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FN LOGISTICS INC.

Additional counsel listed on following page

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

KIMBERLY MOSELEY, individual and on behalf
of other individuals similarly situated

Plaintiff,

vs.

RANDSTAD INHOUSE SERVICES, LLC, a
Delaware Limited Liability Company; FN
LOGISTICS INC. dba FASHION NOVA, a
Delaware corporation; and DOES 1 through 100,
inclusive

Defendants.

Case No. 20STCV29116

**PAGA REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

Date Action Filed: August 3, 2020
Trial Date: None set
Department: 51

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17 Attorneys for Defendants
18 RANDSTAD INHOUSE SERVICES, LLC; FN
19 LOGISTICS INC.
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1 This Settlement and Release is made and entered into between: (1) Plaintiff Kimberly Moseley
2 individually and on behalf of all PAGA Settlement Members (as defined herein), (2) Jose Diaz, and (3)
3 Defendants Randstad Inhouse Services, LLC, and FN Logistics, Inc., subject to approval from the Court,
4 as provided below. This PAGA Representative Action Settlement Agreement and Release is intended
5 by the Parties to fully, finally, and forever resolve, discharge, and settle the Released PAGA Claims
6 upon and subject to the terms and conditions hereof, as follows:

7 **1. DEFINITIONS**

8 As used herein, for the purposes of this Settlement only, the following terms shall be defined as
9 set forth below:

10 **1.1. “Action”** refers to the civil action entitled *Kimberly Moseley v. Randstad Inhouse*
11 *Services, LLC, et al.*, Los Angeles Superior Court Case No. 20STCV29116. The Action is a
12 representative action under the Private Attorneys General Act of 2004 (“PAGA”).

13 **1.2. “Agreement”** refers to this PAGA Representative Action Settlement Agreement
14 and Release.

15 **1.3. “Approval Order”** refers to the order issued and entered by the Court following
16 a Motion for approval of this Settlement.

17 **1.4. “Complaint”** refers to the Complaint filed on August 3, 2020, in this Action.

18 **1.5. “Defendants”** refers to Defendants Randstad Inhouse Services, LLC and FN
19 Logistics, Inc.

20 **1.6. “Defendants’ Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing
21 any notices required under this Settlement, Defendants’ Counsel shall refer to: (1) Daniel Whang,
22 Seyfarth Shaw, 2029 Century Park East, Suite 3500, Los Angeles, California 90067; and (2) Elizabeth J.
23 MacGregor, Seyfarth Shaw, 560 Mission Street, 31st Floor, San Francisco, CA 94105.

24 **1.7. “Diaz”** refers to Jose Diaz, named plaintiff in the Diaz Action.

25 **1.8. “Diaz Action” or “Related Diaz Action”** refers to the PAGA action filed by
26 Jose Diaz on August 10, 2020, entitled *Jose Diaz, individually and on behalf of all others similarly*
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1 *situated, Plaintiff v. Randstad North America, Inc. a corporation; Fashion Nova, Inc. a corporation;*
2 *and Does 1-20, inclusive, Defendants, Los Angeles Superior Court Case No. 20STCV30294.*

3 **1.9. “Diaz’s Counsel”** refers to KJT Law Group, LLP and Adams Employment
4 counsel. For purposes of providing any notices required under this Settlement, Diaz’s Counsel shall
5 refer to: (1) Caspar Jivalagian and Vache Thomassian, 230 N. Maryland Avenue, Suite 306, Glendale,
6 California 92606; and (2) Christopher A. Adams, 230 N. Maryland Avenue, Suite 306, Glendale,
7 California 92606.

8 **1.10. “Effective Date”** refers to the date upon which both of the following have
9 occurred: (i) approval of the Settlement is granted by Los Angeles County Superior Court, or other court
10 assuming jurisdiction of this matter, and (ii) the Court’s Judgment approving the PAGA Settlement
11 becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date
12 the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to
13 file a petition for writ of certiorari to the California Supreme Court; (ii) if a petition for writ of certiorari
14 is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed
15 pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing
16 any appeal of the Judgment.

17 **1.11. “Eligible Workweeks”** refers to a workweek in which a PAGA Settlement
18 Member was employed by Defendant Randstad Inhouse Services, LLC and was placed on assignment at
19 FN Logistics, Inc. in Santa Fe Springs, California, during the period of May 30, 2019 through the date
20 on which approval of the Settlement is granted, and received any regular pay. Any workweek in which
21 the PAGA Settlement Member did not receive any regular pay will not be an Eligible Workweek, even
22 if the PAGA Settlement Member received other pay (such as PTO, for example).

