

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT

Richard Ramirez v. Genesis Logistics Inc. et al.

(Los Angeles County Superior Court, Case Number 20STCV22055)

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action shall be memorialized by and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (“Agreement”).

This Agreement is made by and between GENESIS LOGISTICS, INC., (“Defendant”) and Plaintiff RICHARD RAMIREZ (“Plaintiff”), for themselves and on behalf of the State of California, (Defendant, Plaintiff and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the “Parties.”) Subject to the Court’s subsequent approval of the Settlement, this Agreement shall be effective once fully executed by the Parties.

The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and concluded by agreement of Defendant to pay the sum of five hundred, sixty-five thousand dollars and zero cents (\$565,000.00), for settlement of the Private Attorneys General Act (“PAGA”) claim, which shall be inclusive of Plaintiff’s Counsel’s attorneys’ fees and costs and the settlement administrator’s fees and costs.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “Action” shall refer to the lawsuit entitled: *Richard Ramirez v. Genesis Logistics Inc. et al.*, Los Angeles County Superior Court Case No. 20STCV22055.
- (b) “Aggrieved Employees” is defined as all non-exempt employees of Defendant employed in California during the Release Period.
- (c) “Court” means the Superior Court for the State of California, County of Los Angeles.
- (d) “Defendant’s Counsel” is:

Christopher J. Boman, Esq.
Boris Sorsher, Esq.
Ashton M. Riley, Esq.
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, CA 92614
Phone: (949) 851-2424, Fax: (949) 851-0152
Email: bsorsher@fisherphillips.com
Email: cboman@fisherphillips.com
Email: ariley@fisherphillips.com

- (e) “Effective Date” means the date the Court enters the order approving the Settlement as described in this Agreement.
- (f) “Gross Settlement Amount” refers to the Five Hundred And Sixty-Five Thousand Dollars and Zero Cents (\$565,000.00), which shall be paid by Defendant to fund the Settlement, and from which all settlement payments for the Net Settlement Amount, Attorneys’ Fees, Litigation Costs, and Administration Costs shall be paid.
- (g) “Net Settlement Amount” means the total sum available for payment of PAGA penalties to the Aggrieved Employees and the LWDA after deducting Attorneys’ Fees, Litigation

Costs, and Administration Costs, collectively referenced in Section 3.01(i), (ii) and (iii), from the Gross Settlement Amount.

(h) “Plaintiff’s Counsel” is:

Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Blake R. Jones, Esq.
Kim L. Anglin, Esq.
CROSNER LEGAL, PC
9440 Santa Monica Boulevard, Suite 301
Beverly Hills, CA 90210
Phone: (310) 496-5818, Fax: (310) 510-6429
Email: mike@crosnerlegal.com
Email: zach@crosnerlegal.com
Email: blake@crosnerlegal.com
Email: kim@crosnerlegal.com

(i) “Release Period” means April 13, 2019, to the date of the Court’s order approving the Settlement of the Action or July 20, 2021, whichever is earlier.

(j) “Released Claims” mean any and all claims relating to any and all facts and claims asserted in the Action or any other claims, under PAGA, that could have been asserted in the Action based on the facts alleged, including but not limited to any and all claims for PAGA penalties for violations of the California Labor Code governing: failure to keep accurate and complete time and payroll records for employees; failure to pay for all hours worked, including minimum wage, regular wage, and overtime; liquidated damages; failure to pay wages at the proper rate, including regular wages and overtime; failure to provide employees with proper meal or rest breaks or compensate an additional hour of pay for missed or improper meal or rest periods; failure to provide paid sick leave; failure to place employees on proper notice of workplace rights, including but not limited to paid sick leave; failure to provide proper and accurate wage statements; unlawful deductions; failure to pay wages timely during employment; refusal to make payment for wages due; unfair

competition under Business & Professions Code §§ 17200 et seq.; and failure to pay all wages due at separation, as alleged in Plaintiff's letter dated March 20, 2020, to the Labor Workforce Development Agency and the Action.

- (k) "Released Parties" means Defendant and its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, as well as any individual or entity that could be alleged to be jointly liable with Defendant.
- (l) "Settlement Administrator" refers to Simpluris, Inc.
- (m) "Settlement" or "Agreement" refers to the settlement of the PAGA claim reached by the Parties of the Action.

Article II.

Background.

