

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

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

This Agreement is made by and between Defendant UMA Enterprises, Inc. (“Defendant”), Plaintiffs Luis Pantoja Trujillo, Jesus Santos, and Alexis Siu Lemus (“Plaintiffs”), for themselves and on behalf of the State of California and Aggrieved Employees, and the law firms defined below as “Plaintiffs’ Counsel” and “Defense Counsel.” (Defendant, Plaintiffs and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the “Parties.”)

The Parties agree that the Litigation shall be, and hereby is, ended, settled, resolved, and concluded by agreement of Defendant to pay the total sum of One Hundred Eighty-Five Thousand Dollars (\$185,000.00) (hereinafter referred to as the “Settlement Sum”) for settlement of the Private Attorneys General Act (“PAGA”) penalties, which shall be inclusive of Plaintiff’s Counsel attorneys’ fees and costs, an enhancement payment to Plaintiff, and the settlement administrator’s fees and costs.

Article I.

Definitions.

Section 1.01 **Definitions.**

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

- (a) “Aggrieved Employees” means all persons currently or formerly employed by Defendant in California as a non-exempt employee during the Release Period (“PAGA Settlement Members”). Defendant represents that, as of June 15, 2021, the number of PAGA Settlement Members was approximately 192, who worked a total of 5,817 pay periods during the Release Period.
- (b) “Complaint” means the operative Complaints filed by Plaintiffs in Los Angeles County Superior Court, Case Nos. 19STCV36863 and 20STCV26458. This action is referred to as the “Litigation.”
- (c) “Court” means the Superior Court for the State of California, County of Los Angeles.

- (d) “Defense Counsel” or “Counsel for Defendant” is:

Todd R. Wulffson, Esq.
Nancy N. Lubrano, Esq.
Brian E. Cole, Esq.
CDF LABOR LAW LLP
18300 Von Karman Avenue, Suite 800
Irvine, CA 92612

- (e) “Effective Date” means the date the Court enters the order approving the settlement of the PAGA penalties as described in this Agreement.

- (f) “Plaintiffs’ Counsel” is:

Kevin Mahoney, Esq.
Beyonca Alem, Esq.
MAHONEY LAW GROUP, APC
249 E. Ocean Boulevard | Suite 814
Long Beach, California 90802

- (g) “Release Period” means the time period from December 7, 2018, through the Effective Date.

- (h) “Released Claims” means all claims for PAGA civil penalties, which occurred during the Release Period, pursuant to Labor Code Section 2698 *et seq.* alleged or that could have been alleged based on the allegations asserted in the Complaint and notice to the LWDA on behalf of the PAGA Settlement Members including, but not limited to, claims for the failure to pay all wages, the failure to pay minimum wage, the failure to pay overtime wages, unreimbursed business expenses, failure to provide compliant meal periods and/or pay meal period premiums, failure to authorize and permit compliant rest periods and/or pay rest period premiums, failure to provide and maintain accurate wage statements, failure to pay timely wages at termination of employment, failure to timely pay wages during employment, including but not limited to claims arising under California Labor Code sections 201-204, 205, 206, 206.5, 210, 212, 216, 218, 218.5, 218.6, 221-224, 225.5, 226, 226.2, 226.3, 226.6, 226.7, 227.3, 232.5, 233-234, 245-248.5, 256, 432.5, 432.7, 510, 512, 551, 552, 558, 558.1, 1024.5, 1102.5, 1153, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1199, 2698 *et seq.*, 2751, 2802, 2810.5, 6401, 6403; and the applicable Industrial Welfare Commission Wage Orders; Cal. Code Regs. Title 8, § 11070.

- (i) “Released Parties” means Defendant and all its present and former parent corporations, subsidiaries, divisions, predecessors, insurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, and any other individual or entity which could be liable for any of the Released Claims in the Action.

Article II.

Background.

Section 2.01 Background.

- (a) On October 16, 2019, Plaintiffs Luis Pantoja Trujillo and Jesus Santos filed a Complaint in the Superior Court of the State of California for the County of Los Angeles, entitled *Luis Pantoja Trujillo and Jesus Santos v. UMA Enterprises, Inc.*, case number 19STCV36863. On July 14, 2020, Plaintiff Alexis Siu Lemus filed a Complaint in the Superior Court of California for the County of Los Angeles, entitled *Alexis Siu Lemus v. UMA Enterprises, Inc.*, case number 20STCV26458. After amending their respective Complaints, Plaintiff's Actions were brought on a representative basis under PAGA on behalf of themselves, the State of California and other allegedly aggrieved employees, based on violations of unpaid wages (minimum and overtime), meal and rest break violations, failure to reimburse for business expenses, failure to provide compliant wage statements, failure to pay all final wages timely, failure to keep accurate records, and unlawful deductions from pay.
- (b) Through this Litigation, the Parties have engaged in formal and informal discovery and fully shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the Litigation and potential defenses thereto. The Parties have reached this Settlement only after discovery and investigation was performed.
- (c) This settlement contemplates the (a) entry of an order by the Court approving the payment allocated for settlement of the PAGA penalties; (b) dismissal of the Litigation with prejudice; and (c) all parties bearing their respective fees and costs except as expressly provided by this Agreement.