23 **1.12. “Gross Settlement Amount”** refers to the maximum settlement payment
24 Defendants may be obligated to make in connection with the Settlement, which in this case is no more
25 than \$260,000.00. This sum shall include all attorneys’ fees, costs, and expenses (both those incurred to
26 date and those to be incurred), settlement administration fees and expenses, any service payment
27 (enhancement award) to Plaintiff and Diaz, and the amounts paid to the Labor & Workforce
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1 Development Agency (“LWDA”) and all PAGA Settlement Members. No portion of the Gross
2 Settlement Amount shall revert to Defendants.

3 **1.13. “Individual Settlement Payment”** refers to the amount calculated by the
4 Settlement Administrator to be distributed to each individual PAGA Settlement Member.

5 **1.14. “Judgment”** refers to the final judgment by the Court after approval of the
6 Settlement.

7 **1.15. “LWDA”** refers to the California Labor & Workforce Development Agency.

8 **1.16. “LWDA Payment”** refers to seventy-five percent (75%) of the Net Settlement
9 Amount that constitutes the LWDA’s share of the settlement of civil penalties paid under this Settlement
10 pursuant to the PAGA.

11 **1.17. “Net Settlement Amount”** refers to the Gross Settlement Amount minus
12 attorneys’ fees, costs, expenses, enhancement award, and settlement administration costs. The Net
13 Settlement Amount shall include all Individual Settlement Payments due to PAGA Settlement Members.
14 The Net Settlement Amount is the maximum amount that shall be available for distribution to the
15 LWDA and PAGA Settlement Members.

16 **1.18. “PAGA”** refers to the Private Attorneys General Act of 2004.

17 **1.19. “PAGA Distribution Fund”** refers to twenty-five percent (25%) of the Net
18 Settlement Amount that will be distributed to PAGA Settlement Members.

19 **1.20. “PAGA Period”** refers to the time between May 30, 2019 through the date of
20 approval of the Settlement.

21 **1.18. “PAGA Settlement Members”** refers to all non-exempt employees of Defendant
22 Randstad Inhouse Services, LLC who were placed on assignment at FN Logistics, Inc. in Santa Fe
23 Springs, California, at any time during the PAGA Period.

24 **1.19. “PAGA Settlement Member”** refers to individual PAGA Settlement Members.

25 **1.20. “Parties”** refer to Plaintiff Kimberly Moseley, Jose Diaz, and Defendants
26 Randstad Inhouse Services, LLC and FN Logistics, Inc.

27 **1.21. “Plaintiff”** refers to Kimberly Moseley.
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1 **1.22. “Plaintiff’s Counsel”** refers to Bradley/Grombacher, LLP, and the Law Offices
2 of Sahag Majarian II. For purposes of providing any notices required under this Settlement, Plaintiff’s
3 Counsel shall refer to: (1) Marcus J. Bradley, Kiley L. Grombacher, and Lirit A. King, 31365 Oak Crest
4 Drive, Suite 240, Westlake Village, CA 91631; and (2) Sahag Majarian II, 18250 Ventura Boulevard,
5 Tarzana, CA 91356.

6 **1.18. “Related Actions”** refers to: (1) the class action filed by Plaintiff Kimberly
7 Moseley on May 29, 2020, entitled *Kimberly Moseley, individual and on behalf of other individuals*
8 *similarly situated, Plaintiff, v. Randstad Inhouse Services, LLC, a Delaware Limited Liability*
9 *Company; FN Logistics Inc. dba Fashion Nova, a Delaware corporation; and Does 1 through 100,*
10 *inclusive, Los Angeles Superior Court Case No. 20STCV21135; and (2) the PAGA action filed by Jose*
11 *Diaz on August 10, 2020, entitled Jose Diaz, individually and on behalf of all others similarly situated,*
12 *Plaintiff v. Randstad North America, Inc. a corporation; Fashion Nova, Inc. a corporation; and Does 1-*
13 *20, inclusive, Defendants, Los Angeles Superior Court Case No. 20STCV30294.*

14 **1.18. “Related Class Action”** refers to the class action filed by Plaintiff Kimberly
15 Moseley on May 29, 2020, entitled *Kimberly Moseley, individual and on behalf of other individuals*
16 *similarly situated, v. Randstad Inhouse Services, LLC, a Delaware Limited Liability Company; FN*
17 *Logistics Inc. dba Fashion Nova, a Delaware corporation; and Does 1 through 100, inclusive, Los*
18 *Angeles Superior Court Case No. 20STCV21135.*

19 **1.19. “Released PAGA Claims”** refers to those claims defined in Paragraph 6.1 of this
20 Settlement. The Released PAGA Claims shall apply to all PAGA Settlement Members.

21 **1.20. “Released Parties”** refers to Defendants and their past, present, and future
22 subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers,
23 officials, directors, attorneys, personal representatives, executors, and shareholders, including their
24 respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the
25 successors of such plans, and those plans’ respective current or former trustees and administrators,
26 agents, employees, and fiduciaries.

