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Superior Court of California
County of Los Angeles
09/28/2021

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

GERARDO MADERA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

FAIRWAY STAFFING SERVICES, INC., a
California corporation; TORTILLACRAFT,
LLC, a limited liability company; and DOES 1
through 10, inclusive,

Defendants

Case No.: 20STCV09176

[Assigned to Hon. John P. Doyle, Dept. 58]

STIPULATION OF SETTLEMENT AND
~~[PROPOSED]~~ ORDER APPROVING
SETTLEMENT OF PLAINTIFF'S
CLAIMS FOR CIVIL PENALTIES
UNDER PAGA

Complaint filed: March 6, 2020
Trial date: None Set

STIPULATION OF SETTLEMENT AND ORDER APPROVING SETTLEMENT OF PAGA CLAIM

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1 Kelly Knight. A true and correct copy of the fully executed Settlement Agreement and Release
2 of PAGA Claims is attached hereto as Exhibit "A."

3 3. The settlement in this action provides \$127,500.00 to the alleged aggrieved employees
4 and the LWDA in exchange for a release of claims under PAGA only.¹ The Settlement
5 Agreement and Release of PAGA Claims provides, in pertinent part:

6 Upon the date of entry of an order by the Court in this Action approving this
7 Settlement, and payment of all funds due under this Settlement, the LWDA and
8 PAGA Settlement Members, including Plaintiff, fully release and forever
9 discharge the Released Parties from any and all Released Claims. As a result of
10 this release, the PAGA Settlement Members will be unable to bring a claim under,
or recover in any other claim brought under, the California Private Attorneys
General Act, California Labor Code § 2698 *et seq.*, for any violations of the
Released Claims that took place during the PAGA Period.

11 "Released Claims" shall mean any and all claims, whether known or unknown, to
12 recover civil penalties pursuant to PAGA for any alleged violations by Defendants
13 of California Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558,
14 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, 2699(f)(2) and any category of
violations identified in Labor Code § 2699.5, and the related applicable IWC
Wage Order provision for the PAGA Period.

15 "PAGA Period" shall mean February 19, 2019 through the date of the order
16 granting approval of the Settlement.

17 "Released Parties" shall mean Defendants, and all of their respective joint
18 employers, staffing companies, subsidiary companies, affiliates, holding
19 companies, predecessors, successors, partners, shareholders, insurers, legal
representatives, assigns, employees, independent contractors, officers, directors,
attorneys, agents, and related entities, parties or other representatives of any kind.

20 "PAGA Settlement Members" shall mean all current and former hourly-paid or
21 non-exempt employees in California working at Tortillacraft, LLC at any time
22 during the PAGA Period; including, but not limited to, employees deployed by
Fairway Staffing Services.

23 (Ex. A at ¶¶ 6-8, 13, and 47).

24
25 ¹ \$127,500.00 is the net amount available to the aggrieved employees and the LWDA
26 from the \$275,000 gross settlement amount following deduction for Plaintiff's attorney's fees of
27 \$110,000.00 (40% of the gross settlement amount), Plaintiff's counsel's actual litigation costs
28 not to exceed (\$15,000.00), third-party administration costs (not to exceed \$15,000.00), and a
payment to Plaintiff of \$7,500.00 in exchange for a general release. However, it is likely that the
net amount available to the Aggrieved Employees will be slightly higher due to the fact the
actual costs will be lower than the aforementioned estimates.

1 The Parties estimate that there are approximately 10,232 pay periods during the
2 PAGA Period. "In the event that the actual number of pay periods exceeds this estimate by 10%
3 an escalation clause will be automatically triggered. Specifically, if pay periods is 11,255 or
4 more, the settlement amount shall be increased by the percentage that that actual number of pay
5 periods exceed the original estimates, and Parties shall submit a stipulated amended judgment
6 reflecting the increased settlement amount within 14 days of notice from the Settlement
7 Administrator of any such increase." (Ex. A at ¶ 21).

8 4. Based on their own independent investigations and evaluations, Plaintiff and his
9 counsel are of the opinion that the settlement for the consideration and on the terms set forth
10 in the Settlement Agreement and Release of PAGA Claims is fair, reasonable, and adequate and
11 is in the best interests of the Plaintiff and the PAGA Settlement Members in light of all known
12 facts and circumstances and the risks inherent in litigation, including the potential appellate
13 issues. Further, Plaintiff's counsel believes that the settlement amount entered into is in the
14 best interests of the PAGA Settlement Members and that the settlement for each PAGA
15 Settlement Member is fair, reasonable, and adequate, given the inherent risk of litigation.

16 5. The Parties request that the Court approve the arm's length settlement reached
17 between the Parties pertaining to penalties under PAGA, and the release of PAGA claims.

18 **NOW THEREFORE**, in return for the mutual commitments and consideration detailed
19 in the Settlement Agreement and Release of PAGA Claims attached hereto as Exhibit "A," the
20 Parties stipulate as follows:

21 1. The settlement terms reached through mediation provide for a gross payment by
22 Defendants of two-hundred and seventy-five thousand dollars (\$275,000). Defendant Fairway
23 Staffing Services will contribute Two-Hundred Twenty-Five Thousand Dollars and Zero Cents
24 (\$225,000.00) toward the Total Settlement Payment and Defendant Tortillacraft, LLC, will
25 contribute Fifty Thousand Dollars and Zero Cents (\$50,000.00) toward the Total Settlement
26 Payment, which shall cover distribution to the LWDA, distribution to Plaintiff and the alleged
27 aggrieved employees, Plaintiff's counsel's costs and fees, and costs of administration of the
28 settlement, as follows:

Description	Amount
Attorneys' Fees (40% of gross settlement)	\$110,000.00
Costs (not to exceed amount)	\$15,000.00 ²
Payment to Plaintiff in exchange for 1542 Release	\$7,500.00
Costs of Third-Party Administration (not to exceed)	\$15,000.00 ³

2. Should the Court approve a lesser amount for attorneys' fees, costs, payment to Plaintiff in exchange for the 1542 release, or costs of third-party administration, the difference shall be allocated as follows: 25% to the alleged aggrieved employees and 75% to the LWDA.

3. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID Number and calculate all settlement checks and withholdings required under law based on information that will be confidentially furnished by Defendants. There are no payroll deductions to be calculated under this Settlement, since no part of the Settlement will be classified as wages. Defendants shall deposit the Total Settlement Payment with the Settlement Administrator the later of fourteen (14) days following the Effective Date (as defined in Paragraph 4 of the Settlement Agreement and Release of PAGA Claims attached hereto as Exhibit "A") or October 15, 2021. (Ex. A at ¶¶ 32-33).