Section 2.01 Background.

- (a) On June 5, 2020, Plaintiff filed the Action in the Superior Court of the State of California for the County of Los Angeles originally on a class basis and included a claim pursuant to the Private Attorneys General Act ("PAGA") on a representative basis against Defendant and individual Scott Sureddin. The parties met and conferred regarding a pre-dispute arbitration agreement signed by Plaintiff and its enforceability and the appropriateness of Scott Sureddin being named in the Action. Thereafter the parties stipulated to, and the Court dismissed, Mr. Sureddin. Also, Defendant reserved a hearing on a Motion to Compel Arbitration initially set for June 10, 2021.
- (b) Prior to the hearing on Defendant's motion, the Parties agreed to participate in mediation on a PAGA basis. In advance of mediation, the Parties engaged in an extensive

investigation along with informal discovery. On May 20, 2021, the parties attended a full day mediation with Marc Feder whereat they reached the Settlement.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Allocation of the Gross Settlement Amount.

The Parties will cooperate in obtaining through written stipulation or unopposed motion or *ex parte* application, if required, an Order from the Court approving the payment of the Gross Settlement Amount as follows:

i) **Plaintiff's Counsel's Fees.**

Plaintiff's Counsel may request and be paid up to 33 1/3% of the Gross Settlement Amount or One Hundred and Eighty-Eight Thousand, Three Hundred and Fourteen Dollars and Fifty Cents (\$188,314.50) for attorneys' fees ("Attorneys' Fees"). If Plaintiff's counsel's request for 33 1/3% of the Gross Settlement Amount is not approved and/or is reduced by the Court, any amount not approved and/or reduced by the Court will be included in the Net Settlement Amount to be paid to the State of California and to the Aggrieved Employees. Defendant agrees not to oppose a fee request by Plaintiff's counsel in the foregoing amount;

ii) **Plaintiff's Counsel's Costs.**

Plaintiff's Counsel may request up to Ten Thousand Dollars and Zero Cents (\$10,000.00) ("Litigation Costs") of the Gross Settlement Amount as reimbursement for expenses incurred in the Action. If Plaintiff's counsel's request for reimbursement of litigation costs is not approved and/or is reduced by the Court, any amount not approved and/or reduced by the Court

will be included in the Net Settlement Amount to be paid to the State of California and to the Aggrieved Employees. Defendant agrees not to oppose a request for reimbursement of litigation costs not exceeding the foregoing amount.

iii) Administration Costs.

Plaintiff's counsel shall request up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) ("Administration Costs") of the Gross Settlement Amount as payment to the Settlement Administrator for costs incurred by the Settlement Administrator in connection with the Settlement, including mailing of the Notice of PAGA Settlement described herein. To the extent the Administration Costs exceed this amount, they shall be paid from the Gross Settlement Amount; to the extent they fall below this amount, they shall be included in the Net Settlement Amount to be paid to the State of California and to Aggrieved Employees.

iv) Net Settlement Amount.

The Net Settlement Amount shall be determined by deducting Attorneys' Fees, Litigation Costs and Administration Costs, as set forth in section 3.01(i), (ii), and (iii) from the Gross Settlement Amount. The Net Settlement Amount shall be distributed as set forth below in section 3.04(b).

The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, and shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of the payment of PAGA penalties as described in this Agreement.

Section 3.02 Court Approval.

The Parties will seek the Court's approval of the PAGA settlement and the payment of penalties as described in this Agreement by way of an unopposed motion or *ex parte* application to be filed by Plaintiff's Counsel or as directed by the Court. Plaintiff's Counsel will lodge this Agreement with the Court for its approval. Pursuant to Labor Code section 2699(1)(2), Plaintiff also will submit a copy of this Agreement to the Labor and Workforce Development Agency at the same time it is submitted to the Court. The Court's approval of the payment of the Gross Settlement Amount as described in this Agreement shall be embodied in a written Order.

Section 3.03 Notice to Aggrieved Employees.

(a) Notice.

