

JUN 09 2021

Sherri B. Carter, Executive Officer/Clerk
By Susan Alvarez Deputy

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

LUIS PELAYO, individually, and on behalf of
aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA");

Plaintiff,

v.

RANCHO FOODS, INC., a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 20NWCV00359

JUDGE RAUL A. SAHAGUN
Honorable Olivia Rosales
Department C

**[PROPOSED] ORDER AND
JUDGMENT GRANTING APPROVAL
OF PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, ET SEQ.)
SETTLEMENT AGREEMENT AND
ATTORNEYS' FEES AWARD,
LITIGATION COSTS AWARD, AND
ENHANCEMENT AWARD**

[Reservation ID: 403461476116]

Hearing Date: June 9, 2021
Hearing Time: 1:30 p.m.
Hearing Place: Department C

Complaint Filed: June 25, 2020
Trial Date: None Set

1 This matter has come before the Honorable Olivia Rosales in Department C of the above-
2 entitled Court, located at 12720 Norwalk Blvd., Norwalk, California 90650, on Plaintiff Luis
3 Pelayo's ("Plaintiff") Motion for Approval of Private Attorneys General Act (Labor Code § 2698,
4 *et seq.*) Settlement Agreement, Attorneys' Fees Award, Litigation Costs Award, and enhancement
5 award. This Court has reviewed the papers submitted by Plaintiff in support of approval of a
6 Settlement Agreement pursuant to the California Labor Code Private Attorneys General Act of
7 2004, California Labor Code section 2698 *et seq.* ("PAGA"). Settlement Agreement and Release
8 ("Settlement Agreement," "Settlement," or "Agreement"), is attached hereto as **Exhibit 1**. Based
9 upon this review, and the findings below, the Court finds good cause to enter this order.

10 **FINDINGS:**

11 1. Unless otherwise specified, defined terms in this Order Approving Settlement
12 Agreement ("Order") have the same definition as the terms in the Settlement Agreement.

13 2. The Court has jurisdiction over the subject matter of this litigation, over all current
14 and former non-exempt employees of Rancho Foods, Inc. ("Defendant") during the period from
15 April 20, 2019 through March 3, 2021 ("Settlement Group," "Settlement Group Members," and
16 "Settlement Period"), and over those persons or entities undertaking affirmative obligations under
17 the Settlement Agreement.

18 3. On or about April 20, 2020, Plaintiff served a notice letter to the California Labor
19 and Workforce Development Agency ("LWDA") and Defendant, pursuant to California Labor
20 Code Section 2699.3, to notify the LWDA of the alleged California Labor Code violations. The
21 LWDA did not respond to Plaintiff's correspondence.

22 4. On or about June 25, 2020, Plaintiff filed this Lawsuit via a "Complaint for Civil
23 Penalties Under PAGA." Plaintiff sought, on behalf of the State of California, to represent himself
24 and all Settlement Group Members.

25 5. On or about November 6, 2020, Defendant filed an Answer containing a general
26 denial of all material allegations in the Complaint.

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1 6. The Parties expressly acknowledge that the Settlement Agreement is entered into
2 solely for the purpose of compromising significantly disputed claims, and that nothing contained
3 therein is an admission of liability or wrongdoing by Defendant.

4 7. The Court determines that there is sufficient evidence to suggest that the Settlement
5 was entered into in good faith, that the Settlement is fair, reasonable, and adequate under the
6 circumstances, and that the Parties have satisfied the standards and applicable requirements for
7 approval of a settlement of claims brought under PAGA.

8 8. The Court finds that pursuant to California Labor Code Section 2699(1)(2) and (1)(4),
9 the LWDA was given timely notice of the Settlement Agreement. On May 11, 2021, Plaintiff
10 submitted to the LWDA a Notice of Settlement, attached to which was a copy of the Settlement
11 Agreement. Plaintiff's Notice of Settlement complied with the requirements of California Labor
12 Code Section 2699(1)(2).

13 **IT IS HEREBY ORDERED THAT:**

14 1. The terms of the Settlement Agreement are fair, adequate, and reasonable, and the
15 Settlement is approved under California Labor Code Section 2699(1)(2).

16 2. The Court affirms approval of the Settlement as to the following group of
17 individuals, collectively referred to as the "Settlement Group Members":

18 All current and former non-exempt employees of Defendant during
19 the Settlement Period.

20 3. Upon the Effective Date, this settlement forever bars Plaintiff, the LWDA, and any
21 other representative, proxy, or agent thereof, including, but not limited to, any and all allegedly
22 aggrieved employees, for the period spanning April 20, 2019 through March 3, 2021, from pursuing
23 any action under PAGA against the Released Parties based on or arising out of alleged violations
24 of Labor Code sections alleged in the Lawsuit through the end of the Settlement Period. This
25 release applies whether or not a given Settlement Group Member receives or cashes his or her
26 Individual Settlement Award ("Released Claims").

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1 4. The Gross Settlement Amount of \$350,000, the PAGA Penalties Fund, and the
2 methodology used to calculate and pay each Individual Settlement Awards, in accordance with the
3 Settlement, is approved under California Labor Code Section 2699(1)(2).