27 **1.21. “Settlement”** refers to the terms of this Agreement.
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1 **1.22. “Settlement Administrator”** refers to the third party administrator, ILYM
2 Group, Inc., subject to Court approval, to perform the notice, claims administration, and distribution of
3 payment functions further described in this Settlement. The Settlement Administrator shall establish its
4 own employer identification number and file an Internal Revenue Service Form W-9. The Settlement
5 Administrator shall meet all of the requirements to establish a Qualified Settlement Fund (“QSF”)
6 pursuant to U.S. Treasury Regulation Section 468B-1.

7 **2. PROCEDURAL HISTORY AND RECITALS**

8 **2.1. The Action.** On May 28, 2020, Plaintiff Kimberly Moseley submitted a letter to
9 the LWDA alleging that Randstad Inhouse Services, LLC and FN Logistics Inc. had engaged in various
10 violations of the California Labor Code. On August 3, 2020, Plaintiff Kimberly Moseley filed a
11 Complaint entitled *Kimberly Moseley, individually and on behalf of other individuals similarly situated*
12 *v. Randstad Inhouse Services, LLC, a Delaware Limited Liability Company; FN Logistics, Inc. dba*
13 *Fashion Nova, a Delaware corporation; and Does 1 through 100, inclusive*, Los Angeles Superior
14 Court, Case No. 20STCV29116, asserting a claim for civil penalties under PAGA as to Defendants
15 Randstad Inhouse Services, LLC and FN Logistics Inc.

16 **2.2. Related Class Action.** On May 29, 2020, Plaintiff Kimberly Moseley filed a
17 class action complaint entitled *Kimberly Moseley, individual and on behalf of other individuals similarly*
18 *situated v. Randstad Inhouse Services, LLC, a Delaware Limited Liability Company; FN Logistics Inc.*
19 *dba Fashion Nova, a Delaware corporation; and Does 1 through 100, inclusive*, Los Angeles Superior
20 Court Case No. 20STCV21135.

21 **2.3. Related Diaz Action.** On May 27, 2020, Jose Diaz submitted a letter to the
22 LWDA alleging that Randstad North America, Inc. and Fashion Nova, Inc. had engaged in various
23 violations of the California Labor Code. On August 10, 2020, Jose Diaz filed a complaint entitled *Jose*
24 *Diaz, individually and on behalf of all others similarly situated v. Randstad North America, Inc. a*
25 *corporation; Fashion Nova, Inc. a corporation; and Does 1-20, inclusive*, Los Angeles Superior Court
26 Case No. 20STCV30294.

1 **3.1. Investigation by Plaintiff's Counsel and Diaz's Counsel.** Plaintiff's Counsel
2 and Diaz's Counsel investigated the claims against Defendants in the Action and Related Actions, and
3 also analyzed all applicable defenses raised by Defendants.

4 **3.2. Defendants' Denials.** Defendants deny and continue to deny: (a) all of the
5 allegations made in the Action and Related Actions; (b) that they violated any applicable laws; and (c)
6 that they are liable or owe damages, penalties, or other compensation or remedies to anyone with respect
7 to the alleged facts or claims asserted in the Action and Related Actions. Defendants emphasize that the
8 Court has not made any findings of liability as to Defendants. Nonetheless, without admitting or
9 conceding any liability or wrongdoing whatsoever and without admitting or conceding that
10 representative or class treatment is appropriate for any purpose other than settlement purposes alone,
11 Defendants have agreed to settle the Action and Related Actions to avoid the burden, expense, and
12 uncertainty of continuing the Action and Related Actions. Any stipulations or statements by Defendants
13 contained in this Settlement are made for settlement purposes only.

14 **3.3. Evaluation of Plaintiff's Counsel's and Diaz's Counsel.** Based on Plaintiff's
15 Counsel's and Diaz's Counsel's investigation and evaluation, Plaintiff's Counsel and Diaz's Counsel are
16 of the opinion that the terms set forth in this Settlement are fair, reasonable, adequate, and in the best
17 interest of the PAGA Settlement Members. Plaintiff's Counsel and Diaz's Counsel diligently and
18 effectively investigated Plaintiff's and Diaz's claims, drafted the Complaint, reviewed and analyzed
19 documents produced, and attended mediation. Plaintiff's Counsel and Diaz's Counsel are of the belief
20 that the risk of further litigation resulting in no recovery of any relief for Plaintiff, Diaz, and PAGA
21 Settlement Members was a very significant factor in determining that this Settlement is fair, reasonable,
22 and adequate.