4. "PAGA Settlement Members" shall mean all current and former hourly-paid or non-exempt employees in California working at Tortillacraft, LLC at any time during the PAGA Period; including, but not limited to, employees deployed by Fairway Staffing Services. The PAGA Period is from February 19, 2019 through the date of the order granting approval of the Settlement (Ex. A at ¶¶ 7-8).

² The Settlement authorizes reimbursement of actual costs not to exceed \$15,000, at this time, actual out of pocket costs, including the cost of submitting this stipulation total \$8,533.91. A true and correct copy of a ledger of counsel's costs are attached hereto as Exhibit "B."

³ A true and correct copy of the third-party administrator's quote is attached hereto as Exhibit "C."

1 5. Upon the date of entry of an order by the Court in this Action approving this
2 Settlement, and payment of all funds due under this Settlement, the LWDA and PAGA
3 Settlement Members, including Plaintiff, fully release and forever discharge the Released Parties
4 from any and all Released Claims. As a result of this release, the PAGA Settlement Members
5 will be unable to bring a claim under, or recover in any other claim brought under, the California
6 Private Attorneys General Act, California Labor Code § 2698 *et seq.*, for any violations of the
7 Released Claims that took place during the PAGA Period. (Ex. A at ¶ 47).

8 6. The LWDA was given the opportunity to investigate this matter after being provided
9 notice by Plaintiff in his notice letter dated March 3, 2020, but declined to do so. In addition,
10 Plaintiff notified the LWDA of the settlement.

11 7. Under California law, no notice to the alleged aggrieved employees is required for the
12 resolution of an action under PAGA. *See Arias v. Superior Court*, (2009) 46 Cal.4th 969, 977.
13 The Parties have nevertheless agreed to provide an explanatory letter to the alleged aggrieved
14 employees to accompany the PAGA penalty checks. Attached to the Settlement Agreement and
15 Release of PAGA Claims as Exhibit A is the proposed letter to the alleged aggrieved employees
16 that would accompany the checks.

17 8. If there is a conflict between the language of this Stipulation and the language of the
18 Settlement Agreement and Release of PAGA Claims attached as Exhibit A, with the exception of
19 the timing of the settlement payment, the language of the Settlement Agreement and Release of
20 PAGA Claims shall control.

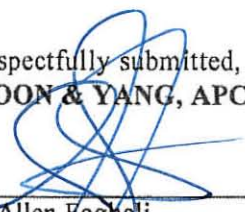
21 9. The Parties further expressly agree that the Court will retain jurisdiction under Code
22 of Civil Procedure section 664.6 to resolve any disputes arising from the settlement of the above-
23 described action.

24 **IT IS SO STIPULATED.**

25 *[signatures on following page]*
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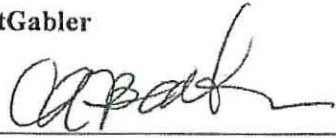
1 Dated: 9/7/2021

Respectfully submitted,
MOON & YANG, APC

3 By: 
4 Allen Feghali
Attorneys for Plaintiff

5 Dated: 8/30/21

LightGabler

7 By: 
8 Jonathan Fraser Light
9 Chandra Beaton
Elizabeth L. Harrier
Attorneys for FAIRWAY STAFFING SERVICES

10 Dated: 9/2/21

Law Office of Margaret Reyes

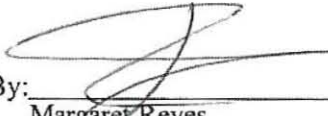
12 By: 
13 Margaret Reyes
14 Attorneys for TORTILLACRAFT, LLC

EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

GERARDO MADERA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

FAIRWAY STAFFING SERVICES, INC., a
California corporation; TORTILLACRAFT,
LLC, a limited liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 20STCV09176

[Assigned to Hon. John P. Doyle, Dept. 58]

**SETTLEMENT AGREEMENT AND
RELEASE OF PAGA CLAIMS**

TABLE OF CONTENTS

TABLE OF CONTENTS	i
I. DEFINITIONS	1
II. RECITALS	2
III. NON-ADMISSION OF LIABILITY	3
IV. TERMS OF THE PAGA SETTLEMENT	3
A. The Total Settlement Payment	3
B. Enhancement Award To Named Plaintiff	4
C. Plaintiff's Counsel Payment of Attorneys' Fees and Costs	6
D. Settlement Administration Fees and Costs	6
E. PAGA Fund	6
V. COMPUTATION AND DISTRIBUTION OF TOTAL SETTLEMENT FUND	7
A. Deposit of Total Settlement Payment	7
B. Formula for Calculating Share of PAGA Fund	7
C. Distribution of PAGA Fund	8
D. Settlement Administration Payment	9
VI. CLAIMS RELEASED BY PAGA SETTLEMENT MEMBERS	10
A. Claims Released by the LWDA and All PAGA Settlement Members	10
B. Tax Treatment and Tax Indemnification	10
VII. MISCELLANEOUS PROVISIONS	10
A. Mutual Full Cooperation	10
B. Parties' Authority	11
C. Binding Nature of the Settlement	11
D. Joint Drafting of Settlement Documents	11
E. Execution of the Settlement	12
F. Continuing Jurisdiction of the Court	12
G. Representations by Plaintiff	12

1	H. Representations by Defendants	12
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1 **SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS**

2 Plaintiff Gerardo Madera ("Plaintiff"), individually and in his capacity as a representative of the
3 State of California on behalf of other allegedly aggrieved employees, and defendants Fairway Staffing
4 Services and Tortillacraft, LLC ("Defendants"), hereby enter into this Settlement Agreement and Release
5 of Private Attorneys General Act of 2004 Claims ("Settlement") as follows:

6 **I. DEFINITIONS**

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

8 1. "Action" shall mean the civil action entitled *Madera v. Fairway Staffing Services, Inc., et*
9 *al.*, filed in the Superior Court for the County of Los Angeles on March 6, 2020, designated as Case No.
10 20STCV09176.

11 2. "Defendants" shall mean at Defendants Fairway Staffing Services and Tortillacraft, LLC.

12 3. "Defense Counsel" shall mean **LightGabler** (for Fairway Staffing Services) and **Law**
13 **Office of Margaret Reyes** (for Tortillacraft, LLC).

14 4. "Effective Date" refers to the date upon which both of the following have occurred:
15 (i) approval of the Settlement is granted by the Superior Court of California for the County of Los
16 Angeles, or other court assuming jurisdiction of this matter, and (ii) the Court's Judgment approving the
17 Settlement becomes Final. If there is an appeal of the Court's Judgment, the date the Judgment is
18 affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for
19 writ of certiorari to the California Supreme Court shall be the date the Settlement is Final. If there is an
20 intervenor, but no appeal is filed, the expiration date of the time for filing or noticing any appeal of the
21 Judgment shall be the date the Settlement is Final. If there is no intervenor in the action, the date the
22 Court enters an order approving this Settlement shall be the date the Settlement is Final.