4 5. The Court approves an Attorneys' Fees Award to Plaintiff's Counsel equal to thirty-
5 eight percent (38%) of the Gross Settlement Amount (*i.e.*, Attorneys' Fees Award of \$133,000),
6 Litigation Costs Award in the amount of \$11,250.24 for reimbursement of actual litigation costs
7 and expenses, an enhancement award to Plaintiff in the amount of \$10,000, and Administration
8 Costs in the amount of \$6,500 to Phoenix Class Action Administration Solutions ("Settlement
9 Administrator"), all payable from the Gross Settlement Amount. The Court finds that the amounts
10 requested are fair and reasonable.

11 6. After deducting the approved payments described above, the balance of the
12 settlement amount will be approximately \$189,249.76 ("PAGA Penalties Fund"). Under the terms
13 of the Settlement, seventy-five (75%) of the PAGA Penalties Fund (\$141,937.32) will be paid to
14 the LWDA ("LWDA Payment"). The remaining twenty-five percent (25%) of the PAGA Penalties
15 Fund (\$47,312.44) will be paid to the Settlement Group in accordance with the terms of the
16 Settlement ("Individual Settlement Awards").

17 7. The Court authorizes the Settlement Administrator to calculate and pay the
18 Individual Settlement Awards, in accordance with the terms of the Settlement.

19 8. Within twenty (20) calendar days of the Effective Date of the Agreement, Defendant
20 will provide the Settlement Administrator the entire \$350,000 Gross Settlement Amount. Within
21 fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue
22 the payments required by Section 7 of the Agreement to the appropriate entities or persons.
23 Individual Settlement Awards will be paid in the form of a check delivered to each Settlement
24 Group Member at the last known address on file with Defendant or as updated by the Settlement
25 Administrator. Each Individual Settlement Award will be accompanied by an explanatory letter
26 (attached as Exhibit A to the Settlement Agreement).

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1 9. Any Individual Settlement Award checks that are not cashed, deposited, or
2 negotiated within one hundred twenty (120) days after the date of their issuance ("Check Stale
3 Date") will be void, and the amount of those checks will be directed to the California State
4 Controller for the deposit in the Unclaimed Property Fund in the name of the employee. Any checks
5 to the Settlement Group that are returned as undeliverable on or before the Check Stale Date will
6 be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no
7 forwarding address is provided, the Settlement Administrator will attempt to determine the correct
8 address using a skip trace or other reasonable method and will then perform a single remailing.

9 10. Plaintiff's Counsel will not seek or be entitled to any attorneys' fees and/or expenses
10 related to the claims encompassed by the Agreement, other than those set forth above.

11 11. Plaintiff's compliance with the notice procedures described in the Settlement
12 Agreement shall constitute due and sufficient notice to the LWDA and shall be deemed to satisfy
13 any requirement of due process. Nothing else shall be required of, or done by, the Parties, Plaintiff's
14 Counsel, or Defendant's Counsel to provide notice of the Settlement.

15 12. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
16 continuing jurisdiction over the Lawsuit and the Parties to the fullest extent necessary to enforce
17 and effectuate the terms and intent of the Agreement.

18 13. Nothing in this Order or the Settlement Agreement shall be construed as evidence
19 of an admission or concession by any Party. The Settlement and this resulting Order simply
20 represents a compromise of significantly disputed allegations.

21 14. Within ten (10) calendar days of entry of this Order, Plaintiff shall provide a copy
22 of this Order to the LWDA, pursuant to California Labor Code Section 2699, subdivisions (l)(3)
23 and (l)(4).

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1 15. Plaintiff shall file a request for dismissal of the Action in its entirety as to Defendant
2 with prejudice, within ten (10) court days of the Court entering this Order and serving it on the
3 Parties.

4 **IT IS SO ORDERED.**

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6 Dated: JUN - 9 2021



HON. JUDGE OLIVIA ROSALES

JUDGE RAUL A. SANAGUN

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

Subject to approval by the Superior Court of the State of California for the County of Los Angeles (the "Superior Court"), this Settlement Agreement and Release ("Agreement") is made and entered into by and between Plaintiff Luis Pelayo ("Plaintiff"), on behalf of himself and as a representative aggrieved employee pursuant to Labor Code Private Attorneys General Act (Labor Code Section 2698 et seq.), and Defendant Rancho Foods, Inc. ("Rancho Foods" or "Defendant") to settle the civil action in the Los Angeles County Superior Court ("Superior Court") entitled *Luis Pelayo v. Rancho Foods, Inc.*, which has been designated case number 20NWCV00359 (the "Lawsuit"). Plaintiff and Defendant are collectively referred to herein as the "Parties," and each may be individually referred to herein as a "Party."

RECITALS

This Agreement is made in consideration of the following facts:

A. Plaintiff Luis Pelayo ("Pelayo") is a former employee of Rancho Foods who worked from September 2, 2018 to September 10, 2019.

B. Plaintiff contends that he suffered one or more violations of the California Labor Code during his work at Rancho Foods and that he is therefore an "aggrieved employees" under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Cal. Lab. Code § 2698 et seq., under which an "aggrieved employee" may, after exhausting administrative remedies with the California Labor and Workforce Development Agency (the "LWDA"), act as an agent of the State of California to bring an action to recover civil penalties from his or her former employer on behalf of himself or herself and other current or former employees for violations of the California Labor Code.