23 **3.4. The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever
24 settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of
25 action, obligations or liability of any and every kind that were or could have been asserted in the Action
26 or Related Actions.

1 **3.5. The Parties' Agreement to Cooperate.** The Parties agree to cooperate and to
2 take all steps necessary and appropriate to effectuate all aspects of this Settlement.

3 **4. SETTLEMENT ADMINISTRATOR**

4 **4.1. Settlement Administrator.** The Parties request that the Court appoint ILYM
5 Group, Inc., as Settlement Administrator. All disputes relating to the Settlement Administrator's
6 performance of its duties, after good-faith efforts by the Parties to first resolve such disputes, will be
7 referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement until all
8 payments and obligations contemplated by this Settlement have been fully completed.

9 **4.2. Data For Settlement Administrator.** Within 30 calendar days of the entry of the
10 Approval Order, Defendants shall provide to the Settlement Administrator the following information:
11 (1) name of each PAGA Settlement Member; (2) last known address of each PAGA Settlement
12 Member; (3) the number of Eligible Workweeks for each PAGA Settlement Member; and (4) Social
13 Security Numbers for each PAGA Settlement Member.

14 **4.3. Confidentiality of Contact Information and Data.** The contact information is
15 being provided confidentially, and the Settlement Administrator shall treat the information as private
16 and confidential and take all necessary precautions to maintain the confidentiality of contact information
17 of the PAGA Settlement Members. This information is to be used only to carry out the Settlement
18 Administrator's duties as specified in this Settlement. The Settlement Administrator shall return the
19 data to Defendants or confirm its destruction upon completion of the Settlement Administrator's duties
20 in administering the Settlement. The Settlement Administrator shall not share the information with
21 Plaintiff, Plaintiff's Counsel, Diaz, or Diaz's Counsel.

22 **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

23 **5.1. Gross Settlement Amount.** Defendants agree to pay a maximum of \$260,000.00
24 toward the Gross Settlement Amount.

25 **5.2. Attorneys' Fees and Costs.** Plaintiff's Counsel and Diaz's Counsel intend to
26 request—and Defendants agree not to oppose—that the Court approve an attorneys' fees and costs
27 award for (a) attorneys' fees in the amount up to one-third of the Gross Settlement Amount; and (b)
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costs supported by adequate documentation by Plaintiff's Counsel and Diaz's Counsel. Except as provided in this Settlement, Defendants shall have no liability for any other attorneys' fees or costs.

5.2.1. Approval of Attorneys' Fees and Costs Award Not Material. The Court's approval of an attorneys' fees or costs award is not a material term of the Settlement. If the Court does not approve or approves only a lesser amount than that requested by Plaintiff's Counsel and Diaz's Counsel for attorneys' fees or costs, the other terms of this Settlement shall still apply. The Court's refusal to approve the attorneys' fees or costs award requested by Plaintiff's Counsel does not give Plaintiff, Plaintiff's Counsel, Diaz, or Diaz's Counsel any basis to abrogate the Settlement. Any amount of an attorneys' fees and costs award requested by Plaintiff's Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

5.2.2. Timing of Payment of Attorneys' Fees and Costs. The Settlement Administrator shall pay to Plaintiff's Counsel and Diaz's Counsel any approved attorneys' fees and costs award no later than 30 calendar days after the Effective Date. Plaintiff's Counsel and Diaz's Counsel agree that they are responsible for allocating this payment among themselves. The Settlement Administrator shall issue an Internal Revenue Service Form 1099 to Plaintiff's Counsel and Diaz's Counsel for any attorneys' fees and costs award payment. Plaintiff's Counsel and Diaz's Counsel shall be solely and legally responsible for paying all applicable taxes on any attorneys' fees and costs award payments and shall indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payment.

5.3. Settlement Administration Costs. Plaintiff's Counsel and Diaz's Counsel intend to request—and Defendants agree not to oppose—that the Court approve Settlement Administration Costs. The Settlement Administration Costs approved by the Court will be paid from the Gross Settlement Amount. Any amount of Settlement Administration Costs requested by Plaintiff's Counsel and Diaz's Counsel but unapproved by the Court shall be allocated equally to the Net Settlement Amount. Upon completion of administration of the settlement set forth in this Settlement, the Settlement Administrator shall provide written certification of such completion to Plaintiff's Counsel and Diaz's Counsel and Defendants' Counsel.

1 **5.3.1. Timing of Settlement Administration Costs Payment.** The
2 Settlement Administrator shall deduct any approved Settlement Administration Costs from the Gross
3 Settlement Amount no later than 30 calendar days after the Effective Date.

4 **5.4. Enhancements.** Plaintiff's Counsel and Diaz's Counsel will request that the
5 Court approve an enhancement award to Plaintiff and to Diaz in an amount not to exceed \$5,000 to each.
6 Defendants will not oppose this request. The enhancement payment shall be paid out of the PAGA
7 Settlement Amount.

