

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIM

This Settlement Agreement and Release of PAGA Claim ("Settlement Agreement") is made by and between Plaintiffs Yessica Rodriguez and Alba Garcia ("Plaintiffs"), on behalf of themselves and as representatives for the California Labor Workforce Development Agency ("LWDA"), and Defendants California Payroll Group, Inc., Southwest Fuel Management, Inc., Goldenwest Solutions Group, Inc., Golden State Enterprises, LLC, Petrolink, Inc., and Vahid David Delrahim ("Defendants"), who may collectively be referred to as the "Parties," and each may be individually referred to as a "Party."

A. Definitions

The following terms, when used in this settlement agreement, shall have the following meanings:

1. "Rodriguez Action" or "Action" means *Rodriguez v. California Payroll Group, Inc., et al.*, San Bernardino County Superior Court Case Number CIVDS 1829017.
2. "Agreement," "Stipulation," or "Settlement Agreement," mean this Settlement Agreement and Release of PAGA Claim, including any attached Exhibits.
3. "Attorneys' Fees and Costs" means the amount of \$213,333.33 (one-third of the Gross Settlement Amount) which shall be allocated to Plaintiffs' Counsel for attorneys' fees, and actual costs in the amount of \$111,004.61, all of which shall be paid out of the Gross Settlement Amount. This Settlement is not conditioned on approval of the Attorneys' Fees and Costs; in other words, this Settlement shall remain in full force and effect if the Court awards less than the requested Attorneys' Fees and Costs. If less than \$324,337.94 is awarded for Attorneys' Fees and Costs, the difference shall return to the Net Settlement Amount.
4. "Court" (or "Judge") means the San Bernardino County Superior Court.
5. "Defendants" means California Payroll Group, Inc., Southwest Fuel Management, Inc., Goldenwest Solutions Group, Inc., Golden State Enterprises, LLC, Petrolink, Inc., and Vahid David Delrahim.
6. "Defendants' Counsel" means Martin Fox, Megan Childress, and Elizabeth Martin of Bleau Fox, a P.L.C.
7. "Effective Date" means the last of the following dates: (a) sixty-one (61) days after the date of entry of the Final Order and Judgment; or, (b) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected, the Settlement is upheld, and the Final Order and Judgment is no longer subject to further judicial review.
8. "Eligible Pay Period" means any pay period worked by a PAGA Employee during the PAGA Release Period.
9. "Final Approval Date" means the date that the Court enters the Final Order and Judgment.

10. “Final Order and Judgment” means the Court’s order approving this Private Attorneys General Act of 2004 (“PAGA”) Settlement and Judgment. The Final Order and Judgment will be submitted to the Court substantially in the form attached hereto as **Exhibit 1**.

11. “Funding Date” means thirty (30) calendar days after the Effective Date, and the date by which Defendants must fully-fund the Gross Settlement Amount by transmitting the funds to the Settlement Administrator.

12. “*Garcia* Action” means *Garcia v. California Payroll Group, Inc., et al.*, Los Angeles County Superior Court Case Number 20STCV33123.

13. “Gross Settlement Amount” means the maximum settlement amount that Defendants will pay in connection with this Settlement, which is \$640,000.00. This is a non-reversionary Settlement; no portion of the Gross Settlement Amount will return to Defendants under any circumstances.

14. “LWDA Settlement Proceeds” means the seventy-five percent (75%) of the Net Settlement Amount that shall be paid to the Labor Workforce and Development Agency (“LWDA”).

15. “Net Settlement Amount” means the amount that remains after deducting Attorneys’ Fees and Costs, Settlement Administration Costs, and the Service Awards, from the Gross Settlement Amount.

16. “Notice” means the notice that will be sent to the PAGA Employees with payment after the Effective Date. The Notice will be sent to PAGA Employees substantially in the form attached hereto as **Exhibit 2**. The Notice will also be sent in Spanish.

17. “Operative Complaints” means the operative complaint in the *Garcia* Action and the operative complaint in the *Rodriguez* Action, collectively. As set forth herein, the Parties agree to consolidate the *Garcia* Action with the *Rodriguez* Action for settlement purposes by way of a stipulation and proposed order to be filed with the Court in the *Rodriguez* Action.

18. “PAGA Employees” means all non-exempt employees of Defendants who worked for Defendants in California from September 2, 2017 through the date of Court approval of the Settlement.

19. “PAGA Employees Settlement Proceeds Fund” means the twenty-five percent (25%) of the Net Settlement Amount that shall be paid to the PAGA Employees.

20. “PAGA Claim” means all known and unknown claims brought on behalf of the State of California and PAGA Employees under California Labor Code § 2698 *et. seq.* based on alleged predicate violations of the California Labor Code and all applicable sections of the applicable Industrial Welfare Commission Wage Order, that were or could have been pled based on the factual allegations of the Operative Complaints.

21. “PAGA Settlement” or “Settlement” means the settlement of the PAGA Claim.

22. "PAGA Release Period" means September 2, 2017 through the date of Court approval of the Settlement.

23. "Parties" means Plaintiffs and Defendants collectively.

24. "Plaintiffs" means Yessica Rodriguez and Alba Garcia collectively.