23 5. "LWDA" refers to the California Labor & Workforce Development Agency.

24 6. "PAGA" refers to the Labor Code Private Attorneys General Act of 2004, California
25 Labor Code Sections 2698 *et seq.*

26 7. "PAGA Period" shall mean February 19, 2019 through the date of the order granting
27 approval of the Settlement.

28 8. "PAGA Settlement Members" shall mean all current and former hourly-paid or non-

1 exempt employees in California working at Tortillacraft, LLC at any time during the PAGA Period;
2 including, but not limited to, employees deployed by Fairway Staffing Services.

3 9. "PAGA Fund" shall mean the Total Settlement Payment, less Plaintiff's Counsel
4 Payment, Plaintiff's Enhancement Award, and the Settlement Administration Costs.

5 10. "Plaintiff" refers to Gerardo Madera individually and in his capacity as representatives of
6 the State of California on behalf of other allegedly aggrieved employees.

7 11. "Plaintiff's Counsel" refers to Moon & Yang, APC.

8 12. "Parties" collectively refers to Plaintiff and Defendants.

9 13. "Released Claims" shall mean any and all claims, whether known or unknown, to recover
10 civil penalties pursuant to PAGA for any alleged violations by Defendants of California Labor Code §§
11 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802,
12 2699(f)(2) and any category of violations identified in Labor Code § 2699.5, and the related applicable
13 IWC Wage Order provision for the PAGA Period.

14 14. "Released Parties" shall mean Defendants, and all of their respective joint employers,
15 staffing companies, subsidiary companies, affiliates, holding companies, predecessors, successors,
16 partners, shareholders, insurers, legal representatives, assigns, employees, independent contractors,
17 officers, directors, attorneys, agents, and related entities, parties or other representatives of any kind.

18 15. "Settlement Administrator" refers to a qualified, third-party settlement administrator
19 agreed to by the Parties to administer the terms of the Settlement. The Parties agree to utilize ILYM
20 Group, Inc. to administer the Settlement, at an estimated cost not to exceed \$15,000.00.

21 **II. RECITALS**

22 16. On March 3, 2020, Plaintiff sent a letter to the LWDA on behalf of himself, in
23 compliance with California Labor Code section 2699.3. More than 65 days passed after the letter was
24 sent to the LWDA, and the LWDA has not indicated that it intends to investigate the alleged violations
25 referenced in the letter.

26 17. Counsel for all Parties have thoroughly investigated the facts relating to the claims
27 alleged in the operative complaint and have made a thorough study of the legal principles applicable to
28 the claims asserted against Defendants. Based on their investigation and evaluation of this case,

1 Plaintiff's Counsel has concluded that the settlement is fair, reasonable, and adequate in light of all
2 known facts and circumstances, including the defenses asserted by Defendants, potential adverse
3 findings regarding liability, and numerous potential appellate issues.

4 18. Defendants denied, and continue to deny, each and every claim and contention alleged in
5 the Action, and have always maintained that they never engaged in any unlawful acts regarding any of
6 the matters alleged in the Action.

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

9 **III. NON-ADMISSION OF LIABILITY**

10 19. Based on the factual and legal issues involved, the expense and time necessary to
11 prosecute the Action through trial, the risks, uncertainty and costs of further prosecution, the difficulty of
12 proof necessary to establish a class for purposes of liability, and the relative benefits to the PAGA
13 Settlement Members of an expeditious resolution to the Action, the Parties have concluded that the terms
14 set forth in this Settlement are fair, reasonable, adequate and in the best interests of the PAGA Settlement
15 Members.

16 20. By entering into this Settlement, Defendants deny any liability for any of the claims in
17 the Action, as well as any other potential or unknown claims based on wage and hour violations under
18 state or federal law. Neither this Settlement, nor any document referred to or contemplated herein, nor
19 any action taken to carry out this Settlement, is, may be construed as, or may be used as, an admission,
20 concession, or indication by or against Defendants of any unlawful conduct, fault, wrongdoing or
21 liability whatsoever. Defendants specifically deny that they have engaged in any unlawful or wrongful
22 conduct against Plaintiff or the PAGA Settlement Members.

23 **IV. TERMS OF THE PAGA SETTLEMENT**

24 **A. The Total Settlement Payment**

25 21. Defendants shall pay a settlement payment in a total amount not to exceed \$275,000.00
26 (the "Total Settlement Payment"). The Total Settlement Payment shall include settlement administrative
27 fees and costs and the PAGA Fund. Defendants represent that there are approximately 10,232 pay
28 periods during the PAGA Period. In the event that the actual number of pay periods exceeds this

1 estimate by 10% an escalation clause will be automatically triggered. Specifically, if pay periods is
2 11,255 or more, the settlement amount shall be increased by the percentage that that actual number of
3 pay periods exceed the original estimates, and Parties shall submit a stipulated amended judgment
4 reflecting the increased settlement amount within 14 days of notice from the Settlement Administrator of
5 any such increase.

6 **B. Enhancement Award To Named Plaintiff**

7 22. Subject to Court approval, Defendants agree to pay Plaintiff an enhancement award of
8 Seven Thousand Five Hundred Dollars (\$7,500.00) to be paid from the Total Settlement Payment, as an
9 enhancement for his service as the PAGA representative, in addition to any payment he may otherwise
10 receive as a PAGA Settlement Member ("Enhancement Award").

11 23. Defendants will not oppose Plaintiff's request for the Enhancement Award. Plaintiff will
12 be responsible for correctly characterizing this compensation for tax purposes and for paying any taxes
13 owing on said amount. The Parties agree that a reduction by the Court of the requested Enhancement
14 Award is not a basis for rendering the entire Settlement voidable or unenforceable. Any reductions by
15 the Court of the Enhancement Award shall revert to the PAGA Fund.