8 **5.4.1. Timing of Payment of Enhancements.** The Settlement
9 Administrator shall pay the Enhancement to Plaintiff and Diaz no later than 30 calendar days after the
10 Effective Date. The Settlement Administrator shall issue an Internal Revenue Service Form 1099 to
11 Plaintiff and Diaz for the Enhancement payment. Plaintiff and Diaz shall be solely and legally
12 responsible for paying all applicable taxes on any Enhancement payment and shall indemnify and hold
13 harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the
14 payment.

15 **5.5. LWDA Payment.** The Parties will seek approval from the Court for an LWDA
16 Payment consisting of seventy-five percent (75%) of the Net Settlement Amount as the LWDA's share
17 of the settlement of civil penalties paid under this Settlement pursuant to PAGA. The remaining twenty-
18 five percent (25%) of the Net Settlement Amount will constitute the PAGA Distribution Fund for
19 distribution to PAGA Settlement Members.

20 **5.5.1. Timing of Payment of Attorneys' Fees and Costs.** The Settlement
21 Administrator shall submit the LWDA Payment to the LWDA no later than 30 calendar days after the
22 Effective Date.

23 **5.6. Individual Settlement Payments.** Each PAGA Settlement Member will be
24 eligible to receive a portion of the Net Settlement Amount based on the following formula:

25 The individual PAGA Settlement Share payment to a PAGA Settlement Member will
26 be calculated by dividing the number of Eligible Workweeks attributed to the PAGA
27 Settlement Member by all Eligible Workweeks attributed to PAGA Settlement
28 Members multiplied by the PAGA Fund. Otherwise stated, the formula for a PAGA
Settlement Member is: (individual's Eligible Workweeks ÷ total PAGA Settlement
Eligible Workweeks) x PAGA Distribution Fund.

1 Defendants represent that there are approximately 60,000 pay periods between May 30, 2019 and
2 February 5, 2021, and the Parties agree that in the event this representation turns out to be understated
3 by more than ten (10) percent, Defendants shall increase the maximum Settlement Amount on a
4 proportional basis (i.e., if there was an eleven (11) percent increase in the amount of pay periods,
5 Defendants will increase the Maximum Settlement Amount by eleven (11) percent).

6 Defendants' time and payroll records regarding the number of Eligible Workweeks worked for
7 each PAGA Settlement Member shall be used for purposes of calculating individual settlement
8 payments. Defendants' records shall be determinative for purposes of calculating the number of weeks
9 worked and any payments to PAGA Settlement Members. The Settlement Administrator shall issue the
10 checks constituting the Individual Settlement Payments no later than 30 calendar days after the Effective
11 Date.

12 Individual Settlement Payments will be characterized as 100% Form 1099 income.

13 Any settlement checks distributing Individual Settlement Payments returned to the Settlement
14 Administrator as undeliverable shall be sent within 5 calendar days via First Class U.S. Mail to the
15 forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator
16 shall attempt to determine the correct address using a single computer skip-trace search, and it shall then
17 perform a re-mailing within 5 calendar days. After 180 days from the date of their mailing by the
18 Settlement Administrator, any uncashed checks will be void and sent to the State of California
19 Department of Industrial Relations, Unclaimed Waged Fund in the PAGA Settlement Member's name
20 who did not cash or negotiate his or her check. The Settlement Administrator shall notify Plaintiff's
21 Counsel, Diaz's Counsel and Defendants' Counsel of any undeliverable checks.

22 **5.7. Final Funding of Gross Settlement Amount.** Defendants shall deposit the
23 Gross Settlement Amount into the Qualified Settlement Fund established by the Settlement
24 Administrator within 21 calendar days after the Effective Date.

25 **5.8. Tax Payment Considerations.** Plaintiff's Counsel, Diaz's Counsel, and
26 Defendants' Counsel are not giving any tax advice in connection with the Settlement or any payments to
27 be made pursuant to the Settlement.
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1 **5.9. No Tax Advice or Liability.** Each PAGA Settlement Member agrees to
2 indemnify, and to hold harmless, Defendants from any liability for taxes, fees, costs, or assessments
3 resulting from his or her failure to timely pay taxes, interest, fees, or penalties owed.

