

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

Plaintiffs Vahik Nazarpour (hereinafter “Plaintiff”), individually and in his capacity as a representative of the State of California, and Defendant San Gabriel Transit, Inc. (hereinafter “SGT”), hereby enter into this Settlement Agreement and Release of Private Attorneys General Act of 2004 claims (“Settlement”) as follows:

I. DEFINITIONS

As used in this Settlement, the following terms shall have the following meanings:

1. “Defendants” shall mean Gorgee Enterprises, Inc., Petros Keshishian, SGT, Timmy Mardirossian, and Access Services Incorporated.
2. “Action” shall mean the civil action entitled: *Vahik Nazarpour, individually and on behalf of all others similarly situated v. Gorgee Enterprises, Inc., Petros Keshishian, San Gabriel Transit, Inc., Timmy Mardirosian [sic], and Access Services Incorporated*, Case No. 20STCV29734, which was filed in the Los Angeles County Superior Court on or about August 4, 2020 as a putative class action, in which Plaintiff asserted claims against Defendants, on behalf of himself, a putative class, and allegedly similarly-aggrieved individuals, for: (1) misclassification as independent contractor; (2) failure to pay all wages due; (3) failure to pay minimum wages; (4) failure to pay overtime wages; (5) failure to provide meal breaks; (6) failure to provide rest breaks; (7) failure to provide accurate itemized statements; (8) waiting time penalties; (9) illegal deductions; (10) failure to reimburse business expenses (Cal. Labor Code § 2802); (10) unfair business practices (Cal. Labor Code § 17200, *et seq.*); and (11) claims pursuant to the California Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*) (“PAGA Claim”). Class certification was denied on November 17, 2022 in the Action, in part based on the Court’s decision that the class was not manageable, and Plaintiff thereafter continued to pursue only his individual claims in the Action and PAGA penalties for alleged Labor Code violations related to Plaintiff only in connection with the PAGA Claim.
3. “Court” means the Superior Court of California, County of Los Angeles.

4. “Defense Counsel” shall mean Kevin V. DeSantis and James A. McFaul of Dunn DeSantis Walt & Kendrick, LLP.

5. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment or (b) if any objection to the PAGA Settlement is made, the day after the deadline for filing a notice of appeal for the Judgment; or, if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

6. “Gross Settlement Amount” means \$7,500.00 which is the total amount SGT agrees to cause to be paid under the Settlement as provided in Section III below. Gross Settlement Amount will be used to pay the Individual PAGA Payment, the LWDA PAGA Payment, PAGA Counsel Fees Payment, and PAGA Counsel Litigation Expenses Payment.

7. “Individual PAGA Payment” means 25% of the PAGA Penalties, to be paid to Plaintiff as the only allegedly aggrieved employee for whom PAGA Penalties are being sought.

8. “Judgment” means the judgment entered by the Court based upon the Approval Order of the PAGA Settlement.

9. “LWDA” refers to the California Labor & Workforce Development Agency.

10. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

11. “Net Settlement Amount” means the Gross Settlement Amount less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Fees Payment, and PAGA Counsel Litigation Expenses Payment. The Net Settlement Amount is to be paid to Plaintiff as the Individual PAGA Payment.

12. “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.*

13. “PAGA Counsel” means Frank E. Marchetti, Esq., of Marchetti Law, the attorney

representing the Plaintiff in the Action.

14. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the PAGA Claim.

15. “PAGA Notice” means Plaintiffs’ February 25, 2020 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

16. “PAGA Period” shall mean August 4, 2019 through the date the Court enters an Order Approving the PAGA Settlement.

17. “Plaintiff” refers to Vahik Nazarpour, individually and in his capacity as a representative of the State of California.

18. “Parties” collectively refers to Plaintiff and SGT.

19. “Released Claims” shall mean any and all claims, whether known or unknown, that were asserted or could have been asserted by Plaintiff against Defendants in the action, and/or related to PAGA penalties for alleged Labor Code violations only Plaintiff suffered, based on the facts set forth in the operative pleadings in the Action and/or PAGA Notice submitted to the LWDA in connections with the Action, to recover civil penalties for alleged Labor Code violations Plaintiff suffered pursuant to PAGA for any alleged violations by SGT of California Labor Code §§ 200, 201, 202, 203, 204, 210, 216, 221, 223, 225.5, 226, 226.3, 226.7, 226.8, 246, 510, 511, 512, 551, 552, 558, 1174, 1175.4, 1182.12, 1194-1197.1, 1198, and 2802 and the related applicable IWC Wage Order provisions for the PAGA Period.