C. Pursuant to PAGA, Plaintiff submitted a letter to the LWDA (collectively the "PAGA Notice"), alleging that Defendant subjected Plaintiff and other non-exempt employees working in California to certain violations of the California Labor Code, including sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, premised upon Defendant's alleged failure to properly pay non-exempt employees for all hours worked, failure to compensate minimum and overtime wages, failure to provide/authorize and permit meal and rest breaks (or pay premiums in lieu thereof), failure to issue and/or provide complete and accurate wage statements, failure to reimburse for all necessary business expenses and related costs, failure to timely pay all wages due during employment and upon termination, and failure to maintain accurate and complete payroll records, all of which are collectively referred to herein as the "PAGA Representative Claims."

D. On June 25, 2020, Plaintiff filed the Lawsuit seeking to recover civil penalties and attorneys' fees based on PAGA representative theories of liability.

E. Defendant denies, and continue to deny, all of the allegations in the Lawsuit and any contention that Defendant committed any misconduct, wrongdoing, or any other actionable conduct of any kind, including any violation of the California Labor Code.

F. The Parties have each independently analyzed and investigated the facts and law relevant to the Lawsuit through informal discovery, including, but not limited to, the employment policies, procedures, and practices implicated by the PAGA Representative Claims; a sampling of timekeeping records, payroll records, and wage statements relating to Plaintiff and the other non-exempt employees on whose behalf Plaintiff brought the PAGA Representative Claims asserted in the Lawsuit; and summaries of data pertaining to the number of employees allegedly affected by the PAGA Representative Claims.

G. After evaluating the strengths and weaknesses of their respective positions, after considering the time, expense, and risk associated with litigating the Lawsuit to judgment, and after engaging in arm's-length settlement negotiations at a mediation session with mediator Jeffrey Krivis, Esq., an experienced and well-respected mediator the Parties desire, and have agreed, to fully and finally settle any and all claims in the Lawsuit up to and through the Settlement Period (as defined herein).

NOW, THEREFORE, in consideration of the promises and agreements contained herein, the Parties agree to, and, pursuant to Labor Code section 2699(1)(2), seek approval of, the following settlement terms.

SETTLEMENT TERMS

1. **Superior Court Approval of the Agreement.** In accordance with California Labor Code section 2699(1)(2), the Parties will present this Agreement to the Superior Court for its review and approval. Plaintiff's Counsel shall prepare a stipulation for approval of this Agreement.

2. **Delivery of Agreement to the LWDA.** As required by California Labor Code section 2699(1)(2), Plaintiff will cause this Agreement to be submitted to the LWDA at the same time that this Agreement is submitted to the Superior Court for approval.

3. **Effective Date.** This Agreement shall become fully effective: if the LWDA does not object, the date the court gives approval of the settlement; or if the LWDA objects, the date when any objection or appeal is finally resolved.

4. **No Admission of Liability.** The Parties acknowledge and agree that this Agreement is a compromise and settlement of disputed claims in the Lawsuit and that this Agreement is made and entered into without any admission of liability or wrongdoing of any kind whatsoever by Defendant, each of whom expressly denies and disclaims any liability or wrongdoing whatsoever. Accordingly, neither the execution of this Agreement, its creation, the payment of any sum or consideration hereunder, nor the performance of any obligation required by this Agreement is, or shall be construed as, an admission of wrongdoing or liability on the part of Defendant. Additionally, neither the execution of this Agreement, its creation, the payment of any sum or consideration hereunder, nor the performance of any obligation required by this Agreement is, or shall be construed as, an admission of the truth or accuracy of any allegation made by Plaintiff or Plaintiff's counsel in the Lawsuit.

5. **Persons and Entities Covered by this Agreement**

(a) **The Settlement Period.** This Agreement shall cover the period from April 20, 2019 through March 3, 2021 (the “Settlement Period”).

(b) **The Settlement Group.** This Agreement shall cover all current and former non-exempt employees of Rancho Foods during the Settlement Period. Such employees shall be collectively referred to herein as the “Settlement Group.” Each employee within the Settlement Group may be individually referred to herein as a “Settlement Group Member.”

6. **Settlement Administration**

(a) The Parties will retain Phoenix Settlement Administrators, or another third-party settlement administrator mutually selected by the Parties and with whom no Party has a financial interest or other relationship that could create a conflict of interest, to act as the “Settlement Administrator” with respect to this Agreement.

(b) The Settlement Administrator shall be responsible for establishing a qualified settlement fund pursuant to 26 U.S.C. § 486B, making all payments required by this Agreement, handling all required state and federal tax withholding and reporting related thereto to the extent necessary, and issuing all appropriate tax forms to Plaintiff, Plaintiff’s Counsel, the Settlement Group, and the LWDA resulting from the settlement payments under this agreement.

(c) Any disputes concerning administration of the Agreement may be submitted to Jeffrey Krivis, Esq., the mediator who facilitated the negotiation of this Agreement. If the Parties’ cannot resolve their dispute with the mediator’s assistance, the dispute may be submitted to and resolved by the Superior Court.

7. **Settlement Payments**

(a) **Gross Settlement Amount.** In consideration of, and subject to, the promises, terms, and conditions set forth in this Agreement—including the releases set forth in Section 9 of this Agreement—Defendant shall pay the maximum gross sum of Three Hundred Fifty Thousand Dollars (\$350,000.00) (the “Gross Settlement Amount”), in the manner and method set forth in this Agreement, to fully, finally, and completely settle the Lawsuit and the PAGA Representative Claims alleged therein on behalf of the Settlement Group, including any and all associated claims for civil penalties, attorneys’ fees, and litigation costs and expenses. Nothing in this Agreement shall require Defendant to pay, or make Defendant liable for, more than the Gross Settlement Amount to fully, finally, and completely settle the Lawsuit and all claims alleged therein.

