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5 Attorney for Plaintiff

6
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF SAN BERNARDINO**

9 RENATO LOAIZA MOTA, an individual,

10
11 Plaintiff,

12 vs.

13 GAGGLES INC., a California corporation;
14 JENNIFER TOWLES, an individual; and DOES
15 1 through 100, inclusive,
16 Defendants.

CASE NO. CIVDS2008868

[Assigned For All Purposes to the Hon. John
Pacheco, Department S-31]

**JOINT STIPULATION; [PROPOSED]
ORDER**

1 **TO THE COURT, ALL PARTIES, THEIR COUNSEL OF RECORD:**

2 The parties stipulate and agree that the Court should approve the settlement on the terms
3 stated and contained, and as set forth in Exhibit A. The parties request approval of the allocation set
4 forth in the agreement.

5 It is so stipulated.

6
7 Dated: OCTOBER 27, 2022

Respectfully submitted,

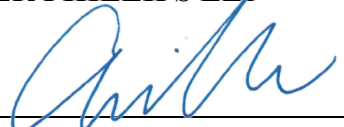
8 **LAW OFFICE OF ALFREDO NAVA JR.**

9
10 By:  _____

11 Alfredo Nava, Esq.
12 Attorney for PLAINTIFF
13 Renato Mota

14 Dated: OCTOBER 28, 2022

15 **FISHER PHILLIPS LLP**

16
17 By:  _____

18 Andrew Hoag, Esq.
19 Ariella Kupetz, Esq.
20 Attorneys for Defendants
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[PROPOSED] ORDER

After having reviewed the parties' stipulation, IT IS HEREBY ORDERED as follows:

The Parties' Stipulation and Request for Approval of Settlement is GRANTED in its entirety.

IT IS SO ORDERED.

DATED: _____

By: _____
THE HONORABLE JOHN PACHECO
JUDGE OF THE SUPRIOR COURT

EXHIBIT A

CONFIDENTIAL SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made and entered into by and between Gaggles Inc. ("GAGGLE'S") and Jennifer Towles ("TOWLES") on the one hand and Renato Loaiza Mota ("MOTA") on the other hand (GAGGLE'S, TOWLES, and MOTA, collectively, at times, the "Parties") on the terms and conditions set forth below.

WHEREAS, a dispute exists between the Parties arising out of or generally relating to MOTA's employment with GAGGLE'S;

WHEREAS, on or about July 14, 2020, MOTA filed a Labor Workforce Development Agency Private Attorneys General Act letter with the LWDA alleging various wage-and-hour claims ("LWDA Letter");

WHEREAS, on May 29, 2020, MOTA filed a civil lawsuit in the San Bernardino Superior Court against GAGGLE'S and TOWLES, Case No. CIVDS2008868 ("Lawsuit"). On September 22, 2020, MOTA filed a First Amended Complaint alleging: (1) Religious Discrimination; (2) Unlawful Retaliation in Violation of Government Code Section 12940(H); (3) Failure to Prevent Discrimination; (4) Failure to Reasonably Accommodate; (5) Wrongful Termination in Violation of Public Policy; (6) Failure to Pay Wages Due at Time of Termination Pursuant to Sections 201 and 203; (7) Failure to Pay Minimum Wages for all Hours Worked; (8) Failure to Provide Accurate Itemized Statements Pursuant to Labor Code Section 226; (9) Violation of Labor Code Sections 226.7 and 2698; (10) Unfair Competition Pursuant to Business and Professions Code Section 17200; and (11) Civil Penalties Pursuant to Labor Code Section 2698 ("PAGA Claim").

WHEREAS, on September 30, 2021, MOTA filed a Demand for Arbitration with JAMS, ADR Case No. 1210038294 ("Arbitration");

WHEREAS, GAGGLE'S and TOWLES deny all of MOTA's allegations and claims in the LWDA Letter, Lawsuit, PAGA Claim, and Arbitration;

WHEREAS, MOTA and GAGGLE'S and TOWLES wish to avoid continued litigation of this matter and the associated legal costs and expenses; and

WHEREAS, the Parties desire, without any concession or admission of unlawful conduct, liability, fault, or wrongdoing by any of the Parties, to effect a full, complete, final, and binding settlement and compromise of all claims that MOTA alleged or could have alleged, only in his individual capacity, against GAGGLE'S or TOWLES in the LWDA Letter, Lawsuit, PAGA Claim, Arbitration, or otherwise and all claims that GAGGLE'S or TOWLES may have against MOTA from the beginning of time through the effective date of this Agreement, with prejudice.