Notice shall be provided to the Aggrieved Employees in the following manner:

- (1) No later than twenty-one (21) days after the Effective Date, Defendant shall provide only the Settlement Administrator with a list of all Aggrieved Employees ("Aggrieved Employees List"). The Aggrieved Employees' List shall state the first name and last name in separate columns for each Aggrieved Employee; the last known home address for each Aggrieved Employee; each Aggrieved Employee's social security number; and the periods of time during the Release Period during which each held a non-exempt position, and each Aggrieved Employee's respective number of pay periods worked for Defendant during the Release Period.
- (2) The Settlement Administrator shall utilize the United States National Change of Address ("NCOA") database and also perform an *Accurint* or similar skip tracing process to determine the best most recent addresses for the Aggrieved Employees prior to mailing the notices and settlement checks.

- (3) No later than sixty (60) days after the Effective Date, the Settlement Administrator shall mail the Notice of PAGA Settlement (attached hereto as Exhibit “A”) together with a settlement payment to all Aggrieved Employees by first-class United States mail, postage prepaid, with directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices to the Settlement Administrator. For each Notice of PAGA Settlement that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by performing an additional skip trace and shall re-mail the Notice and settlement check no later than ten (10) days following receipt of the undeliverable Notice.

Section 3.04 Settlement Payment Procedures.

(a) Deposit of Gross Settlement Amount with Settlement Administrator.

No later than forty-five (45) days after the Effective Date, Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator.

(b) PAGA Payments.

The total sum available for payment of PAGA penalties (the “Net Settlement Amount”) shall be calculated by deducting Attorneys’ Fees, Litigation Costs, and Administration Costs collectively referenced in Section 3.01(i), (ii) and (iii) from the \$565,000.00 Gross Settlement Amount. The Net Settlement Amount is estimated at \$351,685.50, and shall be characterized as 100% civil penalties.

The Settlement Administrator shall pay seventy-five percent (75%) of the Net Settlement Amount to the LWDA (which is estimated at \$351,685.50), no later than sixty (60) days after the Effective Date. The remaining twenty-five percent (25%) of the Net Settlement Amount (which

is estimated at \$87,921.38) (the “Employee Net Settlement Amount”) shall be paid to Aggrieved Employees based on the following formula:

The Employee Net Settlement Amount shall be divided by the total pay periods worked by all Aggrieved Employees during the Release Period to yield the “California Employee Settlement Share Value.” Each Aggrieved Employee shall be paid their individual total pay periods worked in California during the Release Period multiplied by the California Employee Settlement Share Value.

All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 for their portion of the settlement, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

The settlement checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) days. The Settlement Administrator shall mail a check cashing reminder postcard to those Aggrieved Employees who have not negotiated their settlement checks within ninety (90) days of mailing. Thereafter, all unclaimed funds shall escheat to the State of California unclaimed property fund in the name of the Aggrieved Employee.

(c) Attorneys’ Fees and Costs and Enhancement Payment.

No later than sixty (60) days after the Effective Date, the Settlement Administrator shall pay the Attorneys’ Fees and Litigation Costs to Plaintiff’s Counsel.

Any attorneys’ fees or costs awarded to Plaintiff’s Counsel by the Court shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount. The “future” aspect of these amounts include, without limitation, all time and expenses expended by Plaintiff’s Counsel in defending the Settlement and securing Approval of the Agreement (including any appeals therein). There will be no additional charge of any kind to either the

Aggrieved Employees or request for additional consideration from Defendant for such work. This amount shall include all attorneys' fees, litigation costs and expenses for which Plaintiff and Plaintiff's Counsel could claim under any legal theory whatsoever.

(d) Settlement Administrator Expenses.

Upon completion of the Settlement Administrator's duties under the Agreement, the Settlement Administrator shall pay itself its actual costs in administering the settlement, up to the \$15,000.00 allocated to it for Administration Costs.

Section 3.05 Order Approving Settlement and Judgment.

Plaintiff will submit, with the documents asking the Court to approve the settlement and this Agreement, an order and judgment based on settlement to be entered by the Court granting approval of the PAGA penalties and retaining jurisdiction over all matters relating to the administration, consummation, enforcement, and interpretation of the terms of this Agreement.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

Defendant denies liability for any claims alleged by Plaintiff on his own behalf or on behalf of the State of California and any of its agencies, including but not limited to the Department of Industrial Relations, Division of Labor Standards Enforcement, and Labor Workforce and Development Agency, and the Aggrieved Employees upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used

during the course of the negotiations leading to this Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Agreement.

None of the documents produced or created by Plaintiff or the Aggrieved Employees in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

Section 4.02 Non-Evidentiary Use.