(b) **Allocation of Gross Settlement Amount.** The Gross Settlement Amount shall consist of the following categories of payments: an award of attorneys’ fees to Plaintiff’s counsel in the Lawsuit, an award of litigation costs and expenses to Plaintiff’s counsel, the payment of settlement administration costs to the Settlement Administrator, the payment of civil penalties to the LWDA and the Settlement Group, and the proposed enhancement award to Pelayo in the amount of \$10,000 and for his General Release of any and all claims. Subject to approval by the Superior Court, these amounts shall be paid and allocated as set forth below in Sections 7(b)(i) through 7(b)(iv) of this Agreement.

(i) **Attorneys' Fees Award**

(A) Plaintiff's attorneys in the Lawsuit—Douglas Han of Justice Law Corporation ("Plaintiff's Counsel")—may submit a combined application to the Superior Court for an award of attorneys' fees in an amount not to exceed the gross sum of One Hundred and Thirty Three Thousand Dollars (\$133,000.00) (the "Attorneys' Fees Award"). Defendant will not oppose or object to this application.

(B) Any Attorneys' Fees Award approved by the Superior Court will be paid by Defendant out of the Gross Settlement Amount and shall constitute a full and complete satisfaction of all claims Plaintiff may have for attorneys' fees arising out of the Lawsuit through the Effective Date of this Agreement, including work not yet performed.

(C) This Agreement is not contingent upon the Superior Court approving an Attorneys' Fees Award in an amount equal to the maximum amount authorized by Section 7(b)(i)(A) of this Agreement. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve an Attorneys' Fees Award that is less than the amount authorized by Section 7(b)(i)(A) of this Agreement or the amount requested by Plaintiff's Counsel.

(D) In the event that any portion of the Attorneys' Fees Award authorized by Section 7(b)(i)(A) of this Agreement is not approved by the Superior Court, only the approved amount shall be paid, and the payment of that amount shall constitute satisfaction of Defendant's obligations with respect to the Attorneys' Fees Award. Additionally, the difference between the Attorneys' Fees Award authorized by Section 7(b)(i)(A) and the Attorneys' Fees Award approved by the Superior Court will become part of the PAGA Penalties Fund.

(ii) **Litigation Costs Award**

(A) Plaintiff's Counsel may submit an application to the Superior Court for an award for reimbursement of litigation costs and expenses incurred by Plaintiff's counsel in connection with the Lawsuit that is currently estimated not to exceed the combined gross sum of Twenty Thousand Dollars (\$20,000.00) (the "Litigation Costs Award"). Defendant will not oppose or object to this application.

(B) Any Litigation Costs Award approved by the Superior Court will be paid by Defendant out of the Gross Settlement Amount and shall constitute a full and complete satisfaction of all claims Plaintiff may have for litigation costs and expenses arising out of the Lawsuit through the Effective Date of this Agreement, including litigation costs and expenses not yet incurred.

(C) This Agreement is not contingent upon the Superior Court approving a Litigation Costs Award in an amount equal to the maximum amount authorized by Section 7(b)(ii)(A) of this Agreement. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve a Litigation Costs Award that is less than the amount authorized by Section 7(b)(ii)(A) of this Agreement or the amount requested by Plaintiff's Counsel.

(D) In the event that any portion of the Litigation Costs Award authorized by Section 7(b)(ii)(A) of this Agreement is not approved by the Superior Court, only the approved amount shall be paid, and the payment of that amount shall constitute satisfaction of Defendant's obligations with respect to the Litigation Costs Award. Additionally, the difference between the Litigation Costs Award authorized by Section 7(b)(ii)(A) and Litigation Costs Award approved by the Superior Court will become part of the PAGA Penalties Fund.

(iii) **Settlement Administration Costs**

(A) Subject to approval by the Superior Court, an amount not to exceed the gross sum of Six Thousand, Five Hundred Dollars (\$6,500.00) will be paid to the Settlement Administrator out of the Gross Settlement Amount to cover the cost of the settlement administration process ("Administration Costs"). If the actual cost of the settlement administration process is less than the amount approved by the Superior Court, the balance will become part of the PAGA Penalties Fund.

(B) Any Settlement Administrative Costs approved by the Superior Court will be paid out of the Gross Settlement Amount and shall constitute a full and complete satisfaction any Settlement Administrative Costs.

(C) This Agreement is not contingent upon the Superior Court approving Administration Costs in an amount equal to the maximum amount authorized by Section 7(b)(iii)(A) of this Agreement. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve Administration Costs in an amount that is less than the amount authorized by Section 7(b)(iii)(A) of this Agreement.

(D) In the event that any portion of the Administration Costs authorized by Section 7(b)(iii)(A) of this Agreement is not approved by the Superior Court, no more than the approved amount shall be paid to the Settlement Administrator out of the Gross Settlement Amount. Additionally, the difference between the Administration Costs authorized by Section 7(b)(iii)(A) and the Administration Costs approved by the Superior Court will become part of the PAGA Penalties Fund.