16 24. Release by Plaintiff:

17 In addition to the Released Claims, upon the date of entry of an order by the Court in this Action
18 approving this Settlement, Plaintiff will generally release any and all claims against the Released Parties.
19 This general release of all claims includes any and all claims arising from the employment relationship
20 with the Released Parties, or the termination thereof, including, without limitation, any claims for breach
21 of any implied or express contract or covenant; claims for promissory estoppel; claims of entitlement to
22 any pay; claims of wrongful denial of insurance and employee benefits (except workers' compensation
23 benefits); claims for failure to hire, public policy violations, defamation, invasion of privacy, fraud,
24 misrepresentation, emotional distress, assault/battery, or other common law or tort matters; claims of
25 harassment, retaliation or discrimination based on age, race, color, religion, sex, gender, national origin,
26 ancestry, physical or mental disability, protected activity, medical condition, marital status, sexual
27 preference, union activity, or veteran status; claims under Title VII of the Civil Rights Act of 1964; the
28 Civil Rights Act of 1991; the Americans With Disabilities Act; Section 1981 of the Civil Rights Act of

1 1866; age discrimination under the Age Discrimination in Employment Act, as amended by the Older
2 Workers Benefit Protection Act; the Family and Medical Leave Act; the California Family Rights Act;
3 claims for unfair competition; claims based on legal restrictions on Defendants' right to terminate, not to
4 hire or promote employees, or to change an employee's compensation; and claims based on any federal,
5 state or other governmental statute, regulation or ordinance, all statutory, constitutional, contractual or
6 common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages,
7 punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, or any other
8 claims arising under the Fair Labor Standards Act, California Labor Code, California Business and
9 Professions Code or Industrial Welfare Commission Wage Orders, or arising out of or based upon the
10 following categories of allegations regardless of the forum in which they may be brought, to the fullest
11 extent such claims are releasable by law: (i) all claims for unpaid overtime; (ii) all claims for unpaid
12 wages; (iii) all claims for meal break violations; (iv) all claims for rest period violations; (v) all claims for
13 paid sick leave violations; (vi) all claims for the failure to timely pay wages upon termination; (vii) all
14 claims for the failure to timely pay wages during employment; (viii) all claims for wage statement
15 violations; (ix) all claims for reporting time pay; and (x) all other penalties recoverable for such claims
16 under PAGA, and the Employee Retirement Income Security Act ("ERISA").

17 For the purpose of implementing a full and complete release and discharge of the Released
18 Parties, Plaintiff expressly acknowledges that the release in this Paragraph is intended to include in its
19 effect, without limitation, all claims he did not know or suspect at the time of execution hereof,
20 regardless of whether the knowledge of such claims, or the facts upon which they might be based, would
21 materially have affected the settlement of this matter, and that the Enhancement Award is also for the
22 release of those claims and contemplates the extinguishment of any such claims. In furtherance of this
23 Settlement, Plaintiff expressly waives all rights provided by California Civil Code section 1542, or other
24 similar statutes that Plaintiff may have against any of the Released Parties. Section 1542 states:

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

This general release and waiver of rights under California Civil Code Section 1542 shall

1 include any and all claims based on conduct or omissions that occurred at any time prior to the date
2 of entry of an order by the Court in this Action approving this Settlement.

3 **C. Plaintiff's Counsel Payment of Attorneys' Fees and Costs**

4 25. Plaintiff's Counsel will apply to the Court for an award of attorneys' fees not to exceed
5 40% of the Total Settlement Payment, and Plaintiff's Counsel will also seek reimbursement of
6 reasonable litigation costs (attorneys' fees and reasonable litigation costs are referred to as "Plaintiff's
7 Counsel Payment"). Attorneys' fees shall not exceed 40% of the Total Settlement Payment, and costs
8 are estimated not to exceed \$15,000.

9 26. Defendants will not oppose or object to Plaintiff's Counsel's application for attorneys'
10 fees, not to exceed 40% of the Total Settlement Payment plus all documented and reasonable litigation
11 costs and expenses.

12 27. Plaintiff's Counsel Payment shall be paid from the Total Settlement Payment. Any
13 reductions by the Court of Plaintiff's Counsel's request for attorneys' fees or costs shall revert to the
14 PAGA Fund.

15 **D. Settlement Administration Fees and Costs**

16 28. Settlement administration shall be done by a qualified, third-party settlement
17 administrator agreed to by the Parties and approved by the Court ("Settlement Administrator"). The
18 Parties agree that the Settlement Administrative Costs shall be paid from the Total Settlement Payment.
19 This includes all fees and costs for postage, envelopes, and computer searches to locate addresses; and
20 expenses of the Settlement Administrator to implement and complete the settlement process according to
21 the terms of this Settlement, to calculate payments to individual PAGA Settlement Members, any cost
22 associated with the escheatment process for any uncashed or undeliverable settlement checks, to prepare
23 any necessary tax documents for PAGA Settlement Members, and any other related fees and costs (the
24 "Settlement Administrative Costs").

25 29. The settlement administration fees and costs shall be paid from the Total Settlement
26 Payment. Any reductions by the Court or any unused amount shall revert to the PAGA Fund.

27 **E. PAGA Fund**

28 30. After deducting the Plaintiff's Counsel Payment, Plaintiff's Enhancement Award, and

Settlement Administration Costs, the remainder of the Total Settlement Payment shall be allocated toward payment to the Labor & Workforce Development Agency and PAGA Settlement Members (the "PAGA Fund").

31. Seventy-five percent (75%) of the PAGA Fund will be sent to the LWDA and twenty-five percent (25%) of the PAGA Fund will be allocated among the PAGA Settlement Members, based on his or her proportionate share of the pay periods worked during the PAGA Period.

V. COMPUTATION AND DISTRIBUTION OF TOTAL SETTLEMENT FUND

A. Deposit of Total Settlement Payment

32. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID Number and calculate all settlement checks and withholdings required under law based on information that will be confidentially furnished by Defendants. There are no payroll deductions to be calculated under this Settlement, since no part of the Settlement will be classified as wages.

33. Defendants shall deposit the Total Settlement Payment with the Settlement Administrator the later of fourteen (14) days following the Effective Date or October 15, 2021.

34. Defendant Fairway Staffing Services will contribute Two-Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00) toward the Total Settlement Payment and Defendant Tortillacraft, LLC, will contribute Fifty Thousand Dollars and Zero Cents (\$50,000.00) toward the Total Settlement Payment.

B. Formula for Calculating Share of PAGA Fund

35. The portion of the PAGA Fund that is paid to each PAGA Settlement Member shall be determined based on the following formula:

- (a) The payment to PAGA Settlement Members will be based on the number of pay periods worked by each PAGA Settlement Member during the PAGA Period.
- (b) The amount to be paid per pay period worked by a PAGA Settlement Member will be calculated by dividing the value of the portion of the PAGA Fund that will be paid to PAGA Settlement Members by the total number of pay periods worked

by all PAGA Settlement Members during the PAGA Period.

(c) Defendants' records shall be determinative for purposes of calculating the number of pay periods worked and any payments to PAGA Settlement Members.

36. Prior to disbursement of any funds, the Settlement Administrator will provide a disbursement summary of the calculations for the Plaintiff's Enhancement Award, Plaintiff's Counsel Payment, payment to the LWDA, the Settlement Administration Costs, and individual payment to the PAGA Settlement Members for review and approval by Plaintiff's Counsel and Defense Counsel.

C. Distribution of PAGA Fund

37. Defendants shall provide the Settlement Administrator with a list of the names and addresses of the PAGA Settlement Members, to be furnished within ten (10) days after the Court issues an Order approving the Settlement. The contact information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of contact information of the PAGA Settlement Members. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Settlement.