20. “Released Parties” shall mean Defendants and each of Defendants’ past, present and future parents, subsidiaries, affiliates, partners, shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, fiduciaries, benefit plans, transferees, predecessors, successors and assigns.

II. RECITALS

1. On or about February 25, 2020, Plaintiff notified the LWDA of Defendants’ alleged Labor Code violations pursuant to California Labor Code Section 2699 *et seq.*

(Private Attorneys' General Act) (LWDA Case No. LWDA-CM-774844-20).

2. On or about August 4, 2020, Plaintiff filed a putative class action against Defendants in the Superior Court of the State of California, County of Los Angeles, Case No. 20STCV29734 (the "Action"). Plaintiff, alleged in the Action that he, and other individuals, were misclassified by Defendants as independent contractors. Plaintiff asserted claims against Defendants, on behalf of himself, a putative class, and allegedly similarly-aggrieved individuals (who Plaintiff alleged were also Defendants' employees) for: (1) misclassification as independent contractor; (2) failure to pay all wages due; (3) failure to pay minimum wages; (4) failure to pay overtime wages; (5) failure to provide meal breaks; (6) failure to provide rest breaks; (7) failure to provide accurate itemized statements; (8) waiting time penalties; (9) illegal deductions; (10) failure to reimburse business expenses (Cal. Labor Code § 2802); (10) unfair business practices (Cal. Labor Code § 17200, et seq.); and (11) claims pursuant to the California Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 et seq.) ("PAGA Claim").
3. On November 17, 2022, the Court in the Action denied Plaintiff's Motion for Class Certification, in part based on the Court's decision that the class was not manageable. Plaintiff did not appeal the Court's ruling and Plaintiff thereafter continued to pursue only his individual claims in the Action, including only seeking PAGA penalties related to himself in connection with the PAGA Claim.
4. Following a mediation with Hon. Michael Latin (Ret.), the Parties have agreed to amicably and completely resolve any and all issues, claims and disputes that may exist between them in the Action, including the PAGA claim to the extent related to any PAGA Penalties related to Plaintiff, in order to avoid the further costs of litigation
5. There has been no determination on the merits of the individual claims asserted by Plaintiff in the Action and/or the PAGA Notice. Defendants have at all times denied

– and continue to deny – all of Plaintiff’s claims and contentions set forth in the Action and the PAGA Notice.

6. The Settling Parties enter into this Agreement in order to completely resolve and discharge any and all Released Claims by Plaintiff (on his own behalf and on behalf of the State of California and its agencies as it relates to any alleged penalties for alleged Labor Code violations related to Plaintiff only) against Defendants or any other individual or entity alleged to have done business with Defendants, that exist or may exist, subject to the scope, terms, conditions and/or limitations set forth in this Agreement. In making this Agreement, no Party is admitting the sufficiency or adequacy of any claims, allegations, assertions, contentions or positions of any other Party. The Parties have agreed to enter into this Agreement in order to avoid the uncertainties, further expense, inconvenience, and distraction of claims and/or litigation, and to be free of further liability from any and all Released Claims by Plaintiff (on his own behalf and on behalf of and on behalf of the State of California and its agencies as it relates to any alleged penalties related to alleged violations related to Plaintiff only), whether or not asserted at this time.
7. Counsel for all Parties have thoroughly investigated the facts relating to the claims alleged in the Action and engaged in significant discovery in advance of mediation. Based on their investigation and evaluation of this case, Plaintiff’s Counsel has concluded that the settlement is fair, reasonable, and adequate considering all known facts and circumstances, including the defenses asserted by Defendants, the risks and uncertainties associated with ongoing litigation, potential adverse findings regarding liability, the statutory discretion provided to the Court to decrease civil penalties under PAGA, and numerous potential appellate issues.
8. Defendants specifically deny, and continue to deny, each and every claim and contention alleged in the Action and has always maintained that they have never engaged in any unlawful acts regarding any of the matters alleged in the Action.

9. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions set forth, the Parties agree as follows:

III. MONETARY TERMS

1. Gross Settlement Amount. SGT promises to cause to be paid \$7,500.00 and no more as the Gross Settlement Amount. SGT has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Section IV of this Agreement. None of the Gross Settlement Amount will revert to Defendants.