Section 2.02 Settlement Negotiations.

On June 15, 2021, the Parties participated in a private mediation session with the honorable Carl J. West, Ret. The Parties did not settle at mediation. However, with the assistance of the mediator, the Parties continued settlement negotiations and agreed to a Mediator's Proposal, made subject to the Parties entering into a more comprehensive written settlement agreement. The proposed settlement, if approved by the Court, would resolve this Action in its entirety.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Cooperation.

The Parties will cooperate in obtaining through written stipulation or unopposed motion if a motion is required, an Order from the Court approving the payment of PAGA penalties as described in this Agreement at the earliest possible date. Plaintiffs' Counsel shall request and be

paid Sixty-One Thousand Six Hundred Sixty-Six Dollar and Sixty-Six Cents (\$61,666.66) for attorneys' fees and Eleven Thousand Dollars (\$11,000.00) for reimbursement of litigation costs from the Settlement Sum, and Defendant will not oppose these requests. Plaintiffs shall request and be paid Five Thousand Dollars (\$5,000.00) each for a total of fifteen thousand dollars (\$15,000.00) as an enhancement payment from the Settlement Sum, and Defendant will not oppose this request. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of the payment of PAGA penalties as described in this Agreement.

Section 3.02 Court Approval.

The Parties will seek to obtain the Court's approval of the payment of PAGA penalties as described in this Agreement by way of a stipulation or unopposed motion to be filed by Plaintiffs' counsel. Plaintiffs' Counsel and Defense Counsel will jointly lodge this Agreement with the Court for its approval. The Court's approval of the payment of PAGA penalties as described in this Agreement shall be embodied in a written Order. Should the Court not grant approval of the payment of PAGA penalties as described in this Agreement, then the entirety of this Agreement shall be null and void.

Section 3.03 Deposit of Settlement Payment.

Defendant shall deposit fifty percent of the Settlement Sum in the amount of ninety-two thousand five hundred dollars (\$92,500.00) no later than three (3) business days following the Effective Date and will deposit the remaining fifty percent of the Settlement Sum in the amount of ninety-two thousand five hundred dollars (\$92,500.00) no later than six (6) months after the Effective Date. Phoenix Class Action Administration Solutions shall provide the information for its financial institution and Defendant shall send the settlement funds via wire within three (3) business days of when the settlement funds are due. Phoenix Class Action Administration Solutions shall disseminate the Notice to the PAGA Group Settlement Members with the PAGA Settlement Group Member's individual payment.

Section 3.04 Settlement Administrator Duties.

(a) Payment of PAGA Penalties.

- (1) The total sum available for payment of PAGA penalties shall be calculated by deducting Plaintiffs' counsel's fees Sixty-One Thousand Six Hundred Sixty-Six Dollar and Sixty-Six Cents (\$61,666.66) and costs Eleven Thousand Dollars (\$11,000.00), Plaintiffs' enhancement payments Five Thousand Dollars (\$5,000.00) each for a total of Fifteen Thousand Dollars (\$15,000.00), and the costs of administration referenced in Section 3.04(c) below (expected to be no more than Four Thousand Dollars (\$4,000.00) from the One Hundred Eighty-Five Thousand Dollars (\$185,000.00) Settlement Sum (this will yield the "Net Settlement Amount," which is estimated to be

approximately Ninety-three Thousand Three Hundred Thirty-Three Dollars and Thirty-Four Cents (\$93,333.34).

- (2) Seventy-five percent (75%) of the Net Settlement Amount shall be paid to the LWDA; the remaining twenty-five percent (25%) of the Net Settlement Amount (the "Employee Net Settlement Amount") shall be paid to the Aggrieved Employees pro rata based on the number of workweeks each of them worked during the Release Period. All Aggrieved Employees will be entitled to payment for at least one pay period. **One Hundred Percent (100%) of the PAGA penalty payments are considered penalties and will not be subject to local, state or federal tax withholdings.** All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 their portion of the settlement, if deemed required by the settlement administrator (in compliance with IRS guidelines).
- (3) No later than fourteen (14) calendar days after the Effective Date, Defendant will provide to the Administrator a list in Microsoft Excel format containing each PAGA Settlement Member's (i) full name, (ii) last known address, (iii) Social Security Number, and (iv) dates worked for Defendant in California during the Release Period ("Settlement List").
- (4) Within ten (10) business days of receipt of the Settlement List, the Administrator will perform an NCOA check and will mail the individual settlement payments to the PAGA Settlement Members. The Settlement Administrator will skip-trace return mail and re-mail within five (5) calendar days. Concurrently, the settlement administrator shall mail the required payment to the LWDA.
- (5) The expiration date on the settlement checks will be one hundred eighty (180) calendar days from the date the settlement checks are issued. If any Aggrieved Employee does not cash or deposit his/her settlement check within one hundred eighty (180) calendar days, the check will be void and the uncashed funds will escheat to the State Controller to be deposited in the California Unclaimed Property Fund in the Aggrieved Employee's name.