25. "Plaintiffs' Counsel" means Scott E. Wheeler of the Law Office of Scott E. Wheeler, Aubry Wand of The Wand Law Firm, P.C., and Joseph Lavi, Vincent Granberry and Pooja Patel of Lavi & Ebrahimian, LLP.

26. "Released Parties" means Defendants and their parents, subsidiaries, predecessors, successors, assigns, owners, officers, directors, employees and agents.

27. "Settlement Administrator" means ILYM Group, Inc. The Settlement Administrator will agree to enter into a confidentiality agreement by which it agrees to maintain as confidential the information so designated by Defendants and not to disseminate any designated information without the written approval of Defendants. The Settlement Administrator will be responsible for, *inter alia*, sending Notice and payments to PAGA Employees and the LWDA and distributing other payments as set forth in this Agreement. The Parties and their counsel represent that they do not have any involvement in the governance or work of the Settlement Administrator.

28. "Settlement Administration Costs" means the amount of \$7,500.00 which shall be paid to the Settlement Administrator for performing the duties provided under the Settlement. If less than \$7,500.00 is approved for Settlement Administration costs, the difference shall return to the Net Settlement Amount.

29. "Service Award" or "Service Awards" means the amount which shall be allocated to Plaintiffs, subject to Court approval, in recognition for their efforts in prosecuting the case, obtaining the benefit of the Settlement, and as consideration for Plaintiffs' released claims, which include a broad general release, against Defendants. Plaintiff Yessica Rodriguez shall be eligible to receive a Service Award of \$7,000 and Plaintiff Alba Garcia shall be eligible to receive a Service Award of \$5,000.00. The Service Awards shall be paid from the Gross Settlement Amount. This Settlement is not conditioned on approval of the Service Awards; in other words, this Settlement shall remain in full force and effect if the Court awards less than the requested Service Awards. If less than the collective amount of \$12,000.00 is awarded to Plaintiffs, the difference shall return to the Net Settlement Amount.

B. General

1. On November 6, 2018, after providing notice to the LWDA, Plaintiff Yessica Rodriguez filed the Action in San Bernardino Superior Court, alleging one cause of action pursuant to the PAGA, based on the following theories of liability: failure to provide required meal periods, failure to provide required rest breaks, failure to properly pay meal period and rest break premium payments, failure to pay minimum wages, failure to pay overtime wages, failure to pay timely wages, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, and failure to furnish accurate itemized statements.

2. On August 31, 2020, after providing notice to the LWDA, Plaintiff Alba Garcia commenced the *Garcia* Action, asserting one cause of action pursuant to the PAGA based on the following theories of liability: failure to provide required meal periods, failure to provide required rest breaks, failure to properly pay meal period and rest break premium payments, failure to pay minimum wages, failure to pay all wages due to discharged and quitting employees, and failure to provide suitable seats.

3. On November 13, 2021, the Parties participated in a mediation with Steve Serratore. The Parties did not reach a settlement at the conclusion of the mediation. However, the mediator issued a proposal regarding the material terms of a settlement, which the Parties accepted on November 17, 2021, as memorialized herein.

4. Defendants deny all of the allegations and claims asserted in the Action and deny that they have committed any misconduct, statutory or regulatory violation, wrongdoing, or any other actionable conduct of any kind.

5. The Parties have conducted a thorough investigation into the facts of the Action. This includes, *inter alia*, conducting extensive formal discovery that involved the exchange of information and documents relating to the PAGA Claim. Defendants produced thousands of pages of documents consisting of time and payroll records, wage statements, rest break logs, employee handbooks, and other documents. The Parties took eight depositions, including PMK, fact witness, and expert depositions. The Parties also engaged in extensive motions practice, which included, *inter alia*, briefing and resolution of a motion to compel arbitration, a motion to deem complex, two motions for summary adjudication, a motion to consolidate, and a motion to strike Plaintiff's PAGA claim. The Parties also participated in a private mediation and mandatory settlement conference before reaching this Settlement after the third mediation on November 13, 2021. Based on the foregoing data and on their own independent investigation and evaluation, Plaintiffs' Counsel is of the opinion that the settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the LWDA and PAGA Employees in light of all known facts and circumstances, including the risk of significant delay, uncertainty associated with litigation, various defenses asserted by Defendants, and potential appellate issues. Defendants and counsel for Defendants also agree that the Settlement is fair.

6. The Parties understand, acknowledge, and agree that this Agreement constitutes a compromise of Plaintiffs' PAGA Claim and that it is the desire and intention of the Parties to affect a final and complete resolution of the *Rodriguez* Action and the *Garcia* Action, including the PAGA Claim, against Defendants. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by Defendants.

7. Under California Law, the State may assess and collect civil penalties from employers for violations of certain provisions of the California Labor Code. (*See* Cal. Lab. Code § 2698, *et seq.*) Under PAGA, however, if an "aggrieved employee" "give[s] written notice by certified mail to the [State] and the employer of the specific provision of the [Labor Code] alleged to have been violated," and the State thereafter decides not to investigate, as was the case here, or does investigate and determines that a citation against the employer should not issue, the employee may, "as an alternative" to enforcement by the State,

act as a proxy or agent of the state's labor law enforcement agencies and bring a civil action under PAGA to recover civil penalties "on behalf of himself or herself and other current or former employees." *Id.* "[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25 percent to the aggrieved employees." *Id.*

8. California Labor Code § 2699(1)(2) provides that the trial court shall "review and approve any settlement of any civil action filed pursuant to this part." Plaintiffs will submit this Settlement Agreement to the LWDA concurrently with the filing of a stipulation for approval and/or motion with the Court.