In consideration of and exchange for the promises, covenants, and releases contained herein, the parties mutually agree as follows:

1. Effective Date. This Agreement shall become effective when fully executed ("Effective Date").

///

RENATO LOAIZA MOTA: 
Error! Unknown document property name.

2. Specific Waiver and Release of All Claims. MOTA, for himself and for his heirs, executors, administrators, successors and assigns, hereby releases, acquits and forever discharges GAGGLE'S and TOWLES, and GAGGLE's present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and each of their respective parents, subsidiaries and related entities, officers, directors, shareholders, persons, employees, agents, servants, representatives, members, attorneys, insurers, re-insurers, assigns, and affiliates and any and all other entities with whom they have been, are now, or may hereafter be affiliated, including their affiliated companies, predecessors, successors and assigns, as well as their past or present officers, directors, agents, representatives, attorneys, insurers, re-insurers, assigns, or employees (collectively "Releasees"), from any and all claims, demands, obligations, actions, causes of action, liabilities, debts, promises, agreements, attorneys' fees, losses and expenses, known or unknown, suspected or unsuspected, filed or unfilled, that MOTA may have or has had arising out of any known or unknown fact, condition or incident occurring prior to the date of this Agreement arising out of or in connection with any claims, demand, charges, or complaints, including the Action, or arising out of or in connection with his employment, or the cessation thereof, or arising out of or in connection with MOTA's relationship with GAGGLE'S and the cessation thereof.

This release includes, without limiting the generality of the foregoing, any and all claims, demands, causes of actions, obligations, charges, liabilities, attorneys' fees, costs, actual, compensatory and punitive damages, and all claims for any other type of relief relating to, arising out of, or based upon: all claims of harassment, discrimination, or retaliation in violation of Local, State or Federal law; all claims for failure to prevent harassment, discrimination, or retaliation; all claims of violation of public policy, including a claim for wrongful or constructive termination of employment; all claims based on tort or breach of contract, whether written or oral, express or implied, and any covenant of good faith and fair dealing; all claims for unpaid commissions, wages, or other benefits, including minimum wage, overtime, double time, vacation, associated penalties or premiums, and expense reimbursement; all claims for rest or meal periods and associated penalties or premiums, and any and all claims for alleged violations of the California Labor Code; any claim for unlawful or unfair business practices; all claims for emotional distress; any and all claims which were or could have been asserted by MOTA in his individual capacity; and all individual claims generally relating to MOTA's employment relationship and the cessation thereof, including any alleged violation of any federal, state or other governmental statute, regulation, ordinance, or executive order, including without limitation:

- (1) The Civil Rights Acts of 1866, 1964, and 1991, as amended;
- (2) 42 U.S.C. § 1981;
- (3) The California Fair Employment and Housing Act;
- (4) Section 503 of the Rehabilitation Act of 1973;
- (5) The Fair Labor Standards Act (including the Equal Pay Act);
- (6) The California and United States Constitutions;
- (7) The California Labor Code, specifically including, but not limited to the Private Attorneys General Act pursuant to Labor Code section 2699, et seq.;
- (8) The California Business & Professions Code;
- (9) The Employee Retirement Income Security Act, as amended;

- (10) The Americans with Disabilities Act;
- (11) The Age Discrimination in Employment Act;
- (12) The Family Medical Leave Act;
- (13) The California Family Rights Act;
- (14) The California Pregnancy Discrimination Act;
- (15) The California Wage Orders;
- (16) The National Labor Relations Act;
- (17) The Immigration Reform and Control Act;
- (18) The California Occupational Safety and Health Act, or the Federal equivalent;
- (19) The Worker Adjustment and Retraining Notification Act; and
- (20) The Families First Coronavirus Response Act and state and local equivalents.

3. Dismissal with Prejudice. Within seven (7) business days of the Parties' execution of this Agreement, Plaintiff agrees to file an ex parte application for approval of his individual PAGA claim with the San Bernardino Superior Court. Plaintiff and his counsel agree to take all steps reasonably necessary to fulfill this portion of the Agreement. The Parties may seek approval through stipulation or noticed motion for approval of this settlement. All Parties will promptly cooperate in providing signatures to a stipulation to effectuate the settlement if Plaintiff does not want to seek approval via ex-parte application. MOTA acknowledges and represents that he has no claims, charges, or complaints, other than the LWDA Letter, Lawsuit, and Arbitration, have been filed against Defendant, nor will be filed. Within twenty (20) Court days of the Court's approval of the agreement, he agrees to notify JAMS of the settlement and request a dismissal of the Arbitration. Nothing in this agreement prevents a third party or the LWDA from seeking their own PAGA penalties or PAGA claims, as it is only Plaintiff's individual PAGA claims that are being dismissed with prejudice and Plaintiff agrees not to pursue any other representative claim if the settlement is approved by the Court. The parties agree that Plaintiff may ask the arbitrator for leave solely to attempt to reach a global resolution and approval of the PAGA settlement.