38. Within seven (7) days after the Total Settlement Payment is fully funded, the Settlement Administrator shall pay to the LWDA an amount equivalent to seventy-five percent (75%) of the PAGA Fund, or as otherwise directed by the Court.

39. Within seven (7) days after the Total Settlement Payment is fully funded, the Settlement Administrator shall distribute to PAGA Settlement Members their individual portion of the PAGA Fund (the "Individual Payment"), or as otherwise directed by the Court.

40. Within seven (7) days after the Total Settlement Payment is fully funded, the Settlement Administrator shall distribute to the Plaintiff's Counsel their court-approved Plaintiff's Counsel Payment and approved litigation costs.

41. The Settlement Administrator will send the Individual Payment to the PAGA Settlement Members by postmarked First Class U.S. Mail, along with a letter explaining the settlement in substantially the same form as Exhibit A hereto.

42. To provide the best notice and delivery of Individual Payments practicable, any

1 Individual Payment returned to the Settlement Administrator as non-delivered shall be sent by
2 postmarked First Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding
3 address is provided for an Individual Payment that is returned as non-deliverable, the Settlement
4 Administrator shall use the best available technology accessible (e.g. skip tracing, address verification,
5 etc.) to the Settlement Administrator or other mutually agreeable method to locate PAGA Settlement
6 Members and will then mail the Individual Payment to the address identified by the best available
7 technology accessible to the Settlement Administrator or other mutually agreeable method. If no current
8 address is located, the Individual Payment for that individual will be deemed undeliverable. If any
9 PAGA Settlement Members cannot be located within two attempts at mailings by the Settlement
10 Administrator, the Individual Payment for that individual will be deemed undeliverable and will escheat
11 to the California State Controller's Office in the name of the PAGA Settlement Members who did not
12 cash his or her check .

13 43. The Settlement Administrator shall maintain a list of the postmark date for the original
14 mailing of the Individual Payment to the PAGA Settlement Members, the postmark date of any
15 subsequent mailing to any PAGA Settlement Members, and a list of PAGA Settlement Members who
16 did not receive the Individual Payment due to the inability to locate a valid address using the procedures
17 described herein or who otherwise could not be located within two attempts at mailing.

18 44. All settlement checks will remain valid and negotiable for 180 days from the date of their
19 mailing by the Settlement Administrator. After 180 days from the date of their mailing by the Settlement
20 Administrator, any uncashed checks will be void and escheat to the California State Controller's Office
21 in the name of the PAGA Settlement Members who did not cash his or her check.

22 45. No later than January 31 of the year following payment of their individual portion of the
23 PAGA Fund, the Settlement Administrator will prepare and issue IRS Form 1099 to PAGA Settlement
24 Members who received a payment.

25 **D. Settlement Administration Payment**

26 46. Within seven (7) days after Total Settlement Payment is fully funded, the Settlement
27 Administrator shall deduct an amount equivalent to the Settlement Administrative Costs.
28

1 **VI. CLAIMS RELEASED BY PAGA SETTLEMENT MEMBERS**

2 **A. Claims Released by the LWDA and All PAGA Settlement Members**

3 47. Upon the date of entry of an order by the Court in this Action approving this Settlement,
4 and payment of all funds due under this Settlement, the LWDA and PAGA Settlement Members,
5 including Plaintiff, fully release and forever discharge the Released Parties from any and all Released
6 Claims. As a result of this release, the PAGA Settlement Members will be unable to bring a claim under,
7 or recover in any other claim brought under, the California Private Attorneys General Act, California
8 Labor Code § 2698 *et seq.*, for any violations of the Released Claims that took place during the PAGA
9 Period.

10 **B. Tax Treatment and Tax Indemnification**

11 48. PAGA Settlement Members will assume any tax obligations or consequences which may
12 arise from this Settlement. PAGA Settlement Members release any and all claims that they have or may
13 have against Defendants for any claims, demands, deficiencies, levies, assessments, executions,
14 judgments, penalties, taxes, indemnification, and any other recoveries related to any payments made
15 under this Settlement or any compensation provided at any time by Defendants or any of the Released
16 Parties. If any state or federal taxing authority contacts, investigates, or pursues any action against any
17 PAGA Settlement Members for their individual share of taxes related to any payments made under this
18 Settlement or any compensation provided at any time by Defendants or any of the Released Parties, each
19 PAGA Settlement Member shall be responsible for their own defense of and payment for any claim of
20 unpaid taxes, interest, or penalties brought by any state or federal taxing authority for the PAGA
21 Settlement Member's share of any state or federal tax obligation. If a PAGA Settlement Member has
22 questions about any liability to any state or federal taxing authority, they shall contact the Settlement
23 Administrator or Plaintiff's Counsel. The PAGA Settlement Members shall not contact Defendants, any
24 of the Released Parties, or Defense Counsel.

25 **VII. MISCELLANEOUS PROVISIONS**

26 **A. Mutual Full Cooperation**

27 49. Plaintiff and Defendants, Plaintiff's Counsel, and Defense Counsel agree to fully
28 cooperate with each other to accomplish the terms of this Settlement, including, but not limited to,

1 execution of such documents and to take such other action as may reasonably be necessary to implement
2 the terms herein. The Parties agree to use their best efforts and any other efforts that may become
3 necessary by Order of the Court, or otherwise, to effectuate this Settlement.

4 **B. Parties' Authority**

5 50. The signatories hereto represent that they are fully authorized to enter into this
6 Settlement.

7 **C. Binding Nature of the Settlement**

8 51. This Settlement shall be binding upon, and inure to the benefit of, the successors or
9 assigns of the Released Parties. Plaintiff represents, covenants, and warrants that he has not directly or
10 indirectly, assigned, transferred, encumbered, any claim, demand, action, cause of action or rights
11 released in the Released Claims in this Settlement. This Settlement also shall be binding upon Plaintiff
12 and the PAGA Settlement Members.

13 52. This Settlement may be amended or modified only by a written instrument. No rights
14 under this Settlement may be waived except in writing.

15 53. This Settlement constitutes the entire agreement between Plaintiff and Defendants
16 relating to the settlement of the PAGA cause of action alleged in this action. All prior or
17 contemporaneous agreements, understandings and statements, whether oral or written, whether express
18 or implied, and whether by a party or its counsel, concerning this Settlement are merged herein. No oral
19 or written representations, warranties or inducements have been made to any party concerning this
20 Settlement other than the representations, warranties and covenants contained and memorialized in such
21 documents.

22 54. Paragraph titles or captions contained herein are inserted as a matter of convenience and
23 for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any of its
24 provisions. Each term of this Settlement is intended to be contractual and not merely a recital.