9. In consideration of the promises and agreements contained herein, the Parties agree and covenant as follows:

C. Terms of Settlement

1. Subject to the Court's approval of the Settlement pursuant to California Labor Code § 2699(1)(2), which counsel and the Parties agree to recommend in good faith to the Court, the Parties agree to the following binding settlement of the Action.

2. The Gross Settlement Amount will be distributed in the following manner:

- a. **Settlement Administration Costs:** The costs of \$7,500.00 associated with settlement administration shall be paid to the Settlement Administrator.
- b. **Attorneys' Fees and Costs:** Attorneys' fees of \$213,333.33, plus actual litigation costs not to exceed \$111,004.61, shall be paid to Plaintiffs' Counsel.
- c. **Service Awards to Plaintiffs.** A Service Award of \$7,000.00 shall be paid to Plaintiff Yessica Rodriguez and a Service Award of \$5,000.00 shall be paid to Plaintiff Alba Garcia.
- d. **Net Settlement Amount:** After deducting Settlement Administration Costs, Attorneys' Fees and Costs, and the Service Awards from the Gross Settlement Amount, the remainder forms the Net Settlement Amount. The Net Settlement Amount shall be allocated seventy-five percent (75%) to the California Labor & Workforce Development Agency ("LWDA Settlement Proceeds"), which is estimated to total approximately \$222,121.54. The remaining twenty-five percent (25%) of the Net Settlement Amount, which is estimated to total approximately \$74,040.52, shall be paid to the PAGA Employees on a *pro rata* basis ("PAGA Employees Settlement Proceeds Fund"), which shall be determined based on the number of Eligible Pay Periods that he or she worked for Defendants during the PAGA Release Period and shall be calculated as follows:

The PAGA Employees Settlement Proceeds Fund will be divided by the total number of Eligible Pay Periods worked by all PAGA Employees during the PAGA Release Period, and the resulting figure will be referred to as the "Multiplier." Each PAGA Employee's *pro rata* share of the PAGA Employees Settlement Proceeds

Fund will be determined by multiplying the Eligible Pay Periods that the PAGA Employee worked by the Multiplier. That amount shall be referred to as the PAGA Employee's "Individual Share."

- e. **Taxes and Reporting:** The PAGA Employees' Individual Share will be treated as non-wage income and reported by the Settlement Administrator on IRS Form 1099 (if applicable) to the respective PAGA Employee and applicable governmental authorities.

D. Release as to the PAGA Claim

1. Upon the Funding Date, Plaintiffs, as the representatives for the State of California, and on behalf of PAGA Employees, will forever completely release and discharge the Released Parties from any and all known and unknown claims for the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.*, that were or could have been pled based on the factual allegations of the Operative Complaints, for the PAGA Release Period. This Settlement shall not impact any PAGA Employee's ability to assert California Labor Code claims other than PAGA claims (i.e., a claim brought under California Labor Code § 2698, *et. seq.*) or any other individual claims that may belong to them.

2. In accordance with *Arias v. Superior Court* (2009) 46 Cal.4th 969, 985, a judgment in "a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 . . . is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding," which the Final Order and Judgment shall so reflect. The Final Order and Judgment shall not bind nor release the PAGA Employees of any individual wage claims (or other individual claims). However, in accordance with *Arias*, the Final Order and Judgment shall be binding on the PAGA Employees as to all known and unknown claims under California Labor Code § 2698, *et. seq.*, that were or could have been pled based on the factual allegations of the Operative Complaints for the PAGA Release Period.

E. General Release by Named Plaintiffs Only

1. In addition to the Release of the PAGA Claim, Plaintiffs agree to release all known and unknown claims, including a release under Civil Code Section 1542. To effect a full and complete general release as described above, Plaintiffs expressly waive and relinquish all rights and benefits of section 1542 of the Civil Code of the State of California and does so understanding and acknowledging the significance and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the State of California states as follows:

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.

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiffs expressly acknowledge this release is intended to include in its effect, without limitation, all claims that Plaintiffs do not know or suspect to exist in Plaintiffs' favor at the time of signing this Agreement, and Plaintiffs expressly acknowledge that this Agreement contemplates the

extinguishment of any such claims. Plaintiffs warrant they have read this Agreement, including this waiver of California Civil Code section 1542, and that Plaintiffs have consulted with or had the opportunity to consult with counsel of Plaintiffs' choosing about this Agreement and specifically about the waiver of section 1542, and Plaintiffs warrant that they understand this Agreement and the section 1542 waiver, and Plaintiffs freely and knowingly enter into this Agreement. Plaintiffs further acknowledge that they later may discover facts different from or in addition to those Plaintiffs now know or believe to be true regarding the matters released or described in this Agreement, and even so Plaintiffs agree that the release contained in this Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts.

Plaintiffs' general release shall become effective as of Funding Date.

The general release set forth in Paragraph E of this Agreement applies only to Plaintiffs Yessica Rodriguez and Alba Garcia. It does not apply to any PAGA Employees.