4 **5.10. No ERISA Impact.** None of the payments made pursuant to the Settlement shall
5 be considered for purposes of determining eligibility for, vesting or participation in, or contributions to
6 any benefit plan, including, without limitation, all plans subject to the Employee Retirement and Income
7 Security Act of 1974 (“ERISA”). Any distribution of payments to Plaintiff, Diaz, or PAGA Settlement
8 Members shall not be considered as a payment of wages or compensation under the terms of any
9 applicable benefit plan and shall not affect participation in, eligibility for, vesting in, the amount of any
10 past or future contribution to, or level of benefits under any applicable benefit plan. Any amounts paid
11 will not impact or modify any previously credited hours of service or compensation taken into account
12 under any benefit plan sponsored or contributed to by Defendants or any jointly-trusted benefit plan.
13 For purposes of this Settlement, “benefit plan” means each and every “employee benefit plan,” as
14 defined in 29 U.S.C. Section 1002(3), and, even if not thereby included, any 401(k) plan, bonus,
15 pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability,
16 vacation, severance, hospitalization, insurance, incentive, deferred compensation, or any other similar
17 benefit plan, practice, program, or policy.

18 **6. RELEASES**

19 **6.1. Release by PAGA Settlement Members.** By operation of the entry of the
20 Approval Order and Judgment, and except as to such rights or claims as may be created by this
21 Settlement, each PAGA Settlement Member will release Defendants and Released Parties, including
22 Defendants’ past, present, and future subsidiaries, parents, affiliates, predecessors, insurers, agents,
23 employees, successors, assigns, officers, officials, directors, attorneys, personal representatives,
24 executors, and shareholders, including their respective pension, profit sharing, savings, health, and other
25 employee benefits plans of any nature, the successors of such plans, and those plans’ respective current
26 or former trustees and administrators, agents, employees, and fiduciaries of all claims of all Released
27 PAGA Claims which may have arisen during the PAGA Period. The Released PAGA Claims include
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any and all claims and theories of liability under the California Private Attorneys General Act of 2004 alleged in letters to the Labor and Workforce Development Agency (“LWDA”) submitted by Plaintiff or Diaz, or the operative Complaints in the Action or Related Actions (Los Angeles Superior Court Case Nos. 20STCV29116, 20STCV21135, and 20STCV30294), or that could have been alleged based on the facts pertaining to Plaintiff, Diaz, and the PAGA Settlement Members. This includes, but is not limited to, claims arising under California Labor Code sections 200, 201, 202, 203, 204, 206, 210, 218.5, 226, 226.3, 226.7, 227.3, 510, 511, 512, 526(a), 558, 1194 *et seq.*, 1194.2, 1197, 1197.1, 1198, 2802, and 6720, and the California Industrial Welfare Commission Wage Orders.

6.2. Additional Release by Plaintiff and Diaz. In addition to the release given by each PAGA Settlement Member, Plaintiff and Diaz also generally release claims against each Released Party, including Defendants and their past, present, and future subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans’ respective current or former trustees and administrators, agents, employees, and fiduciaries. This general release includes claims arising from the Plaintiff’s and Diaz’s relationships with Defendants, including, without limitation, claims for discrimination, harassment, or retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000 *et seq.*, the California Fair Employment and Housing Act, California Government Code Section 12900 *et seq.*, or any claims for violation of public policy. This general release by Plaintiff and Diaz also includes a waiver of rights under 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.

1 As an express condition of this Agreement, Plaintiff will cause the Related Class Action to be dismissed
2 with prejudice as to her and without prejudice as to the class, and Diaz will cause to the Diaz Action to
3 be dismissed with prejudice as to him and without prejudice as to other employees.

4 This general release from Plaintiff and Diaz is only effective upon the Court granting final
5 approval of the Settlement and will not include a release of any claim that cannot be waived, including
6 but not limited to workers' compensation claims. This release also does not include future claims that
7 arise after final approval.

8 **6.3. No Admission of Liability.** By entering into this Settlement, Defendants in no
9 way admit any violation of law or any liability whatsoever to PAGA Settlement Members, individually
10 or collectively, and expressly deny all such liability. Defendants further deny the accuracy of any
11 allegation made by Plaintiff, Diaz, or their counsel, in this Action or the Related Actions. Neither this
12 Agreement, nor any other Settlement documents, shall be offered in any case or proceeding as evidence
13 of any admission by Defendants of any liability on any claim for damages, penalties, restitution, or any
14 other relief. Likewise, by entering into this Settlement, Defendants in no way admit to the suitability of
15 this Action or the Related Actions for class action or representative litigation, other than for purposes of
16 Settlement. Rather, Defendants enter into this Settlement to avoid further protracted litigation and to
17 resolve and to settle all disputes with the Settlement Class. The Parties understand and agree that this
18 Settlement shall be inadmissible for any purpose in any proceeding, except an action or proceeding to
19 approve, interpret, or enforce the terms of this Settlement. The Parties agree that, to the extent permitted
20 by law, this Settlement may be pleaded as a full and complete defense to, and may be used as the basis
21 for an injunction against any action, suit, or other proceeding that may be instituted, prosecuted, or
22 attempted in breach of this Settlement.