(iv) **PAGA Penalties Fund.** The portion of the Gross Settlement Amount remaining after the Attorneys' Fees Award, Litigation Costs Award, and Settlement Administration Costs are paid shall be designated the "PAGA Penalties Fund," from which payments deemed to constitute a full and complete satisfaction of any and all claims in the Lawsuit for civil penalties under PAGA shall be made. (This number may change if Settlement Administration Costs are awarded in an amount other than that set forth above.) Based on the terms of the Agreement, the PAGA Penalties Fund is estimated to be \$180,500. Subject to approval by the Superior Court, the PAGA Penalties Fund shall be allocated and paid as follows:

(A) **The LWDA Payment.** The gross sum of One Hundred Thirty Five Thousand, Three Hundred Twenty Five Dollars (\$135,375.00), which represents seventy-five percent (75%) of the PAGA Penalties Fund, will be paid to the LWDA for enforcement of California's labor laws, including the administration of PAGA, and for education of employers and employees about their rights and responsibilities under the California Labor Code.

(B) **Individual Settlement Awards.** The gross sum of Forty Five Thousand, One Hundred Twenty Five Dollars (\$45,125.00), which represents twenty-five percent (25%) of the PAGA Penalties Fund, will be paid to the Settlement Group, with each Settlement Group Member receiving a payment proportionate to the number of pay periods he or she worked at Rancho Foods in California during the Settlement Period relative to the entire Settlement Group. Specifically, each Settlement Group Member's share of the PAGA Penalties Fund (an "Individual Settlement Award") will be calculated as follows:

(1) Each pay period during the Settlement Period that a non-exempt employee of Rancho Foods worked in California will be counted as a "Covered Pay Period."

(2) The twenty-five percent (25%) portion of the PAGA Penalties Fund payable to Settlement Group will be divided by the total number of Covered Pay Periods attributable to the entire Settlement Group to yield a "Per Pay Period Rate."

(3) For each Settlement Group Member, the Per Pay Period Rate will be multiplied by the number of Covered Pay Periods attributable to the Settlement Group Member to yield the Individual Settlement Award owed to that Settlement Group Member. Defendant shall not oppose requests by Pelayo for the enhancement award of \$10,000, which will be paid out of the Gross Settlement Amount. This Agreement is not contingent upon the Superior Court approving the enhancement award in an amount equal to the maximum amount authorized by this Section. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve the enhancement award in an amount less than that authorized by this Section. In the event that any part of the enhancement award is not approved by the Superior Court, no more than the approved amount shall be paid to Pelayo. Additionally, the difference between the enhancement award request (i.e., \$10,000) and the amount actually approved by the Superior Court will become part of the PAGA Penalties Fund.

(c) **No Additional Contribution by Defendant.** Defendant shall not be called upon or required to contribute additional monies other than those stated above in Section 7(a) of this Agreement.

(d) **No Effect on Employee Benefits.** The payments made to Settlement Group Members pursuant to this Agreement shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Group Members may be eligible, including, but not limited to, any profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, or other benefit plans available to the Settlement Group. It is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Settlement Group Members may be entitled under any benefit plans.

(e) **Taxability of Settlement Payments**

(i) **Payments to Plaintiff's Counsel.** The Attorneys' Fees Award and Litigation Costs Award shall be treated as IRS Form 1099 income. Accordingly, the Settlement Administrator shall issue an IRS Form 1099 to Justice Law Corporation in connection with their Attorneys' Fees Award and Litigation Costs Award.

(ii) **Payments to the LWDA.** The seventy-five percent (75%) of the PAGA Penalties Fund payable to the LWDA under Section 7(b)(iv)(A) of this Agreement shall be deemed to consist entirely of civil penalties recovered under PAGA and subject to treatment as IRS Form 1099 income.

(iii) **Payments to the Settlement Group.** Individual Settlement Awards shall be deemed to consist entirely of civil penalties recovered under PAGA and subject to treatment as IRS Form 1099 income. Accordingly, an IRS Form 1099 will be issued to each Settlement Group Member in connection with his or her Individual Settlement Award if it is \$600 or more.

(f) **Tax Indemnification.** Plaintiff, Plaintiff's Counsel, the Settlement Group, and applicable governmental authorities (including the LWDA) are solely responsible for all tax obligations, including all reporting and payment obligations, attributable to them that may arise as a consequence of this Agreement and the payment of the amounts set forth above in Section 7(b). Neither Defendant nor Defendant's attorneys make any express or implied promise, representation, or warranty regarding the tax consequences or tax treatment under federal or state tax laws for any sum paid pursuant to this Agreement.

8. **Distribution of Settlement Payments**

(a) **Funding of Settlement by Defendant.**

(i) Within twenty (20) calendar days of the Effective Date of this Agreement, Defendant will provide the Settlement Administrator the entire Three Hundred Fifty Thousand Dollar (\$350,000.00) Gross Settlement Amount.

(b) **Timing of Payment by Settlement Administrator.** Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue the payments required by Section 7 of this Agreement to the appropriate entities or persons.

(c) **Payment of Individual Settlement Awards.**

(i) Individual Settlement Awards will be paid in the form of a check delivered to each Settlement Group Member at the last known address on file with Defendant or as updated by the Settlement Administrator. Each Individual Settlement Award will be accompanied by an explanatory letter substantially in the form attached hereto as **Exhibit A**.

(ii) Individual Settlement Award checks will remain negotiable for 120 days after the date of their issuance (the "Check Stale Date"). Any Individual Settlement Award checks that are not cashed, deposited, or negotiated after the Check Stale Date will be void and the amount of those checks will be directed to the California State Controller for the deposit in the Unclaimed Property Fund in the name of the employee.