F. Settlement Approval and Implementation Procedures

1. Pursuant to California Labor Code § 2699(l)(2), or otherwise for the purposes of obtaining court approval of the Settlement, Plaintiffs will file: (a) a stipulation to consolidate the *Rodriguez* Action and the *Garcia* Action; and (b) a stipulation or motion for approval, separate declaration(s) advocating that the Settlement is fair, adequate, and reasonable, and any other documents in support of approval of the Settlement. Defendants shall not oppose the filing of any of these documents. Defendants shall also reasonably cooperate with any efforts to obtain approval of this Settlement.

2. No later than thirty (30) calendar days after the Final Approval Date, Defendants shall send to the Settlement Administrator a list of all PAGA Employees including each PAGA Employee's: (1) full name; (2) last known address; (3) social security number; and (4) the number of Eligible Pay Periods he or she worked as a non-exempt employee of Defendants in California during the PAGA Release Period (the "PAGA Employees List"). This information shall be treated as and remain confidential and shall be used solely to manage the notice and payment process described herein, and it shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendants, the individual in question, or by order of the Court.

3. No later than the Funding Date, Defendants shall wire transfer the full Gross Settlement Amount to the Settlement Administrator.

4. The Settlement Administrator will perform all settlement administration duties, including (i) performing a National Change of Address ("NCOA") search to update the addresses of the PAGA Employees, (ii) issuing the Notice and payments to the PAGA Employees, (iii) issuing any required IRS forms, and (iv) issuing payment to the LWDA and Plaintiffs' Counsel. The Settlement Administrator shall issue the Notice and payments to the PAGA Employees along with required IRS forms and issue payment to the LWDA for PAGA penalties, Service Awards to Plaintiffs, and Attorneys' Fees and Costs to Plaintiffs' Counsel, no later than seven (7) calendar days after the Funding Date.

5. PAGA Employees shall have one hundred and twenty (120) calendar days after the mailing to negotiate their settlement checks. If any PAGA Employee's check is not cashed within that period, the check will be voided and a stop-payment will be issued. Any funds in the Settlement Administrator's account as a result of a failure to timely negotiate a settlement check shall be paid to State of California Controller's Unclaimed Property division. Neither Defendants, Defendants' Counsel, Plaintiffs' Counsel nor Plaintiffs will have any liability for lost or stolen settlement checks, forged signatures on settlement

checks, unauthorized negotiation of settlement checks or failure to timely cash a settlement check within the 120-day period.

6. Upon the Funding Date, the Parties will: (i) be bound by the terms and conditions of this Agreement, and the releases set forth therein; and (ii) be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the settlement and the Court's Final Order and Judgment.

G. **No Right to Object or Opt Out.** The Parties agree that there is no statutory right for aggrieved employees to be heard in objection to the PAGA Settlement and there is no statutory requirement to provide aggrieved employees the option to opt out of the PAGA Settlement.

H. **Waiver of Appeal.** Provided that the Court's approval of this Settlement is consistent with the material terms of this Agreement, Plaintiffs, Defendants, and their respective counsel hereby waive any and all rights to appeal the approval of the Settlement, and the Order therefore will become non-appealable at the time it is entered.

I. **Miscellaneous Provisions.**

1. **Voiding the Agreement:** The Settlement Agreement shall be voidable and unenforceable as to all Parties herein at the option of either Party if: (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment, or (c) the approval of the Settlement and judgment is reversed, modified or declared or rendered void. In that event, then neither the Settlement nor any of the related negotiations or proceedings shall be of any force or effect, and all parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Any fees already incurred by the Settlement Administrator shall be shared by the Parties equally. Notwithstanding the foregoing, the Parties shall attempt in good faith to cure any perceived defects in the Settlement to facilitate approval.

2. **Waiver:** The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

3. **Parties' Authority:** The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

4. **Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, 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 Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Plaintiffs' Counsel shall, with the assistance and cooperation of Defendants and Defendants' counsel, take all necessary steps to secure the Court's approval of the settlement, and the Final Order and Judgment.

5. **No Prior Assignments:** 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 released and discharged by this Settlement Agreement.

6. **No Admission:** Defendants deny any and all liability to Plaintiffs and/or the PAGA Employees, as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendants desire to settle and compromise the matters at issue in the Operative Complaints to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendants also have taken into account the uncertainty and risks inherent in litigation and, without conceding any infirmity in the defenses that it has asserted or could assert against Plaintiffs, have determined that it is desirable and beneficial that Plaintiffs' claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

7. **Binding Settlement:** Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the Settlement, and/or interpret or enforce this Settlement Agreement.

8. **Enforcement Actions:** Except as otherwise provided in this Settlement Agreement, in the event that one or more of the Parties to this Settlement Agreement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs incurred in connection with any enforcement actions.