2. Payments from the Gross Settlement Amount. PAGA Counsel will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

a. To PAGA Counsel:

- i. A PAGA Counsel Fees Payment of not more than 40% which is currently estimated to be \$3,000.
- ii. PAGA Counsel Litigation Expenses Payment will be waived.
- iii. SGT will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, PAGA Counsel will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Plaintiff or PAGA Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation

Expenses Payment. PAGA Counsel will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment from the Gross Settlement Amount. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

b. **To the LWDA and Plaintiff, as the Aggrieved Employee:** PAGA Penalties in the amount of \$4,500.00 to be paid from the Gross Settlement Amount, with 75% (\$3,375.00) allocated to the LWDA PAGA Payment and 25% (\$1,125.00) allocated to the Individual PAGA Payment.

IV. SETTLEMENT FUNDING AND PAYMENTS

1. Funding of Gross Settlement Amount. SGT shall fully fund the Gross Settlement Amount by transmitting the funds to PAGA Counsel no later than 10 days after the Effective Date.

2. Payments from the Gross Settlement Amount. Within 14 days after SGT funds the Gross Settlement Amount, PAGA Counsel shall issue payments for the Individual PAGA Payment, the LWDA PAGA Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

V. RELEASE OF CLAIMS

Effective on the date when SGT fully funds the entire Gross Settlement Amount, Plaintiff, individually and in the capacity as a representative of the State of California, will release claims against all Released Parties as follows:

1. Plaintiff's Release. Plaintiff and his former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Complaint in the Action and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims settled upon, or based on occurrences outside the PAGA Period. Plaintiff's release also does not preclude any other person from bringing a claim pursuant to PAGA against any of the Defendants, the Parties recognizing that this settlement only resolves issues related to alleged Labor Code violations related to Plaintiff and alleged PAGA penalties related thereto.

2. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

3. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Complaint in the Action and the PAGA Period facts stated in the Complaint and the PAGA Notice

4. Dismissal of Action. While the Action – and therefore Plaintiff's PAGA Claim – shall be dismissed as part of this Agreement, no other person shall be precluded from hereinafter pursuing another action with any claim pursuant to PAGA against Defendants for penalties related to themselves and/or any other allegedly aggrieved employee other than Plaintiff. This Agreement is being entered into – and is therefore conditioned upon – dismissal of the Action.

VI. MOTION FOR APPLICATION FOR APPROVAL OF SETTLEMENT

1. Responsibilities of Plaintiff and PAGA Counsel. Plaintiff and PAGA Counsel are responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion.

2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to endeavor to modify the Agreement and otherwise satisfy the Court's concerns.

VII. CONTINUING JURISDICTION OF THE COURT

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, and (ii) addressing such post-Judgment matters as are permitted by law.

1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will

be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

VIII. ADDITIONAL PROVISIONS

1. No Admission of Liability or Representative Manageability for Other Purposes.

This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Complaint in the Action have merit or that any of the Defendants has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendants defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

2 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

3 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any

document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

4 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

5 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

6 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

7. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

8 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

9. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was

the drafter or participated in the drafting.

10 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

13 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Frank E. Marchetti
Marchetti Law
3731 Wilshire Blvd., Suite 635
Los Angeles, CA 90010
Cell (626) 676-6377
Email: frank@marchettilaw.com

To Defendants:

Kevin V. DeSantis, Esq.
James A. McFaul, Esq.
DUNN DESANTIS WALT & KENDRICK, LLP
750 B Street, Suite 2620
San Diego, California 92101

(619) 573-4488 / Facsimile (619) 255-4868
KDeSantis@ddwklaw.com
JMcFaul@ddwklaw.com

14 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IN WITNESS WHEREOF, the Settling Parties have executed this Agreement as of the day and year first written above if not otherwise indicated below.

DATED: March 12, 2024



Plaintiff, Vahik Nazarpour

DATED: 3-13-24, 2022


BY: _____
Defendant, San Gabriel Transit, Inc.

Name: Terry Marchessault
Title: President

APPROVED AS TO FORM AND CONTENT:

MARCHETTI LAW

DATED: March 12, 2024



Frank E. Marchetti, Esq.
Attorneys for Plaintiff