Neither this Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their respective counsel in the Action or in any other action or proceeding; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement and to secure its approval by the Court.

Section 4.03 Nullification.

- (a) If the Court should for any reason refuse to approve the payment of PAGA penalties as described in this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.
- (b) If the Court does not approve the payment of PAGA penalties as described in this Agreement, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to agree on a resolution, the Parties agree to seek the assistance of mediator Marc Feder to resolve any disputes.
- (c) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims.

Section 5.01 Release.

Upon Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, Plaintiff and each Aggrieved Employee, shall, for the Release Period, fully release and forever discharge Released Parties from the Released Claims that arose during the Release Period.

Article VI.

Miscellaneous Provisions.

Section 6.01 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 6.02 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff and Defendant who executed this Agreement and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 6.03 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defendant's Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.04 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 6.05 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

Section 6.06 Waiver of Compliance.

Any failure of any Party, and/or Plaintiff's Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.07 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. A scanned or faxed signature shall be valid as an original signature. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 6.08 Attorneys' Fees and Costs.

Except as expressly provided herein, Defendant and Plaintiff shall each bear their own attorney's fees and costs.

Section 6.09 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, Plaintiff's counsel and Defendant's Counsel shall meet and confer in an attempt to reach a resolution. If the Parties are unable to reach a resolution, they agree to submit any such dispute(s) to the Court. Except as expressly provided

herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both in its procedural and substantive aspects, without regard to its conflict of laws provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California for the County of Los Angeles. The foregoing is only limited to disputes concerning this Agreement and in no way limits or negates the enforceability and effect of the underlying arbitration agreements signed by employees of Defendant, specifically including but not limited to Plaintiff, obligating them to arbitrate any and all claims on an individual (and not on a class or collective) basis. Plaintiff, on his own behalf and on behalf of the Aggrieved Employees, and Defendant participated in the negotiation and drafting of this Agreement and had available to them the advice and assistance of independent counsel. As such, neither Plaintiff nor Defendant may claim that any ambiguity in this Agreement should be construed against the other.

Section 6.10 Fair Settlement

Plaintiff, Defendant, Plaintiff's Counsel, and Defendant's Counsel believe that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiation, taking into account all relevant factors, current and potential, and is consistent with public policy, and fully complies with applicable provisions of law.

Section 6.11 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.12 Waiver of Appeals.

The Parties waive all appeals from the Court's approval of the PAGA penalties, unless the Court materially modifies the settlement and/or the PAGA penalties.

Section 6.12 Continuing Jurisdiction.

The Parties agree that upon the occurrence of the dismissal of the Action pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure Section 664.6 and continuing equity jurisdiction of this Action over all Parties and Aggrieved Employees to interpret and enforce the terms, conditions and obligations of this Agreement.

Article VII.

Confidentiality

Section 7.01 Confidentiality.

Plaintiff and Plaintiff's Counsel agree that they have not and will not publish the Agreement. In response to any inquiries Plaintiff will state that "the case was resolved and it was resolved confidentially." Plaintiff's Counsel shall not report the Agreement or its content in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the Aggrieved Employees on their website, and shall not contact any reporters or media regarding the Agreement or its content. However, Plaintiff's attorneys are authorized to make a limited

disclosure to the Court and the LWDA for the purposes of obtaining the approval of the settlement. This disclosure is limited to court filings and electronic submission of settlement documents to the LWDA and neither Plaintiff nor his counsel or representatives are permitted to disseminate or publish, distribute, or discuss the information provided to the Court in those filings outside the filings themselves and any hearing held on those filings, unless ordered otherwise by the Court.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: 10 / 07 / 2021

By: Richard Ramirez
Richard Ramirez

Dated: October 1, 2021

Genesis Logistics Inc.

By: Robert C. Whipple
Printed Name: Robert C. Whipple
Title: Assoc. Gen. Counsel + Officer

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: October 1, 2021

CROSNER LEGAL, PC

By: [Signature]
MICHAEL R. CROSNER
ZACHARY R. CROSNER
BLAKE R. JONES
Attorneys for Plaintiff
RICHARD RAMIREZ

Dated: October 1, 2021

FISHER & PHILLIPS LLP

By _____

CHRIS J. BOMAN
BORIS SORSHER
ASHTON M. RILEY
Attorneys for Defendant
GENESIS LOGISTICS INC.