9. **Notices:** All notices shall be provided by United States mail and electronic mail. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third calendar day after mailing by United States mail and electronic mail, addressed as follows:

To Plaintiff Yessica Rodriguez:

Aubry Wand
The Wand Law Firm, P.C.
400 Corporate Pointe, Suite 300
Culver City, California 90230
Tel: (310) 590-4503
Fax: (310) 590-4596
E-mail: awand@wandlawfirm.com

Scott E. Wheeler
Law Office of Scott E. Wheeler
250 West First Street, Suite 216
Claremont, California 91711
Tel: (909) 621-4988
Fax: (909) 621-4622
E-mail: sew@scottwheelerlawoffice.com

To Plaintiff Alba Garcia:

Vincent Granberry
Lavi & Ebrahimian, LLP
8889 W. Olympic Blvd., Ste. 200
Beverly Hills, California 90211
Tel: (310) 432-0000
Fax: (310) 432-0001
E-mail: vgranberry@lelawfirm.com

To Defendants:

Martin Fox
Bleau Fox, a P.L.C.
2801 W. Empire Ave.
Burbank, CA 91504
Phone: (818) 748-3434
Fax: (818) 748-3436
E-mail: mfox@bleaufox.com

10. **Construction:** The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Settlement Agreement.

11. **Captions and Interpretations:** 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 Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

12. **Modification:** This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

13. **Choice of Law:** This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

14. **Integration Clause:** This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, 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.

15. **Binding on Assigns:** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

16. **Counterparts:** This Settlement Agreement 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 fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic delivery shall be deemed an original.

17. **Entire Agreement:** This Agreement sets forth the entire agreement between the Parties hereto and fully supersedes any and all prior and/or supplemental understandings, whether written or oral, between the Parties concerning the subject matter of this Agreement. Any modification to this Agreement must be in writing and signed by the Parties.

IN WITNESS WHEREOF, the Parties knowingly and voluntarily executed this Settlement Agreement and Release as of the date set forth below.

[SIGNATURES ON FOLLOWING PAGES]

Dated: 12/20/2021 _____

PLAINTIFF

DocuSigned by:
Jessica R V
D09B4282EAD644E

Jessica Rodriguez

Dated: _____

PLAINTIFF

Alba Garcia

Dated: _____

DEFENDANT CALIFORNIA PAYROLL
GROUP, INC.

Name: _____

Title: _____

Dated: _____

DEFENDANT SOUTHWEST FUEL
MANAGEMENT, INC.

Name: _____

Title: _____

Dated: _____

DEFENDANT GOLDENWEST SOLUTIONS
GROUP, INC.

Name: _____

Title: _____

Dated: _____

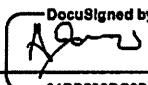
PLAINTIFF

Yessica Rodriguez

Dated: December 21, 2021

PLAINTIFF

Alba Garcia

DocuSigned by:

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Dated: _____

DEFENDANT CALIFORNIA PAYROLL
GROUP, INC.

Name: _____

Title: _____

Dated: _____

DEFENDANT SOUTHWEST FUEL
MANAGEMENT, INC.

Name: _____

Title: _____

Dated: _____

DEFENDANT GOLDENWEST SOLUTIONS
GROUP, INC.

Name: _____

Title: _____

Dated: _____

PLAINTIFF

Yessica Rodriguez

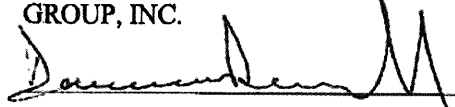
Dated: _____

PLAINTIFF

Alba Garcia

Dated: 1/04/2022

DEFENDANT CALIFORNIA PAYROLL
GROUP, INC.



Name: David Delrahim

Title: CEO

Dated: 1/04/2022

DEFENDANT SOUTHWEST FUEL
MANAGEMENT, INC.



Name: David Delrahim

Title: CEO

Dated: 1/04/2022

DEFENDANT GOLDENWEST SOLUTIONS
GROUP, INC.

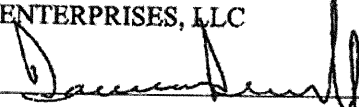


Name: David Delrahim

Title: CEO

Dated: 1/04/2022

DEFENDANT GOLDEN STATE
ENTERPRISES, LLC



Name: David Delrahim

Title: CEO

Dated: 1/04/2022

DEFENDANT PETROLINK, INC.

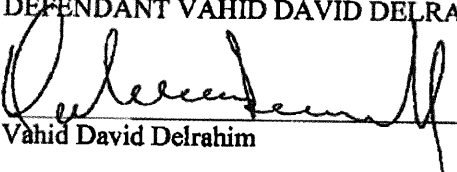


Name: David Delrahim

Title: CEO

Dated: 1/04/2022

DEFENDANT VAHID DAVID DELRAHIM



Vahid David Delrahim

APPROVED AS TO FORM:

Dated: _____

THE LAW OFFICE OF SCOTT E. WHEELER

Scott Ernest Wheeler

Dated: _____

THE WAND LAW FIRM, P.C.

Aubry Wand

Attorneys for Plaintiff YESSICA RODRIGUEZ

Dated: _____

DEFENDANT GOLDEN STATE
ENTERPRISES, LLC

Name: _____

Title: _____

Dated: _____

DEFENDANT PETROLINK, INC.

Name: _____

Title: _____

Dated: _____

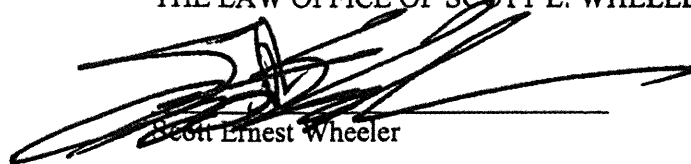
DEFENDANT VAHID DAVID DELRAHIM

Vahid David Delrahim

APPROVED AS TO FORM:

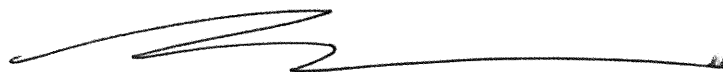
Dated: 12/21/21

THE LAW OFFICE OF SCOTT E. WHEELER


Scott Ernest Wheeler

Dated: 12/22/2021

THE WAND LAW FIRM, P.C.