25 **D. Joint Drafting of Settlement Documents**

26 55. Plaintiff's Counsel and Defense Counsel have arrived at this Settlement as a result of a
27 series of arm's-length negotiations, taking into account all relevant factors, present and potential.

28 56. This Settlement has been drafted jointly by Plaintiff's Counsel and Defense Counsel and,

1 therefore, in any construction or interpretation of this Settlement, the same shall not be construed against
2 any of the Parties.

3 **E. Execution of the Settlement**

4 57. This Settlement may be executed in one or more counterparts and by email or facsimile .
5 All executed copies of this Settlement and photocopies thereof shall have the same force and effect and
6 shall be as legally binding and enforceable as the original.

7 **F. Continuing Jurisdiction of the Court**

8 58. Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that the
9 Court shall retain jurisdiction over the Parties, and over this Settlement, in order to: (i) monitor and
10 enforce compliance of Settlement, and/or (ii) resolve any disputes over this Settlement or the
11 administration of the benefits of this Settlement.

12 **G. Representations by Plaintiff**

13 59. Plaintiff acknowledges the following:

- 14 (a) Plaintiff has carefully read and fully understand all of the provisions of this
15 Settlement;
- 16 (b) Plaintiff knowingly and voluntarily agrees to all of the terms set forth in this
17 Settlement and has not been coerced, threatened, or intimidated into executing
18 this Settlement;
- 19 (c) Plaintiff was advised, and hereby is advised in writing, to consider the terms of
20 this Settlement and consult with his attorneys before signing this Settlement.
- 21 (d) Other than the fees and costs awarded pursuant to the terms of this Settlement,
22 Plaintiff acknowledges that all parties shall bear their own fees and costs through
23 the conclusion of this action.

24 **H. Representations by Defendants**

25 60. Defendants acknowledge the following:

- 26 (a) Defendants have carefully read and fully understand all of the provisions of this
27 Settlement;
- 28 (b) Defendants knowingly and voluntarily agree to all of the terms set forth in this

Settlement and have not been coerced, threatened, or intimidated into executing this Settlement;

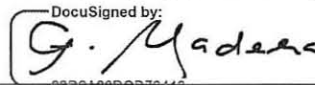
(c) Defendants were advised, and hereby are advised in writing, to consider the terms of this Settlement and consult with their attorney before signing this Settlement.

(d) Other than the fees and costs awarded pursuant to the terms of this Settlement, Defendants acknowledge that all parties shall bear their own fees and costs through the conclusion of this action.

AGREED TO BY PLAINTIFF:

DATED: 8/26/2021

GERARDO MADERA, individually and on behalf of other allegedly aggrieved employees

DocuSigned by:


Gerardo Madera

AGREED TO BY DEFENDANTS:

DATED:

FAIRWAY STAFFING SERVICES

Title

DATED:

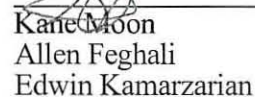
TORTILLACRAFT, LLC

Title

AGREED TO BY PLAINTIFF'S COUNSEL:

MOON & YANG, APC

DATED: August 26, 2021


Kane Moon
Allen Feghali
Edwin Kamarzarian

AGREED TO BY DEFENDANTS' COUNSEL:

1 Settlement and have not been coerced, threatened, or intimidated into executing
2 this Settlement;

3 (c) Defendants were advised, and hereby are advised in writing, to consider the terms
4 of this Settlement and consult with their attorney before signing this Settlement.

5 (d) Other than the fees and costs awarded pursuant to the terms of this Settlement,
6 Defendants acknowledge that all parties shall bear their own fees and costs
7 through the conclusion of this action.

8 AGREED TO BY PLAINTIFF:

9 DATED: GERARDO MADERA, individually and on behalf of
10 other allegedly aggrieved employees

11 _____
12 Gerardo Madera

13 AGREED TO BY DEFENDANTS:

14 DATED: FAIRWAY STAFFING SERVICES

15 _____
16 _____
17 Title

18 DATED: 08/26/2021

TORTILLACRAFT, LLC

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20 _____
21 Authorized Representative

22 Title

23 AGREED TO BY PLAINTIFF'S COUNSEL:

24 **MOON & YANG, APC**

25 DATED:

26 _____
27 Kane Moon
28 Allen Feghali
Edwin Kamarzarian

AGREED TO BY DEFENDANTS' COUNSEL:

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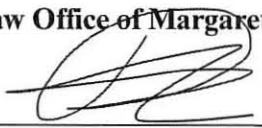
LightGabler

DATED:

Jonathan Fraser Light
Chandra Beaton
Elizabeth L. Harrier
Attorneys for FAIRWAY STAFFING SERVICES

Law Office of Margaret Reyes

DATED: 8/27/21



Margaret Reyes
Attorneys for TORTILLACRAFT, LLC

Settlement and have not been coerced, threatened, or intimidated into executing this Settlement;

(c) Defendants were advised, and hereby are advised in writing, to consider the terms of this Settlement and consult with their attorney before signing this Settlement.

(d) Other than the fees and costs awarded pursuant to the terms of this Settlement, Defendants acknowledge that all parties shall bear their own fees and costs through the conclusion of this action.

AGREED TO BY PLAINTIFF:

DATED: GERARDO MADERA, individually and on behalf of other allegedly aggrieved employees

Gerardo Madera

AGREED TO BY DEFENDANTS:

DATED: FAIRWAY STAFFING SERVICES

08/30/2021

Ramon Gonzalez
Risk Manager
Title

DATED: TORTILLACRAFT, LLC

Title

AGREED TO BY PLAINTIFF'S COUNSEL:

MOON & YANG, APC

DATED:

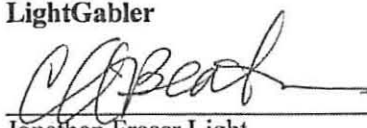
Kane Moon
Allen Feghali
Edwin Kamarzarian

AGREED TO BY DEFENDANTS' COUNSEL:

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DATED: 8/30/21

LightGabler



Jonathan Fraser Light
Chandra Beaton
Elizabeth L. Harrier
Attorneys for FAIRWAY STAFFING SERVICES

Law Office of Margaret Reyes

DATED:

Margaret Reyes
Attorneys for TORTILLACRAFT, LLC

EXHIBIT A

[CLAIMS ADMINISTRATOR LETTERHEAD]

Mailing Date

NOTICE OF SETTLEMENT

Re: GERARDO MADERA, an individual, on behalf of the State of California, as a private attorney general, Plaintiff v. FAIRWAY STAFFING SERVICES, INC. and TORTILLACRAFT, LLC, Defendants, Los Angeles County Superior Court, Case No. 20STCV09176 filed on March 6, 2020 (the "Lawsuit")

[claims admin info]

A settlement has been reached in the above-referenced lawsuit.