(b) Attorneys' Fees and Costs and Service Payment.

Immediately upon receipt of the Settlement Sum by the settlement administrator from Defendant, the settlement administrator shall pay Sixty-One Thousand Six Hundred Sixty-Six Dollar and Sixty-Six Cents (\$61,666.66) allocated to attorneys' fees and Eleven Thousand Dollars (\$11,000.00) allocated to costs to Plaintiffs' Counsel and the Fifteen Thousand Dollars (\$15,000.00) allocated to as enhancement payments to Plaintiffs.

(c) Settlement Administrator Expenses.

All costs incurred by the settlement administrator Phoenix Class Action Administration Solutions in connection with the current settlement, whether foreseen or not, shall be paid out of the Settlement Sum. These costs are not expected to exceed Four Thousand Dollars (\$4,000.00);

to the extent they exceed this amount, they shall be paid from the Net Settlement Amount (as defined herein); to the extent they fall below this amount, they shall be added to the amount distributable to the Aggrieved Employees and the LWDA. Within five (5) business days following the conclusion of the notice period, the settlement administrator shall pay itself the amount allocated to it for administration fees.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as admission by Defendant of any violations of Plaintiffs' or the Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff, the Aggrieved Employees, or any other allegedly aggrieved employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

Section 4.02 Non-Evidentiary Use.

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

Section 4.03 Nullification.

- (a) If the Court should for any reason fail to approve the payment of PAGA penalties as described in this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.
- (a) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims.

Section 5.01 Release by Aggrieved Employees.

Upon the Effective Date of this Agreement, Plaintiff, all Aggrieved Employees, and the State of California shall be deemed to have fully, finally, and forever released, relinquished, and

discharged each and all of the Released Parties from the Released Claims that arose during the Release Period.

Article VI.

Miscellaneous Provisions.

Section 6.01 Voluntariness.

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

Section 6.02 Amendments.

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

Section 6.03 Assignment.

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

Section 6.04 Governing Law.

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

Section 6.05 Entire Agreement.

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

Section 6.06 Waiver of Compliance.

Any failure of any Party, Defense Counsel, and/or Plaintiff's Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or

failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.07 Counterparts.

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

Section 6.08 Attorneys' Fees and Costs.

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

Section 6.09 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Section 6.10 Binding.

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

Section 6.11 Continuing Jurisdiction.

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

Section 6.12 No Public Disclosure.

Except as necessary to obtain Court approval, Plaintiffs and Plaintiffs' Counsel will not make any public disclosure of this Settlement. Plaintiffs' Counsel will take all steps necessary to ensure Plaintiffs are aware of, and will encourage him to adhere to, the restriction against any public disclosure of this Settlement. Plaintiffs' Counsel will not include, use or comment upon the settlement for any marketing or promotional purposes.

Plaintiffs and Plaintiffs' Counsel will not initiate any communications with and, if contacted by the media, will only discuss information publicly available. Plaintiffs' Counsel will take all steps necessary to ensure Plaintiffs are aware of, and will encourage them to adhere to, the restriction against initiating any media comment. Plaintiffs' Counsel further agrees that in the event they use the settlement of the Action or any of its terms for any marketing purposes, they will refrain from disclosing Released Parties' identities. Nothing herein will restrict Plaintiffs' Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Plaintiffs' Counsel's qualifications and experience.

Section 6.13 Right to Reopen Proceedings.

The Parties agree that, in the event the settlement is not approved by the Court, or if the Settlement is terminated by either Party under the provisions of the long-form Settlement and Release of PAGA Claim, the Parties will request that the Court reopen proceedings within thirty (30) calendar days

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

Dated: _____, 2022

UMA ENTERPRISES, INC.

By: _____
Larry Woods, CFO

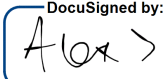
Dated: _____, 2022

Luis Pantoja Trujillo

Dated: _____, 2022

Jesus Santos

Dated: 11/8/2022, 2022

DocuSigned by:


Alexis Siu Lemus