4. Dismissal with Prejudice. This Agreement does not waive any rights that cannot be waived as a matter of law.

5. Civil Code Section 1542 Waiver. MOTA and all Defendants/Respondents hereby agree that the provisions of California Civil Code section 1542 are waived. California Civil Code section 1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE

MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

MOTA and all Defendants and Respondents agree that they understands and acknowledge the significance and consequences of the specific waiver of California Civil Code section 1542, and hereby assume full responsibility for any damages or losses sustained by himself or themselves of any kind, character or nature which might have been asserted but have been released as set forth above.

6. Non-Admission of Liability. MOTA agrees that neither GAGGLE'S nor TOWLES admits any allegations made against them in any claims, charges, complaints, actions, causes of action, grievances, controversies, disputes, or demands. MOTA also agrees that nothing contained in this Agreement, nor any of the acts taken thereunder, shall be deemed or construed as an admission of liability of any violation of any applicable law, statute, ordinance, order, regulation, or constitution of any kind.

7. Consideration. In exchange for the promises made by and in consideration for all the terms agreed to by MOTA in this Agreement, GAGGLE'S agrees to pay MOTA the sum of Fifty Thousand Dollars and Zero Cents (\$50,000.00) (the "Settlement Payment") within ten (10) calendar days following: (1) full execution of this Agreement; (2) MOTA's provision of a form W-9; (3) MOTA's counsel's provision of a form W-9; (4) and the Court's approval of the settlement of MOTA's individual PAGA claim, including MOTA's individual PAGA claim and any representative PAGA claim with prejudice. The consideration shall be paid in three checks as follows:

1. A check payable to "RENATO LOAIZA MOTA" for 3000 Dollars and Zero Cents (\$3000.00), less lawful deductions, as compensation for alleged lost wages. Said amount will be reported as wages on a Form W-2; and
2. A check payable to Law Office of Alfredo Nava Jr. Client Trust Account Jr." in the amount of \$46,000.00 Dollars and Zero Cents (\$46000.00), as compensation for emotional distress, attorneys' fees and case costs. Said amount will be reported on an IRS Form 1099.
3. A check payable to the LWDA in the amount of 1000 Dollars and Zero Cents (\$1000.00), to satisfy the PAGA penalties claim as alleged in the First Amended Complaint.
4. By his signature on this Agreement, Plaintiff agrees that mailing of the Settlement Payment checks to his counsel's office: Alfredo Nava, Esq. Law Office of Alfredo Nava Jr., 3500 West Beverly Blvd. Montebello, CA 90640, constitutes proper payment of the Settlement Payment.

MOTA represents and acknowledges that the nature and extent of the Settlement Payment have been explained to him and that he understands them; that he is receiving the Settlement Payment in exchange for this full and complete Release of all claims of any kind including physical injuries or physical sickness or both that he may have against the RELEASED PARTIES; that he



intends to be bound by this Release; that he has accepted these benefits as being in full accord, satisfaction, compromise, and settlement of any and all disputed claims; and that he has entered into this Agreement knowingly and voluntarily and after having adequate opportunity to carefully review its terms and after having the opportunity to review its terms with a private attorney.

8. Entire Compensation. MOTA agrees that the Settlement Payment shall constitute the entire consideration due to him for the claims above, and is in full and complete satisfaction of any and all claims, demands, or causes of action that he has or may have against the RELEASED PARTIES, and that MOTA will not seek any further compensation for any other claimed damages, costs, or attorneys' fees against any Releasee of this Agreement in connection with the matters encompassed in this Agreement. MOTA acknowledges and agrees that he is not entitled to receive the Settlement Payment but for the promises that he is making in this Agreement.