On XXXX, the Los Angeles County Superior Court issued an Order approving the settlement of claims brought pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"). The Court approved a settlement in the amount of \$275,000.00 (the "Settlement"). After accounting for the Plaintiff's attorney's fees of \$110,000.00 and costs of up to \$15,000.00; payment to Plaintiff in the amount of \$7,500.00 for bringing this action in exchange for a general release, and settlement administration costs of up to \$15,000.00; the State of California will receive approximately \$95,625.00 (75% of the remaining settlement amount as required by law) and the eligible current and former employees of Fairway Staffing Services and Tortillacraft, LLC ("Defendants") are receiving a pro rata share of the remaining approximately \$31,875.00 (25% of the PAGA penalties) based upon the number of pay periods he/she worked for Defendants from February 19, 2019 through <<date of approval>>.

By way of this Settlement, Defendants have been released from any and all claims, demands, rights, liabilities, and/or causes of action for PAGA penalties pursuant to Labor Code Section 2698 *et seq.* that were or could have been brought by Plaintiff based on the facts alleged in the Lawsuit, any of the PAGA Members, or the State of California, including PAGA penalties for alleged violations of Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, 2699(f)(2) and any category of violations identified in Labor Code § 2699.5. (The "PAGA Notice refers to a March 3, 2020 letter Plaintiff submitted to the California Labor and Workforce Development Agency ("LWDA") giving notice of his intent to pursue a representative PAGA action, on behalf of himself and the State of California as well as on behalf of other allegedly aggrieved employees.) This includes claims for failure to pay minimum and regular rate wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to reimburse necessary business expenses, failure to timely pay final wages at termination, failure to provide accurate itemized wage statements and unfair business practices. Defendants deny any liability or wrongdoing and contend, among other things, that they have complied at all times with the California Labor Code, the California Business and Professions Code, the related California Wage Orders, and all other state and federal wage laws, and further contends that the Lawsuit is without merit.

You are receiving money under the Settlement because you are or were an employee of Defendants within the State of California who worked one or more pay periods from February 19, 2019 through <<date of approval>>. Your settlement amount is <<\$ Amount>>. Your enclosed check is valid for 180 days from the date of its issuance. After that date, you cannot cash the check and it will be null and void. Funds attributable to such uncashed checks will be sent to the State of California Unclaimed Property Fund in your name. **Even if you fail to cash the enclosed check, you will still be deemed to have waived all claims arising from the Lawsuit, including all claims set forth in the release of claims described above. However, nothing in this Lawsuit releases your individual claims, to the extent that they are not barred by applicable law and have not been resolved by the Court in this lawsuit.**

Questions About The Settlement:

Kane Moon, Esq.
Allen Feghali, Esq.
MOON & YANG, APC
1055 W. 7th Street, Suite 1880
Los Angeles, CA 90017
Telephone: (213) 232-3128

Questions About Your Check or Address Information:

ILYM Group, Inc.
[INSERT CONTACT INFORMATION]

EXHIBIT B

Activities Export

09/07/2021
10:45 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
08/03/2021	\$	Berger Consulting ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	1,050.00	-	1,050.00
07/26/2021	\$	LASC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	15.00	-	15.00
07/26/2021	\$	LASC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	7.26	-	7.26
07/26/2021	\$	LASC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	7.26	-	7.26
05/10/2021	\$	LASC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	15.00	-	15.00
02/23/2021	\$	LASC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	7.26	-	7.26
02/23/2021	\$	LACC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	15.00	-	15.00
12/01/2020	\$	Mediation fee (p) ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	4,650.00	-	4,650.00
11/10/2020	\$	LACC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	15.00	-	15.00
10/01/2020	\$	LASC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	7.26	-	7.26
09/01/2020	\$	DDS ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	59.95	-	59.95
09/01/2020	\$	DDS	01011-Madera	Seung Yang	1.00	59.95	-	59.95

Activities Export

09/07/2021

10:45 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		● Unbilled	Madera v. Tortillacraft (ED)					
08/31/2020	\$	DDS ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	29.95	-	29.95
08/11/2020	\$	LACC ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	15.00	-	15.00
06/22/2020	\$	DDS ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	29.95	-	29.95
05/18/2020	\$	DDS ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	116.32	-	116.32
04/13/2020	\$	DDS ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	173.75	-	173.75
03/10/2020	\$	LWDA ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	75.00	-	75.00
03/05/2020	\$	Complaint fee ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	1,435.00	-	1,435.00
03/05/2020	\$	Admin fee ● Unbilled	01011-Madera Madera v. Tortillacraft (ED)	Seung Yang	1.00	750.00	-	750.00
							\$0.00 0.0h	\$8,533.91 0.0h

EXHIBIT C

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Madera v. Fairway Staffing Service, Inc., et al

Monday, July 19, 2021

Requesting Attorney:

Allen Feghali

E-Mail:

allen.feghali@moonyanglaw.com

ILYM Contact:

Sean Hartranft

E-Mail:

Sean@ilymgrouplawclassaction.com

Contact Number:

949.690.2564

Assumptions: PAGA Settlement

ASSUMPTIONS	
Total Number of Aggrieved Employees	349
Certified Spanish Translation	No
Remail of Undeliverables	Yes
Toll-Free Telephone Support Included	Yes

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	3	\$450.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	6	\$720.00
Toll-Free Telephone Support	Flat Rate	\$95.00	1	\$95.00
NCOA	Flat Rate	\$50.00	1	\$50.00

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

Subtotal \$1,315.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$1.50	349	\$523.50
USPS First Class Postage	Per Piece	\$0.55	349	\$191.95
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.00	70	\$139.60
Preparation of Taxes	Hourly	\$125.00	10	\$1,250.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal \$4,705.05

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	4	\$400.00
Process Unclaimed Funds to State Controller's Office	Flat Fee	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal \$1,525.00

TOTAL CASE COSTS: \$7,545.05

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **[PROPOSED] ORDER AND JUDGMENT**

2 Having considered the foregoing Stipulation, and good cause appearing therefor,

3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

4 1. The Court, for purposes of this Final Order and Judgment, refers to all defined terms
5 as set forth in the Settlement Agreement and Release of PAGA Claims attached as Exhibit "A" to
6 the foregoing Stipulation.

7 2. The Settlement is hereby accepted and approved;

8 3. Plaintiff and all PAGA Settlement Members shall have, by operation of this Final
9 Order and Judgment, fully, finally, and forever released, relinquished, and discharged the
10 Released Parties from all Released Claims as follows:

11 Upon the date of entry of an order by the Court in this Action approving this
12 Settlement, and payment of all funds due under this Settlement, the LWDA and
13 PAGA Settlement Members, including Plaintiff, fully release and forever
14 discharge the Released Parties from any and all Released Claims. As a result of
15 this release, the PAGA Settlement Members will be unable to bring a claim under,
16 or recover in any other claim brought under, the California Private Attorneys
17 General Act, California Labor Code § 2698 *et seq.*, for any violations of the
18 Released Claims that took place during the PAGA Period.