Aubry Wand

Attorneys for Plaintiff YESSICA RODRIGUEZ

Dated: December 21, 2021

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Attorneys for Plaintiff ALBA GARCIA

Dated: _____

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PAYROLL GROUP, INC., SOUTHWEST FUEL
MANAGEMENT, INC., GOLDEN STATE
ENTERPRISES, LLC, PETROLINK, INC., and
VAHID DAVID DELRAHIM

Dated: _____

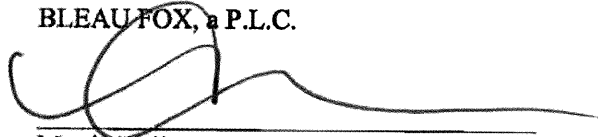
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PAYROLL GROUP, INC., SOUTHWEST FUEL
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Exhibit 1

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Attorneys for Plaintiff Alba Garcia

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

YESSICA RODRIGUEZ, *et al.*,

Plaintiff,

v.

CALIFORNIA PAYROLL GROUP, INC., *et al.*,

Defendants.

Case No.: CIVDS 1829017

[Hon. Khymberli S. Apaloo, Dept. S25]

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Action Filed: November 6, 2018
Trial Date: June 27, 2022

1 **[PROPOSED] FINAL ORDER AND JUDGMENT**

2 The Court has before it the Parties' Stipulation for Approval of PAGA Settlement,¹ and
3 determining that the Settlement provides genuine and meaningful relief that benefits the public, is fair,
4 adequate, reasonable, and otherwise being fully informed and good cause appearing therefor, it is hereby
5 ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

6 1. Unless otherwise provided herein, all capitalized terms used herein shall have the same
7 meaning as defined in the Settlement Agreement and Release ("Settlement Agreement"). The Court has
8 jurisdiction over the subject matter of this lawsuit and all matters relating thereto, and over all parties to
9 the action.

10 2. The Court finds that the Settlement has been reached as a result of serious and non-
11 collusive, arm's-length negotiations. The Court has considered the nature of the claims, the procedural
12 history of this case, the amounts to be paid under the Settlement, the involvement of an experienced
13 private mediator to facilitate the Settlement, the risks of continued litigation that Plaintiffs would face,
14 the civil penalties recoverable if Plaintiffs were to prevail at trial on their theories of liability under their
15 PAGA claim, the allocation of settlement proceeds among the PAGA Employees, and the fact that a
16 settlement represents a compromise of the Parties' respective positions rather than the result of a finding
17 of liability at trial.

18 3. The Court hereby finds the Settlement involves the resolution of a bona fide dispute, was
19 entered into in good faith, and is fair, reasonable, and adequate. The Court also finds that the Settlement
20 provides genuine and meaningful relief that benefits the public consistent with the purpose of the Private
21 Attorneys General Act of 2004, California Labor Code § 2699, *et seq.*

22 4. The Court therefore approves the Settlement as set forth in the Settlement Agreement and
23 directs the Parties to effectuate the Settlement according to the terms set forth in the Settlement
24 Agreement.

25 ///

26 _____
27 ¹ The Court has also reviewed and considered the records and files of this case, as well as all documents
28 submitted in connection with the Parties' Stipulation for Approval of PAGA Settlement, including the
declarations of counsel, Plaintiffs, and the Settlement Administrator.

1 5. Neither the Settlement nor any of the terms set forth in the Settlement Agreement are
2 admissions by Defendants, or any of the other Released Parties, of liability on any of the allegations
3 alleged in the Action, nor is this Order a finding of the validity of any claims in the Action, or of any
4 wrong doing by the Defendants, or any of the other Released Parties.

5 6. The Court finds that Plaintiffs' Counsel has adequately represented the Plaintiffs, the
6 PAGA Employees, and the LWDA throughout the litigation and for purposes of entering into and
7 implementing the Settlement.

8 7. The Court finds that the Settlement, and in particular the Gross Settlement Amount
9 ("GSA") of \$640,000.00 to be distributed as set forth herein and in the Settlement Agreement, is in all
10 respects fair, reasonable, and adequate and is hereby approved. *See* California Labor Code § 2699(1)(2).

11 8. Pursuant to the terms of the Settlement, Administration Costs in the amount of \$7,500.00,
12 which are necessary and reasonable to administer the Settlement, are hereby granted and shall be paid to
13 ILYM Group, Inc., the designated third-party Settlement Administrator.

14 9. Pursuant to the terms of the Settlement, the requested attorneys' fees in the amount of
15 \$213,333.33 are reasonable under both the common fund method and the lodestar method. The GSA of
16 \$640,000.00 represents a true and common fund, as Defendants must pay the full GSA and no amount of
17 the GSA will return to Defendants under any circumstances. It is recognized that attorneys who recover a
18 common fund are entitled to a reasonable fee award from the fund. *See, e.g., Boeing Co. v. Van Gemert*
19 (1980) 444 U.S. 472, 478 ("a litigant or a lawyer who recovers a common fund for the benefit of persons
20 other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole."); *In re*
21 *Washington Public Power Supply Sys. Sec. Litig.* (9th Cir. 1994) 19 F.3d 1291, 1300 ("[T]hose who
22 benefit from the creation of the fund should share the wealth with the lawyers whose skill and effort
23 helped create it."); *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 ("[W]hen a number of persons are entitled
24 in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results
25 in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out
26 of the fund. [Citations.]").