23 **7. SETTLEMENT APPROVAL PROCEDURE**

24 **7.1. Settlement Approval.** The Parties shall submit to the Court a Joint Motion for
25 Approval of Settlement. This motion shall seek an order to approve the proposed Settlement. This
26 motion shall include the basis for the Gross Settlement Amount and why the amount is reasonable in
27 light of the facts and controlling authorities pertaining to the claims alleged.
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1 Prior to filing the Joint Motion for Approval of Settlement, Plaintiff will cause to be dismissed
2 the Related Class Action, Los Angeles Superior Court Case No. 20STCV21135. The dismissal shall be
3 with prejudice as to Plaintiff, and without prejudice as to putative class members. No more than two
4 court days after filing the Joint Motion for Approval of settlement, Diaz will cause to be dismissed the
5 separately-pending Diaz Action, Los Angeles Superior Court Case No. 20STCV30294 (the “Diaz
6 Action”). The dismissal shall be with prejudice as to Jose Diaz and without prejudice as to other
7 employees.

8 **7.2. Effect of Failure to Obtain Approval.** If this Settlement or a substantially
9 similar settlement mutually agreed to by the Parties is not approved, the Action shall proceed as if no
10 settlement had been attempted, unless the Parties jointly agree to seek reconsideration of the ruling or
11 Court approval of a renegotiated settlement. Defendants retain the right to contest whether any aspect of
12 the Action should be maintained as a representative action, or to contest the merits of the claims being
13 asserted in the Action.

14 **7.3. Entry of Judgment.** Upon issuance of the Approval Order, the Parties shall
15 request that the Court enter Judgment in the case.

16 **7.3.1. Effect of Failure to Obtain Judgment.** In the event the Court fails to
17 enter Judgment in accordance with this Settlement, or such final judgment is vacated or reversed, the
18 Action shall proceed as if no settlement had been attempted, unless the Parties jointly agree to seek
19 reconsideration or appellate review of the ruling or Court approval of a renegotiated settlement.
20 Defendants retain the right to contest whether any aspect of the Action should be maintained as a
21 representative action, or to contest the merits of the claims being asserted by Plaintiff, Diaz, or PAGA
22 Settlement Members in the Action.

23 **8. MISCELLANEOUS**

24 **8.1. Interim Stay of Proceedings.** The Parties agree to refrain from further litigation,
25 except such proceedings necessary to implement and to obtain an Approval Order of the terms of the
26 Settlement. If the Settlement is not finally approved, the Parties agree that they will revert to their
27 positions in the lawsuit prior to the time the Settlement was reached, and no agreements set forth in this
28

1 Settlement or any documents generated or orders issued related to the Settlement will be admissible in
2 any future proceeding in this or any other action.

3 **8.2. Parties' Authority.** The signatories hereto represent that they are fully
4 authorized to enter into this Settlement and are fully authorized to bind the Parties to all terms stated
5 herein.

6 **8.3. Entire Agreement.** This Settlement, which includes the Definitions and Recitals,
7 constitutes the entire agreement between the Parties with regard to the subject matter contained herein,
8 and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed
9 merged into this Settlement.

10 **8.4. Materiality of Terms.** The Parties have arrived at this Settlement as a result of
11 arm's-length negotiations. Except as otherwise stated in this Settlement, all terms and conditions of this
12 Settlement in the exact form set forth in this Settlement are material to this Settlement and have been
13 relied upon by the Parties in entering into this Settlement.

14 **8.5. Counterparts.** This Settlement may be executed in counterparts, and when each
15 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
16 original, and when taken together with other signed counterparts, shall constitute one signed Settlement,
17 which shall be binding upon and effective as to all Parties.

18 **8.6. Facsimile or Scanned Signatures.** Any party may sign and deliver this
19 Settlement by signing on the designated signature block and transmitting that signature page via
20 facsimile, DocuSign, or as an attachment to an e-mail to counsel for the other party. Any signature made
21 and transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this
22 Settlement shall be deemed an original signature for purposes of this Settlement and shall be binding
23 upon the party who transmits the signature page.

24 **8.7. Waivers and Modifications to Be in Writing.** This Settlement may be only
25 amended or modified by a written instrument signed by counsel for the Parties and approved by the
26 Court. No rights under this Settlement may be waived except in writing.
27
28

1 **8.8. Construction.** The determination of the terms and conditions of this Settlement
2 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
3 Settlement, and the terms and conditions of this Settlement are not intended to be, and shall not be,
4 construed against any party by virtue of draftsmanship.

5 **8.8.1. Captions.** The captions or headings of the sections and paragraphs of
6 this Settlement have been inserted for convenience of reference only and shall have no effect upon the
7 construction or interpretation of any part of this Settlement.