19 "Released Claims" shall mean any and all claims, whether known or unknown, to
20 recover civil penalties pursuant to PAGA for any alleged violations by Defendants
21 of California Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558,
22 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, 2699(f)(2) and any category of
23 violations identified in Labor Code § 2699.5, and the related applicable IWC
24 Wage Order provision for the PAGA Period.

25 "PAGA Period" shall mean February 19, 2019 through the date of the order
26 granting approval of the Settlement.

27 "Released Parties" shall mean Defendants, and all of their respective joint
28 employers, staffing companies, subsidiary companies, affiliates, holding
companies, predecessors, successors, partners, shareholders, insurers, legal
representatives, assigns, employees, independent contractors, officers, directors,
attorneys, agents, and related entities, parties or other representatives of any kind.

"PAGA Settlement Members" shall mean all current and former hourly-paid or
non-exempt employees in California working at Tortillacraft, LLC at any time
during the PAGA Period; including, but not limited to, employees deployed by
Fairway Staffing Services.

1 4. The Parties shall bear their own respective attorneys' fees and costs, except as
2 otherwise provided for in the Settlement and approved by the Court.

3 5. The Settlement is not an admission by Defendants, nor is this Order a finding of the
4 validity of any allegations or of any wrongdoing by Defendants. Neither this Order, the
5 Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement,
6 may be used as an admission of any fault, wrongdoing, omission, concession, or liability
7 whatsoever by or against Defendants.

8 6. Defendants shall pay the PAGA Settlement Members, Plaintiff's Counsel, the Labor
9 and Workforce Development Agency ("LWDA"), and the Settlement Administrator pursuant to
10 the terms of the Settlement:

- 11 a. Actual administration costs of up to \$15,000.00, payable to the Settlement
12 Administrator for administration of the Settlement;
- 13 b. Attorneys' fees to Plaintiff's Counsel in the amount of \$110,000.00;
- 14 c. Reimbursement for actual costs incurred by Plaintiff's Counsel, not to exceed
15 \$15,000.00;
- 16 d. \$7,500 to Plaintiff Gerardo Madera in exchange for a general release with Civil
17 Code section 1542 waiver; and
- 18 e. The remaining amount to the PAGA Fund, which shall be allocated as set forth in
19 Labor Code § 2699(d), with 75% allocated to the LWDA, and the remaining 25%
20 to the PAGA Settlement Members on a pro-rata basis. The Administrator will
21 cancel all checks that remain uncashed 180 days from the mailing date and
22 forward such amounts to the California State Controller's Office in the names of
23 the PAGA Settlement Members who did not cash their check.

24 7. Defendant Fairway Staffing Services will contribute Two-Hundred Twenty-Five
25 Thousand Dollars and Zero Cents (\$225,000.00) toward the Total Settlement Payment and
26 Defendant Tortillacraft, LLC, will contribute Fifty Thousand Dollars and Zero Cents
27 (\$50,000.00) toward the Total Settlement Payment. Defendants shall deposit the Total Settlement
28

1 Payment with the Settlement Administrator the later of fourteen (14) days following the Effective
2 Date or October 15, 2021.

3 8. The Court hereby confirms Kane Moon, Allen Feghali, and Edwin Kamarzarian of
4 Moon & Yang, APC as PAGA Counsel.

5 9. The Court finds that the fees requested by Plaintiff's Counsel of forty percent (40%)
6 of the total settlement amount are reasonable, and the costs requested of up to \$15,000.00 are
7 reasonable and necessary for the prosecution of this action. The Court hereby awards attorney's
8 fees in the amount of \$110,000.00 and costs in the amount of \$8,533.91 to Plaintiff's Counsel for
9 their attorney's fees and costs. The payment of fess and costs to Plaintiff's Counsel shall be
10 made in accordance with the terms of the Settlement.

11 10. The Court approves of the proposed letter attached to the Settlement Agreement and
12 Release of PAGA Claims as Exhibit A to be sent to PAGA Settlement Members along with their
13 respective settlement check.

14 11. This action is dismissed with prejudice.

15 12. Plaintiff shall submit a copy of this Order and Judgment to the LWDA within ten
16 calendar days after entry of the Order and Judgment.

17 13. This Court shall retain jurisdiction, pursuant to C.C.P. section 664.6, over this action,
18 the Parties, and the PAGA Settlement Members to the fullest extent necessary to interpret,
19 enforce, and effectuate the terms and intent of the Settlement and this Order and Judgment.

20 DATED: 09/28/2021



John P. Doyle

HON. JOHN P. DOYLE
John P. Doyle / Judge
JUDGE OF THE LOS ANGELES
COUNTY SUPERIOR COURT

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

3 COUNTY OF LOS ANGELES) ss

4 I am employed in the county of Los Angeles, State of California. I am over the age of 18
5 and not a party to the within action; my business address is 1055 W. 7th Street, Suite 1880, Los
6 Angeles, California 90017. On **September 7, 2021** I served the foregoing document described
as:

7 **STIPULATION OF SETTLEMENT AND [PROPOSED] ORDER APPROVING**
8 **SETTLEMENT OF PLAINTIFF'S CLAIMS FOR CIVIL PENALTIES UNDER PAGA**

9 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
addressed as follows:

10 Margaret Reyes, Esq.
11 **Law Office of Margaret Reyes**
2400 East Katella Avenue, Ste. 800
Anaheim, CA 92806
12 lawyermargaret@gmail.com

13 *Attorneys for Defendant*
14 *Tortillacraft, LLC*

Jonathan Fraser Light
Chandra A. Beaton
Elizabeth L. Harrier
LightGabler
760 Paseo Camarillo, Suite 300
Camarillo, CA 93010
Tel: (805) 248-7208
Fax: (805) 248-7209
jlight@lightgablerlaw.com
cbeaton@lightgablerlaw.com
eharrier@lightgablerlaw.com

15 *Attorneys for Defendant Fairway Staffing*
16 *Services*

17 ☒ **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California.
18 The envelope was mailed with postage thereon fully prepaid. I am "readily familiar"
19 with the firm's practice of collection and processing correspondence for mailing.
20 Under that practice it would be deposited with U.S. postal service on that same day
21 with postage thereon fully prepaid at Los Angeles, California in the ordinary course
of business. I am aware that on motion of the party served, service is presumed
invalid if postal cancellation date or postage meter date is more than one day after
date of deposit for mailing in affidavit.

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

24 Executed this **September 7, 2021**, at Los Angeles, California.

25 _____
26 Ivette Hernandez
Type or Print Name

27 
28 _____
Signature