27 10. Moreover, one-third or more of the common fund is standard in settlements similar to this
28 one. *See, e.g., Laffitte v. Robert Half International Inc.* (2016) 1 Cal.5th 480, 506 (approving fees of one-

1 third of the common fund); *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558 n.13
2 (“Empirical studies show that, regardless whether the percentage method or the lodestar method is used,
3 fee awards in class actions average around one-third of the recovery.”); *Chavez v. Netflix, Inc.* (2008) 162
4 Cal.App.4th 43, 66 n.11 (recognizing that fee awards in class actions average around one-third of the
5 recovery”). Courts also regularly approve fee awards in excess of one-third of the fund. *See, e.g., Scott, et*
6 *al. v. Kuehne+Nagel, Inc.*, Cal. Sup. Ct. San Bernardino Cty. No. CIVDS1707477 (awarding 35% of the
7 common fund); *Cubillas v. Dav-El Los Angeles*, 2018 WL 3760657, at *3-4 (Cal. Sup. Ct.) (awarding
8 40% of the common fund); *Weber v. Einstein Noah Restaurant Group, Inc.*, No. 37-2008-00077680 (San
9 Diego Super. Ct.) (awarding 40% of the common fund); *Crandall v. U-Haul Intl., Inc.*, No. BC178775
10 (L.A. Super. Ct.) (awarding 40% of the common fund); Cabraser, California Class Actions Practice and
11 Procedures, § 15.03 (Lexis Nexis 2003) (finding that payment of 30% to 45% of the fund amount toward
12 attorneys’ fees has been determined to be a reasonable amount).

13 11. The Court also finds that the requested attorneys’ fees are reasonable under the lodestar
14 method, or as a crosscheck on the percentage fee. *See Laffitte*, 1 Cal.5th at 506. Plaintiffs’ counsel’s
15 combined lodestar of \$1,210,545 far exceeds the attorneys’ fees amount of \$213,333.33. In fact, the fee
16 award amounts to a significant implied negative multiplier on Plaintiffs’ counsel’s lodestar.

17 12. The Court further finds that Plaintiffs’ counsel’s requested litigation costs of \$111,004.61
18 are reasonable and were necessary to prosecute the action.

19 13. Accordingly, and consistent with California Labor Code § 2699(g)(1), which authorizes an
20 award of attorneys’ fees and costs, the requested attorneys’ fees in the amount of \$213,333.33 and
21 litigation costs in the amount of \$111,004.61, are hereby granted and the fees and costs to each firm shall
22 be paid to Plaintiffs’ counsel as follows: \$125,053.07 to the Law Office of Scott E. Wheeler; \$163,942.92
23 the Wand Law Firm, P.C.; and \$35,341.95 to Lavi & Ebrahimian, LLP.

24 14. Pursuant to the terms of the Settlement, a Service Award in the amount of \$7,000.00 shall
25 be paid to Plaintiff Yessica Rodriguez, and a Service Award in the amount of \$5,000.00 shall be paid to
26 Plaintiff Alba Garcia, in recognition of their efforts in prosecuting this action for the benefit of the State
27 of California and PAGA Employees, and Plaintiffs’ broad general release of all of their individual claims
28 against Defendants, is hereby granted and shall be paid to Plaintiffs Yessica Rodriguez and Alba Garcia.

1 Comparable service awards are routinely issued to named plaintiffs in analogous wage-and-hour class
2 action settlements, *see, e.g., Covillo v. Specialty's Cafe*, 2014 WL 954516, at *8 (N.D. Cal. Mar. 6, 2014)
3 (awarding \$8,000 each to two named plaintiffs, noting that “the incentive awards are particularly
4 appropriate in this wage and hour class action, where Plaintiffs undertook a significant ‘reputational risk’
5 in bringing this action against their former employer.”); *Alikhan v. Goodrich Corp.*, 2020 WL 4919382,
6 at * (C.D. Cal. Jun. 25, 2020) (approving a \$10,000 service award), as well as PAGA settlements like this
7 one. *See, e.g., Abelar v. American Residential Services, L.L.C.*, 2019 WL 6054607, at *6 (C.D. Cal. Nov.
8 14, 2019) (approving PAGA only settlement and holding “[t]he service award of \$5000 is reasonable
9 compensation for the time and acceptance of adverse employment risk by Plaintiff.”); *Garcia v. Macy’s*
10 *West Stores, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1515007 (Sept. 13, 2017):
11 awarding the PAGA plaintiff a service award of \$10,000).

12 15. After deducting Settlement Administration Costs, Attorneys’ Fees and Costs, and the
13 Service Awards from the GSA, the remainder of \$296,162.06, consistent with California Labor Code §
14 2699(i), shall be allocated seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to
15 PAGA Employees. Accordingly, \$222,121.54 shall be paid to the LWDA, and \$74,040.52 shall be paid
16 to PAGA Employees. The payments to the PAGA Employees will be paid proportionally based on the
17 number of pay periods that each individual employee worked for Defendants during the PAGA Period.