8 **8.8.2. Invalidity of Any Provision.** Before declaring any provision of this
9 Settlement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
10 possible consistent with applicable precedents so as to render all provisions of this Settlement valid and
11 enforceable.

12 **8.9. Further Acts and Cooperation Between the Parties.** The Parties shall
13 cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this
14 Settlement and all of its terms. Each of the Parties, upon the request of another, agrees to perform such
15 further acts and to execute and to deliver such other documents as are reasonably necessary to carry out
16 the provisions of this Settlement.

17 **8.10. No Prior Assignments or Undisclosed Liens.** Plaintiff, Plaintiff's Counsel,
18 Diaz, and Diaz's Counsel represent and warrant that they have not assigned, transferred, conveyed, or
19 otherwise disposed of, or purported to assign, transfer, convey, or otherwise dispose of, any Released
20 PAGA Claims or the attorneys' fees and costs award to be paid pursuant to this Settlement. Plaintiff,
21 Plaintiff's Counsel, Diaz, and Diaz's Counsel further represent and warrant that there are not any liens
22 or claims against any of the amounts to be paid by Defendants pursuant to this Settlement. Plaintiff,
23 Plaintiff's Counsel, Diaz, and Diaz's Counsel agree to defend, to indemnify, and to hold Defendants
24 harmless from any liability, losses, claims, damages, costs, or expenses, including reasonable attorneys'
25 fees, resulting from a breach of these representations or from any lien or assignment.

26 **8.11. Discovery of Confidential Documents and Information.** Plaintiff's Counsel
27 and Diaz's Counsel agree that they will destroy all confidential documents and information provided to
28

1 them by Defendants within 30 calendar days after the completion of the administration of the
2 Settlement. Plaintiff's Counsel and Diaz's counsel further agree that none of the documents and
3 information provided to them by Defendants shall be used for any purpose other than prosecution of this
4 Action or the defense or prosecution of a malpractice action.

5 **8.12. No Tax Advice.** Neither Plaintiff's Counsel, Diaz's Counsel, nor Defendant's
6 Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability,
7 nor shall anything in this Settlement be relied upon as such within the meaning of United States
8 Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

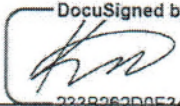
9 **8.13. No Media Announcements.** Plaintiff, Plaintiff's Counsel, Diaz, and Diaz's
10 Counsel, shall not publicize the terms or existence of the Settlement on their websites, in
11 advertising/marketing materials or on social media, other than filing documents with the Court. The
12 Parties and their counsel agree that they will not issue any press releases or initiate any contact with the
13 media about the fact, amount, or terms of the Settlement. If counsel for any Party receives an inquiry
14 about the Settlement from the media, counsel may respond only after motion for approval of the
15 Settlement has been filed. Nothing in this provision shall prevent Defendants from making any required
16 disclosure.

17 **8.14. Continuing Jurisdiction.** The Court shall retain jurisdiction over the
18 implementation of this Settlement as well as any and all matters arising out of, or related to, the
19 implementation of this Settlement. The Court shall not have jurisdiction to modify the terms of the
20 Settlement without the consent of all of the Parties. Should any party be required to enforce the terms of
21 this Settlement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

22 **8.15. Governing Law.** This Settlement was made and entered into in the State of
23 California. All terms of this Settlement shall be governed by and interpreted according to the laws of
24 the State of California.

SO AGREED AND STIPULATED:

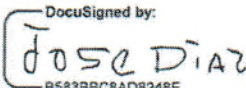
DATED: March KN, 2021

By:  DocuSigned by:

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Kimberly Moseley

DATED: March ^{DS} JOSE DIAZ, 2021

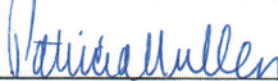
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Jose Diaz

DATED: March 23, 2021

RANDSTAD INHOUSE SERVICES, LLC

By: 

Name: Patricia Mullen

Its: Deputy General Counsel

DATED: March 22, 2021

FN LOGISTICS, INC.

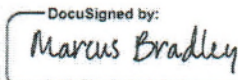
By: 

Name: Erica Meierhans

Its: General Counsel

DATED: March 22, 2021

BRADLEY/GROMBACHER, LLP

By:  DocuSigned by:

Marcus Bradley

Attorneys for Plaintiff Kimberly Moseley

1 DATED: March 15, 2021

KJT LAW GROUP LLP
ADAMS EMPLOYMENT COUNSEL

2
3
4 By: _____

5 Christopher Adams
6 Attorneys for Jose Diaz

7 DATED: March 23, 2021

SEYFARTH SHAW LLP

8
9 By: _____

10 Daniel Whang
11 Attorneys for Defendants