9. Non-disparagement. MOTA agrees that, to the maximum extent such prohibition is permitted under the law, he will not make any oral or written statement or take any other actions that disparages or criticizes GAGGLE'S or TOWLES or any of the RELEASEES. Nothing herein precludes MOTA from seeking Court approval of this Agreement, including any of its terms, and submitting the Agreement to the LWDA or the Court or both. Nothing in this Agreement precludes MOTA from acting in good faith to effectuate the settlement, including representations to the Court. MOTA acknowledges that the confidentiality provision in Paragraph 11 of this Agreement and this non-disparagement provision are important to GAGGLE'S and that a violation of these provisions is a material breach of this Agreement. The Parties agree that neither notice to the LWDA nor representations to the Court, nor both, are violations of this Agreement for purposes of determining breach. On the condition that all inquiries are directed to GAGGLE'S Human Resources department, then GAGGLE'S will provide MOTA's prospective employers only MOTA's dates of employment and last position held. MOTA understands and agrees that GAGGLE'S is not liable for any violation of this provisions for inquiries directed anywhere other than GAGGLE'S Human Resources department. Nothing in this agreement prevents MOTA from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that MOTA may have reason to believe is unlawful.

10. Other Agreements by MOTA. MOTA also agrees that:

- (a) he is entering into this Agreement knowingly, voluntarily, and with full knowledge of its significance. MOTA has not been coerced, threatened, or intimidated into signing this Agreement;
- (b) he has been advised to consult with, and has in fact consulted with, his lawyers prior to signing this Agreement;
- (c) he has been given a reasonable amount of time to consider the Agreement;
- (d) he has not suffered any on-the-job injury for which he has not already filed a workers' compensation claim;
- (e) with the Settlement Payment, Defendants have paid him in excess of any moneys due or owing; and

- (f) MOTA is responsible for any liens or encumbrances that have been or may be placed on the Settlement Payment by a third party as authorized or consented to by him and that he shall indemnify the RELEASED PARTIES for any costs incurred for enforcing this settlement agreement because of a lien or encumbrance.
- (g) Satisfaction of Liens. MOTA further represents that if there are liens or reimbursement rights held by any hospital, mental health provider, ambulance service, or other medical provider, AHCCCS, Medicare, Medicaid, insurance company, worker's compensation carrier or related worker's compensation claim/lien, or attorney (hereinafter, collectively referred to as the "PROVIDERS") claim enforceable against the proceeds of this settlement incurred or consented to by him as a result of the claims or injuries alleged in this lawsuit, MOTA covenants that she shall fully and completely pay and satisfy such asserted lien or reimbursement right, or shall fully and completely pay and satisfy the same on a compromise basis, and to indemnify and hold harmless GAGGLE'S and RELEASED PARTIES from any and all costs, expenses, claims, actions, judgments, or settlements resulting from the assertion or enforcement of such lien or reimbursement right by any person or entity having such lien or reimbursement right. MOTA represents that is not aware of any liens whatsoever against him.

11. Confidentiality Agreement. Unless otherwise allowed or permitted by this Agreement, MOTA agrees that he shall keep strictly confidential the settlement amount and all other terms and provisions of this Agreement, and all of the discussions, conversations, and negotiations leading to the execution of this Agreement, and he shall not, directly or indirectly, provide, transmit, divulge, disclose, reveal, quote, describe, paraphrase, summarize, publicize, publish, or in any other manner communicate to or with any other person or entity, any of the foregoing, except to his lawyers or tax advisor, or as required by court order or otherwise by law. Nothing in this Agreement prevents MOTA from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that MOTA has reason to believe is unlawful.

12. Liquidated Damages. MOTA acknowledges that his breach of any of the covenants set forth in Paragraph 9 or 11 or both of this Agreement will cause substantial harm to GAGGLE'S, including but not limited to, the cost of prosecuting any claims and lawsuits against him. MOTA also acknowledges that it is impossible for such harm to be calculated with any degree of certainty. Therefore, MOTA agrees that any breach by a party of the obligations under Paragraph 9 or 11 or both of this Agreement shall entitle GAGGLE'S to liquidated damages in the sum of \$500.00, plus recovery of its court costs and reasonable attorneys' fees, for each proven breach. MOTA agrees that this provision is fair and reasonable because actual damages suffered as the result of any such breach of Paragraph 13 of this Agreement are difficult to ascertain

13. Entire Agreement. This Agreement sets forth the entire agreement between MOTA and GAGGLE'S and TOWLES regarding the Parties' settlement, and supersedes any other written or oral statements, representations, communications, understandings, and agreements concerning



the topics covered herein. No amendment or modification of the terms of this Agreement is binding on the Parties unless reduced to writing and signed by the Parties. This Agreement may be executed in counterparts.