(iii) Any checks to the Settlement Group that are returned as undeliverable on or before the Check Stale Date will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip trace or other

reasonable method and will then perform a single remailing. Any Settlement Group Member who cannot be located after the above procedures are followed will continue to be bound by this Agreement, but the funds associated with his or her Individual Settlement Award will be directed to the California State Controller for the deposit in the Unclaimed Property Fund in the name of the employee.

9. **Releases**

(a) **Release of PAGA Representative Claims.** Upon the Effective Date, this settlement forever bars Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all allegedly aggrieved employees, for the period spanning April 20, 2019 through March 3, 2021, from pursuing any action under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, against, Defendant; each and all of Defendant’s past, present, and future parents, affiliates, subsidiaries, divisions, predecessors, successors, managing members, divisions, affiliates, affiliated entities, related entities, and assigns; the past, present, and future shareholders, owners, officers, directors, board members, employees, agents, trustees, attorneys or legal representatives, insurers, representatives, administrators, fiduciaries, beneficiaries, subrogees, partners, and members of the foregoing; and/or any other entity or individual which could be liable for the acts or omissions of Defendant (collectively, the “Released Parties”) based on or arising out of alleged violations of Labor Code sections alleged in the Lawsuit through the end of the Settlement Period (the “Released Claims”).

(b) **General Release by Plaintiff.** Upon the Effective Date, and in exchange for the amount awarded by the court not to exceed the \$10,000 enhancement payment requested, Plaintiff, on Plaintiff’s own behalf and on behalf of Plaintiff’s heirs, agents, representatives, attorneys, executors, administrators, successors, and assigns, and to the greatest extent permitted by law, fully, finally, and forever releases and discharges the Released Parties (including Defendant), and all persons acting under, by, through, or in concert with the Released Parties, from any and all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, in contract, or for violation of any state or federal statute, law, rule, or regulation arising out of, relating to, or in connection with any act or omission by, or on the part of, any of the Released Parties committed or omitted prior to the execution this Agreement and relating to Plaintiff’s employment with, or resignation from employment with, any of the Released Parties, including, but not limited to, any claims or causes of action that were asserted, or which could be asserted, in the PAGA Notice or the Lawsuit (collectively, the “General Release”).

(c) **Plaintiff’s Release of Unknown Claims.** For the purpose of implementing a full and complete release of claims, Plaintiff expressly acknowledges and agrees that the General Release is intended to, and does, include and any all claims that Plaintiff did not know or suspect to exist at the time of Plaintiff’s execution of this Agreement, regardless of whether the knowledge of such claims, or the facts upon which they might be based, would have materially affected the settlement of this matter or the terms of this Agreement. Accordingly, upon the Effective Date, Plaintiff expressly, knowingly, and voluntarily waive any and all rights and benefits conferred by California Civil Code section 1542, which states:

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.

As a result, the General Release shall be effective as a bar to each and every claim that Plaintiff may have against Defendant and/or the Released Parties, whether or not they are currently known, unknown, suspected, or unsuspected, upon any theory of law or equity now existing or coming into existence in the future and without regard to any subsequent discovery or existence of different or additional facts by Plaintiff.

10. **Dismissal.** Upon Court approval of the Stipulation for Settlement of PAGA Claim and payment of all sums required by this Agreement, Plaintiff shall file a request for dismissal of the Action in its entirety as to Defendant with prejudice. Pursuant to California Civil Procedure Code 664.6, the Court shall retain jurisdiction to enforce the terms of this Agreement and the Stipulation for PAGA Settlement.

11. **Acknowledgement of Fair and Reasonable Settlement.** The Parties have arrived at this Agreement after arm's-length negotiations by experienced counsel facilitated by a full-day mediation with Jeff Krivis, Esq., an experienced and well-respected mediator. Each of the Parties acknowledges, agrees, and believes that this Agreement is a fair, adequate, and reasonable settlement of the Lawsuit. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement. Each Party to this Agreement agrees and represents that it has investigated the facts relevant to this Agreement, and all matters pertaining thereto, to the full extent that each Party deems necessary.

12. **Authority to Enter into Agreement.** Each Party represents and warrants that it has the right and authority to execute this Agreement.

13. **Ownership of Claims.** The Parties represent that they have not transferred or assigned, or purported to transfer or assign, to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

14. **Authorization of Counsel.** Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement.

15. **Confidentiality.** The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount, or terms of the Agreement. In addition, Plaintiff's Counsel agrees not to engage in any advertising or marketing (including, but not limited

to, any postings on any websites maintained by Plaintiff's Counsel) specifying any material terms relating to the Lawsuit or this Agreement.

16. **Duty to Cooperate.** Each Party agrees that it will abide by this Agreement and use its best efforts to do all such acts and to prepare, execute, and deliver all such documents as may be reasonably required to carry out the stated objectives of this Agreement. The Parties and their counsel will cooperate with each other to effect the implementation of the Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of Jeff Krivis, the mediator who facilitated the negotiation of this Agreement. If the Parties cannot resolve their dispute with the assistance of the mediator, the Parties may seek the assistance of the Superior Court to resolve their disagreement.

17. **Nullification of Agreement.** In the event that the Superior Court does not approve the Agreement or the Agreement does not become final for any other reason, this Agreement and any documents generated to bring it into effect will be null and void and the Parties will be returned to their original respective positions as though this Agreement had never been entered into at all.