18 16. Upon the Funding Date, Plaintiffs, as the representative for the State of California, and on
19 behalf of PAGA Employees, will forever completely release and discharge the Released Parties from any
20 and all known and unknown claims for the recovery of civil penalties under the California Private
21 Attorneys General Act, California Labor Code § 2698, *et. seq.*, that were or could have been pled based
22 on the factual allegations of the Operative Complaints filed by the Plaintiffs in *Rodriguez v. California*
23 *Payroll Group, Inc., et al.* and *Garcia v. California Payroll Group, Inc., et al.* (consolidated with this
24 matter), for the PAGA Release Period. This Settlement shall not impact any PAGA Employee’s ability to
25 assert California Labor Code claims other than PAGA claims (i.e., a claim brought under California
26 Labor Code § 2698, *et. seq.*) or any other individual claims that may belong to PAGA Employees.

27 17. The terms of the Settlement Agreement, and this Order, are binding on the Plaintiffs and
28 PAGA Employees, and those terms shall have res judicata and other preclusive effect in all pending and

1 future claims, lawsuits or other proceedings maintained by or on behalf of PAGA Employees, to the
2 extent those claims, lawsuits or other proceedings constitute Released Claims as set forth in the
3 Settlement Agreement.

4 18. Neither this Order nor the Settlement Agreement (nor any other document referred to
5 herein, nor any action taken to carry out this Order) is, may be construed as, or may be used as, an
6 admission or concession by or against Defendants or the Released Parties of the validity of any claim or
7 actual or potential fault, wrongdoing, or liability. Entering into or carrying out the Settlement Agreement,
8 and any negotiations or proceedings related to it, shall not be considered as, or deemed evidence of, an
9 admission or concession as to Defendants' denials or defenses and shall not be offered or received in
10 evidence in any action or proceeding against any party hereto in any court, administrative agency or other
11 tribunal for any purpose whatsoever, except as evidence of the Settlement or to enforce the provisions of
12 this Order and the Settlement Agreement; provided, however, that this Order and the Settlement
13 Agreement may be filed in any action against or by Defendants or the Released Parties to support a
14 defense of res judicata, collateral estoppel, release, waiver, good-faith settlement, judgment bar or
15 reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or similar
16 defense or counterclaim.

17 19. Judgment in this matter is entered in accordance with the terms of the Settlement
18 Agreement and Approval Order. This judgment is intended to be a final disposition of the above
19 captioned action in its entirety, and is intended to be immediately appealable.

20 20. The Court reserves exclusive and continuing jurisdiction over the lawsuit for the purposes
21 of supervising the implementation, enforcement, construction, administration, and interpretation of the
22 Settlement Agreement and this Order.

23 **IT IS SO ORDERED.**

24
25 DATED: _____

26
27 _____
28 Honorable Khymberli S. Apaloo
Judge of the Superior Court

Exhibit 2

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment From PAGA Settlement

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed is your payment from the settlement of the lawsuit entitled *Rodriguez, et al. v. California Payroll Group, Inc., et al.*, San Bernardino Superior Court, Case No. CIVDS 1829017 (the "Lawsuit"). You are receiving this payment as your share of the Settlement. You have 120 days to cash or deposit the settlement check. If you do not negotiate your settlement check by on or before _____, those funds will be paid to State of California Controller's Unclaimed Property division.

The Lawsuit was filed against California Payroll Group, Inc., Southwest Fuel Management, Inc., Goldenwest Solutions Group, Inc., Golden State Enterprises, LLC, Petrolink, Inc., and Vahid David Delrahim ("Defendants") pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called "PAGA"). A separate action entitled *Garcia v. California Payroll Group, Inc., et al.*, Los Angeles County Superior Court Case Number 20STCV33123 was consolidated with the Lawsuit for settlement purposes. The claim was brought on behalf of the State of California and all other employees of Defendants. You have been identified as one of the employees on whose behalf the case was brought.

The Plaintiffs in the case claimed that Defendants owed penalties under PAGA for certain California Labor Code violations. Defendants deny that they did anything wrong or that they owe any penalties but nonetheless have agreed to resolve the claims raised in the Lawsuit without further court action. The parties agreed to resolve the case, and as part of that settlement, Defendants agreed to pay a certain amount of money categorized as PAGA penalties.

The Court approved the Settlement on _____. Under California law, any settlement of a PAGA case results in 75 percent of the awarded PAGA penalty being paid to the State of California and 25 percent of the penalty being paid to the employees who worked during the applicable period.

In exchange for this payment, the settlement releases any and all known and unknown claims you may have for the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.*, that were or could have been pled based on the factual allegations in the Operative Complaints, for the period of September 2, 2017 through _____. The settlement does not release any individual claims belonging to you.

This Notice summarizes the Action and the basic terms of the Settlement. For more complete information, the pleadings and other records in this litigation may be examined during regular court hours at the San Bernardino Superior Court, Civil Justice Center, located at 247 W 3rd St, San Bernardino, CA 92415, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

If you have any questions about this payment, contact the Settlement Administrator at [CONTACT]. Please note that the Settlement Administrator cannot provide tax advice.