14. Severability. MOTA and GAGGLE'S and TOWLES agree that if any phrase, clause, or provision of this Agreement is declared illegal, invalid, or unenforceable by a court of competent jurisdiction, such phrase, clause, or provision shall be deemed severed from this Agreement but will not affect any other provisions of this Agreement, which shall otherwise remain in full force and effect. The Parties agree that this severance provision shall not permit a court to strike the PAGA releases and otherwise enforce this Agreement. If the Court does not approve this settlement in its entirety, then this Agreement is null and void as if never entered into by the Parties and they may resume as if the Agreement never existed. The Parties agree to lift the Court's stay for purposes of attempting to attain approval of this Agreement and they agree in good faith to do what is necessary in Court and Arbitration to proceed accordingly. If the agreement is approved by the Court, then Plaintiff will dismiss the Court action and the arbitration with prejudice within 20 court days of approval of the agreement. If any phrase, clause, or provision in this Agreement is deemed to be unreasonable, onerous, or unduly restrictive by a court of competent jurisdiction, it shall not be stricken in its entirety and held totally void and unenforceable but shall remain effective to the maximum extent permissible within reasonable bounds.

15. Right to Consult an Attorney. All of the Parties represent that it or he or she had the opportunity to consult with an attorney and has carefully read and understands the scope and effect of the provisions of this Agreement.

16. Non-Assistance. MOTA agrees that he will not encourage, counsel, or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints by any third party against any of the Releasees, unless under a subpoena or other court order to do so. MOTA shall inform GAGGLE'S in writing within three (3) days of receiving any such subpoena or other court order.

17. Admissibility of Agreement. The Parties agree that this Agreement is admissible for the purposes of proving or enforcing the terms of the Parties' Agreement, as set forth herein, pursuant to California Evidence Code section 1123 and California Civil Code section 664.6.

18. Competency and Authority. The Parties represent and warrant that they are fully competent to enter into this Agreement and that they have the right, power, legal capacity, and authority to enter into this Agreement.

19. Assignment. MOTA represents that he has not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim, or any portion of or interest in a claim against the RELEASED PARTIES.

20. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California. To the extent that a dispute arises related to a breach of this Agreement, the prevailing party is entitled to recovery of reasonable costs and attorneys' fees.

21. Construction. Each of the Parties or the respective attorneys of each, has carefully reviewed, or has had an opportunity to review, this Agreement. Accordingly, the Parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be utilized in the interpretation of this Agreement. The language of all parts in this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. This Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any party since all the Parties have participated in the negotiations and drafting of this Agreement.

22. Tax Indemnification. MOTA understands and agrees that he is responsible for payment of any taxes required by the State of California, the United States Government, or any other entity because of this settlement. MOTA acknowledges that neither GAGGLE'S nor its counsel made representations regarding the tax consequences of the Settlement. MOTA agrees that if some federal, state, or local agency takes the position that GAGGLE'S should have withheld taxes from the Settlement Payment, that MOTA is solely responsible for payment of any such alleged tax obligations and will indemnify and hold the RELEASED PARTIES, defined above, harmless from any resulting tax liability, interest, or penalty associated therewith.

23. Fees and Costs. The Parties agree that they will bear their own respective attorneys' fees and costs incurred in connection with any disputes between the Parties, unless a motion must be brought to enforce the agreement, in which case the prevailing party in an action to enforce this Agreement is entitled to reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the Parties executed this Agreement on the respective dates set forth below.



RENATO LOAIZA MOTA

Date: 10 / 10 / 2022



GAGGLE'S INC.

JENNIFER TOWLES

Name

PRESIDENT

Title

Date: 10/26/2022



JENNIFER TOWLES, an individual

Date: 10/26/2022



CERTIFICATE OF SERVICE

COUNTY OF LOS ANGELES)
) ss.
STATE OF CALIFORNIA)

I am employed in the County of Los Angeles in the State of California. I am over the age of 18 and not a party to the within action; my business address is 3500 Beverly Blvd., Montebello, CA 90640

On the date set forth below, I served the following documents:

JOINT STIPULATION AND ORDER

in this action by electronically serving them at the e-mail addresses below as follows:
Defense Counsel

Andrew Hoag, Esq.
ahoag@fisherphillips.com
Ariella Kupetz, Esq.
akupetz@fisherphillips.com

☒ By E-Service: I electronically served the above documents to the email addresses listed above and agreed upon by the parties' counsel of record.

☐ By Overnight Delivery: On the date indicated below, I placed a true copy of the above-mentioned document(s), together with an unsigned copy of this proof, in a sealed envelope or package with delivery fees, addressed to the person as indicated above and deposited same in a box or other facility regularly maintained by the United States Postal Office for the express purpose of overnight delivery

☐ By Personal Service: On the date indicated below, I delivered the above mentioned document(s) by hand to the addressee(s) indicated above.

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

☐ Federal: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

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Executed on 10/28, 2022, at Lakewood, California.



Alfredo Nava