18. **Severability.** Should any clause or provision of this Agreement be declared illegal or unenforceable, it shall be modified as minimally necessary to be enforceable. If the provision cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect.

19. **Governing Law and Interpretation.** This Agreement shall be governed in accordance with the laws of the State of California. The Agreement shall be interpreted in accordance with the plain meaning of its terms and shall not be strictly interpreted for or against any of the Parties to this Agreement. Given that all Parties hereto had the opportunity to draft, review, and edit the language of this Agreement, the Parties expressly waive the benefit of any legal principle or rule providing that in cases of uncertainty the language of a contract should be interpreted against the Party who caused the uncertainty to exist.

20. **Continuing Jurisdiction of the Superior Court.** Pursuant to California Code of Civil Procedure section 664.6, the Superior Court shall retain continuing jurisdiction over the Lawsuit and the Parties to the fullest extent necessary to enforce and effectuate the terms and intent of this Agreement.

21. **Admissibility of Agreement.** The Parties agree that this Agreement is admissible for the purposes of proving up and or enforcing the terms of the Agreement, as set forth herein, pursuant to California Evidence Code section 1123.

22. **Amendment and Modification.** This Agreement may not be modified, altered or changed, except by a written instrument signed by either the Parties or their successors-in-interest or counsel for all Parties.

23. **Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the Parties hereto and their respective agents, employees, representatives,

officers, directors, parents, subsidiaries, assigns, heirs, executors, administrators, insurers, and successors in interest.

24. **No Representations.** The Parties acknowledge that, except as expressly set forth herein, no representation of any kind or character has been made to induce the execution of this Agreement.

25. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures sent by facsimile transmission or scanned e-mail transmission have the same force, validity, and effect as original signatures.

26. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties, and supersedes any prior agreements, contracts, or understandings between the Parties as to the subject matter hereof.

* * *

IN WITNESS WHEREOF, the Parties—Plaintiff Luis Pelayo and Defendant Rancho Foods, Inc., and their counsel knowingly and voluntarily accept of the terms of the this Settlement Agreement and Release by affixing their signatures below.

Dated: 05/10/2021

By: 

Luis Pelayo

Dated: _____

RANCHO FOODS, INC.

By: _____
(Signature)

Tina Bradford

Dated: _____

JUSTICE LAW CORPORATION

By: _____
Douglas Han
Shunt Tatavos-Gharajeh

officers, directors, parents, subsidiaries, assigns, heirs, executors, administrators, insurers, and successors in interest.

24. **No Representations.** The Parties acknowledge that, except as expressly set forth herein, no representation of any kind or character has been made to induce the execution of this Agreement.

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26. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties, and supersedes any prior agreements, contracts, or understandings between the Parties as to the subject matter hereof.

* * *

IN WITNESS WHEREOF, the Parties—Plaintiff Luis Pelayo and Defendant Rancho Foods, Inc., and their counsel knowingly and voluntarily accept of the terms of the this Settlement Agreement and Release by affixing their signatures below.

Dated: _____

By: _____
Luis Pelayo

Dated: _____

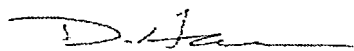
RANCHO FOODS, INC.

By: _____
(Signature)

Tina Bradford

Dated: May 10, 2021

JUSTICE LAW CORPORATION

By:  _____
Douglas Han
Shunt Tatavos-Gharajeh

officers, directors, parents, subsidiaries, assigns, heirs, executors, administrators, insurers, and successors in interest.

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26. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties, and supersedes any prior agreements, contracts, or understandings between the Parties as to the subject matter hereof.

* * *

IN WITNESS WHEREOF, the Parties—Plaintiff Luis Pelayo and Defendant Rancho Foods, Inc., and their counsel knowingly and voluntarily accept of the terms of the this Settlement Agreement and Release by affixing their signatures below.

Dated: _____

By: _____
Luis Pelayo

Dated: April 29, 2021

RANCHO FOODS, INC.

By: *Tina Bradford*
(Signature)

Tina Bradford
Tina Bradford

Dated: _____

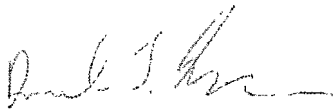
JUSTICE LAW CORPORATION

By: _____
Douglas Han
Shunt Tatavos-Gharajeh

Attorney for Plaintiff
LUIS PELAYO

Dated: May 10, 2021

BALLARD ROSENBERG GOLPER & SAVITT, LLP

By: 

David Fishman
Janet S. Soultanian

Attorneys for Defendant
RANCHO FOODS, INC.

EXHIBIT A

TRANSMITTAL OF INDIVIDUAL SETTLEMENT AWARD

Luis Pelayo v. Rancho Foods, Inc.
Superior Court of the State of California for the County of Los Angeles
Case No. 20NWCV00359

Dear Settlement Group Member Name:

Enclosed with this letter is a settlement check being paid to you pursuant to the settlement of the lawsuit filed in the Los Angeles County Superior Court as *Luis Pelayo v. Rancho Foods, Inc.*, which has been designated case number 20NWCV00359 (the "Lawsuit"). The purpose of this letter is to provide you with basic information about the Lawsuit, the reasons why you are receiving the enclosed settlement check, and the effect of the settlement on your legal rights.

I. The Lawsuit

The Lawsuit was filed on June 25, 2020, by Luis Pelayo, a former employee of Rancho Foods, Inc. ("Rancho Foods").

