325161, (L.A.
3 Super. Ct., filed November 2004) (court granted contested class certification and appointed
4 Kingsley & Kingsley class counsel).

5 c. *Munoz, et al. v. Giumarra Vineyards Corporation*, No. 1:09-cv-00703 AWI-
6 JLT, (E.D. Cal., filed November 9, 2005) (court granted contested class certification and
7 appointed Kingsley & Kingsley co-class counsel).

8 d. *Rojas v. Sunview Vineyards of California*, No. 1:09-cv-00705-AWI-JLT),
9 (E.D. Cal., filed November 9, 2005) (court granted contested class certification and appointed
10 Kingsley & Kingsley co-class counsel).

11 e. *Budrow v. Dave & Buster's of California, Inc.*, No. BC349060, (L.A. Super.
12 Ct., filed March 15, 2006) (court granted contested class certification and appointed Kingsley &
13 Kingsley class counsel).

14 f. *Isaguirre v. Guess?, Inc.*, No. BC357631, (L.A. Super. Ct., filed August 25,
15 2006) (court granted contested class certification and appointed Kingsley & Kingsley class
16 counsel).

17 g. *Agnew v. Black Tie Even Services, Inc.*, No. BC378413, (L.A. Super. Ct., filed
18 September 4, 2007) (court granted contested class certification and appointed Kingsley &
19 Kingsley class counsel).

20 h. *De Doroteo v. Servicon Systems, Inc.*, No. BC381938, (L.A. Super. Ct., filed
21 December 7, 2007) (court partially granted contested class certification and appointed Kingsley
22 & Kingsley class counsel).

23 i. *Anderson v. Total Renal Care, Inc.*, No. BC388335, (L.A. Super. Ct., filed
24 April 1, 2008) (court partially granted contested class certification and appointed Kingsley &
25 Kingsley class counsel).

26 j. *Kane et al. v. Valley Slurry Seal*, No. CV08-2483 (Yolo Super. Ct., filed April
27 8, 2008) (court partially granted contested class certification and appointed Kingsley & Kingsley
28 class counsel).

1 k. *Hirschinger v. Blue Cross of California*, No. BC402739, (L.A. Super. Ct., filed
2 December 1, 2008) (court granted contested class certification and appointed Kingsley &
3 Kingsley class counsel).

4 l. *Randell v. Tuesday Morning, Inc.*, No. BC403298, (L.A. Super. Ct., filed
5 December 5, 2008) (court granted contested class certification and appointed Kingsley &
6 Kingsley class counsel).

7 m. *Lewis v. Collabrus, Inc.*, No. 109CV-142927, (Santa Clara Super. Ct., filed
8 April 23, 2009) (court granted contested class certification and appointed Kingsley & Kingsley
9 class counsel).

10 n. *Driscoll v. Staff Pro, Inc.*, No. BC417925, (L.A. Super. Ct., filed July 16, 2009)
11 (court granted contested class certification and appointed Kingsley & Kingsley class counsel).

12 o. *Westbrook v. International Surfacing Systems*, No. RG10510015, (Alameda
13 Super. Ct., filed April 16, 2010) (court granted contested class certification and appointed
14 Kingsley & Kingsley co-class counsel).

15 p. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed
16 December 19, 2012) (court granted contested class certification and appointed Kingsley &
17 Kingsley class counsel).

18 q. *Amaro et al. v Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D.
19 Cal., filed February 3, 2014) (court granted contested class certification and appointed Kingsley
20 & Kingsley co-class counsel).

21 r. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super.
22 Ct., filed January 27, 2015) (court granted contested class certification and appointed Kingsley
23 & Kingsley class counsel).

24 s. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court
25 (16C0214). Hon. Valerie R. Chrissakis granted class certification and appointed Kingsley &
26 Kingsley as class counsel on May 4, 2018.

27 t. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court
28 (BCV-16-102833), contested class certification approved in 2018.

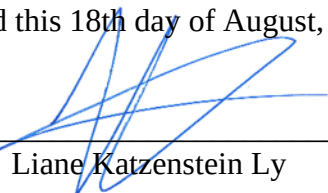
EXHIBITS

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

34. 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.

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 18th day of August, 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 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.

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, 2802. Plaintiff alleges 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. 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. 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, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802 based on the facts alleged in the Lawsuit.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

43. 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.

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

53. Settlement checks shall remain valid and negotiable for one hundred twenty (120) 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 Wages Fund in the name of the PAGA Participants who did not cash their checks.

PARTIES' AUTHORITY

54. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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.

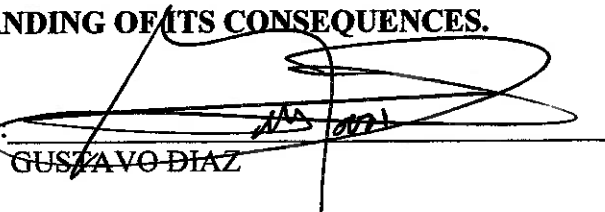
68. It was represented to Plaintiff that there were a maximum of 1390 Eligible Pay Periods at issue. As detailed in Paragraph 48 above, upon receipt of the Group List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the 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. 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: 06-01-2021

By: 

GUSTAVO DIAZ

DATED: _____

By: _____

TFORCE FINAL MILE, LLC; TFORCE LOGISTICS, LLC; and TFORCE CRITICAL

APPROVED AS TO FORM AND CONTENT:

DATED: June 3, 2021

KINGSLEY & KINGSLEY APC

By: 

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

DATED: _____

MARRON LAWYERS, APC

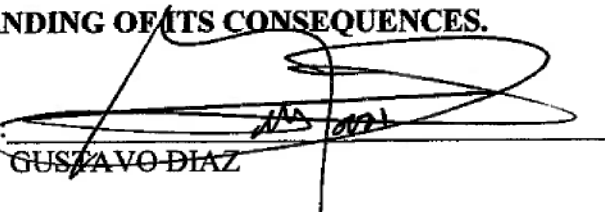
By: _____

Steven C. Rice
Attorneys for Defendants

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: 06-01-2021

By: 

GUSTAVO DIAZ

DATED: Jun 7, 2021

By: 

Scott Leveridge
Scott Leveridge (Jun 7, 2021 14:52 CDT)

TFORCE FINAL MILE, LLC; TFORCE LOGISTICS, LLC; and TFORCE CRITICAL

APPROVED AS TO FORM AND CONTENT:

DATED: June 3, 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

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. 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 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, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802, based on the facts alleged in the Lawsuit.

Your check is valid for 120 days from the date of issuance. Funds attributable to any uncashed checks will be sent to the Unclaimed Wage Fund administered by the California Division of Labor Standards Enforcement in the name of the PAGA Participant who did not cash the check within 120 days.

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

(Proof of Submission to the LWDA)

EXHIBIT "2"

(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 August 18, 2021, I served all interested parties in this action the following documents described as: **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

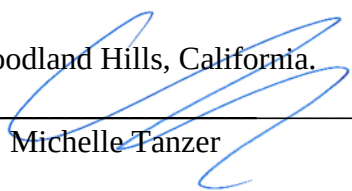
Attorneys for Plaintiff

[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 August 18, 2021, at Woodland Hills, California.


Michelle Tanzer