In the Lawsuit, Mr. Pelayo alleged that he and other non-exempt employees of Rancho Foods who performed services at Rancho Foods in California experienced violations of the California Labor Code by Rancho Foods. Specifically, Mr. Pelayo alleged that Rancho Foods violated the sections of the California Labor Code, including sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, premised upon Rancho Foods' alleged failure to properly pay non-exempt employees for all hours worked, failure to compensate minimum and overtime wages, failure to provide meal and rest breaks (or pay premiums in lieu thereof), failure to issue and/or provide complete and accurate wage statements, failure to reimburse for all necessary business expenses and related costs, failure to timely pay all wages due during employment and upon termination, and failure to maintain accurate and complete payroll records. Based thereon, the Lawsuit sought civil penalties under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), which is codified at California Labor Code section 2698 et seq., on behalf of the State of California and all current and former non-exempt employees of Rancho Foods.

Rancho Foods denies the allegations in the Lawsuit. Rancho Foods contends that it followed lawful policies and practices and that Mr. Pelayo and the other non-exempt employees at issue in the Lawsuit were properly paid for all hours worked, paid appropriate minimum and overtime wages, provided compliant rest and meal breaks, received compliant wage statements, were reimbursed for all necessary business expenses, timely paid all wages due during employment and upon termination, and that Rancho Foods properly kept accurate and complete payroll records.

The merits of the Lawsuit have not been determined. On Approval Date, however, the Los Angeles County Superior Court approved a settlement of the Pelayo Lawsuit.

II. Why the Settlement Check Is Being Sent to You

The settlement approved by the Los Angeles County Superior Court on Approval Date involves a payment of civil penalties and the reimbursement of the attorney's fees and litigation costs incurred by Mr. Pelayo ("Plaintiff") in furtherance of the lawsuit. In accordance with PAGA, seventy-five percent (75%) of the civil penalties paid under the settlement are being paid to the California Labor and Workforce Development Agency. The remaining twenty-five percent (25%) of the civil penalties paid under the settlement are being distributed to the current and former non-exempt employees of Rancho Foods who worked in California at any time between April 20, 2019 and March 3, 2021 (the "Settlement Group"). The enclosed settlement check is being sent to you, because you have been identified as a Settlement Group Member.

III. How the Amount of Your Settlement Check Was Determined

The enclosed settlement check was calculated based on the number of pay periods you performed work for Rancho Foods between April 20, 2019 and March 3, 2021 (the "Settlement Period") relative to the entire Settlement Group. Specifically, the enclosed settlement check was calculated as follows:

- Each seven-day period beginning on Sunday and ending on Saturday (i.e., a calendar week) during the Settlement Period was deemed a pay period.
- Each pay period during the Settlement Period that a non-exempt employee of Rancho Foods actually worked in California was counted as a "Covered Pay Period."
- The twenty-five percent (25%) portion of the civil penalties payable to Settlement Group under the settlement was divided by the total number of Covered Pay Periods attributable to the entire Settlement Group to yield a "Per Pay Period Rate." Specifically, the \$_____ in penalties payable to the Settlement Group under the settlement was divided a total of _____ Covered Pay Periods, resulting in a Per Pay Period Rate of \$_____.
- The amount of your settlement check was calculated by multiplying the Per Pay Period Rate by the number of Covered Pay Periods during which you actually worked as an employee of Rancho Foods.
- You should obtain tax advice from your own tax advisor with respect to any payment resulting from this Settlement.

Your settlement check will remain negotiable for 120 days. If you do not cash, deposit, or negotiate your settlement check within 120 days, the check will become void and the funds will be directed to the California State Controller for the deposit in the Unclaimed Property Fund in your name. Cashing the settlement check releases claims only for civil penalties that could be collected by the State of California.

IV. Consequences of the Settlement

The Lawsuit was filed exclusively as a representative action under PAGA, which functions as a substitute for an enforcement action by the State of California.

Although you are not a “party” to the Lawsuit, the Superior Court’s order and judgment approving the settlement of the Lawsuit binds all persons, including nonparty employees, who would be bound by a judgment in an action brought by the State of California itself. As a result, the judgment entered upon settlement of the Lawsuit is binding on you with respect to any claims for civil penalties under PAGA encompassed by the settlement. That is true regardless of whether you choose to cash, deposit, or negotiate the enclosed settlement check

V. Taxation of Your Individual Settlement Award

You will be issued an IRS Form 1099 in connection with the funds paid to you via the enclosed check. However, you are solely responsible for all tax obligations attributable to you that may arise as a result of receiving the settlement check. Should you seek tax advice or have tax questions relating to your receipt of the enclosed check, you should direct them your own personal tax advisor.

VI. Where to Get More Information

Do not call or contact the Los Angeles County Superior Court about this letter, the settlement, the settlement check sent to you, or the Lawsuit in general. If you have questions about the this letter, the settlement, the settlement check sent to you, or the Lawsuit in general, you may contact the Settlement Administrator at [INSERT CONTACT INFORMATION].

Dated: INSERT DATE

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is arivera@justicelawcorp.com

On June 11, 2021, I served the foregoing document described as

ORDER APPROVING SETTLEMENT AGREEMENT

for the following case: **Pelayo v. Rancho Foods, Inc.**
LWDA/Court Case No.: **LWDA Case No.: LWDA-CM-783776-20**
Court Case No.: 20NWCV00359
Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on June 11, 2021, at Pasadena, California.



Allana Rivera