

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

Hugo Sandez v. PTG Logistics, LLC, et al.

(Los Angeles County Superior Court, Case Number 20LBCV00335)

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties that the settlement of the private enforcement representative action under the Labor Code Private Attorneys General Act of 2004 in Los Angeles County Superior Court Case No. 20LBCV00335 shall be effectuated upon and subject to the following terms and conditions, subject to approval by the Los Angeles County Superior Court (“the Court”). Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in the Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (“Agreement”).

This Agreement is made by and between Defendants PTG Logistics, LLC, PTG Specialty Transportation Services, LLC, Roger Pickett, John Schmid and Ryan Druffel (“Defendants”) and Plaintiff Hugo Sandez (“Plaintiff”) as the proxy of the State of California pursuant to the Labor Code Private Attorneys General Act of 2004, on behalf of the State and all Aggrieved Employees, as defined herein; this settlement is completely unrelated to and has no bearing or effect upon Plaintiff’s individual claims against Defendants in Los Angeles County Superior Court Case No. 20LBCV00335, for which the parties have entered into a separate confidential settlement agreement that is conditioned upon the Court’s approval of this Agreement. Defendants and Plaintiff are sometimes collectively referred to as the “Parties.” This Agreement shall be effective upon the last date upon which it is signed by the Parties.

The Parties agree that the Litigation shall be, and hereby is, ended, settled, resolved, and concluded by agreement of Defendants to pay the sum of 25,000.00 (“Settlement Amount”), and no more, for settlement of the Private Attorneys General Act (“PAGA”) claims in Los Angeles County Superior Court Case No. 20LBCV00335, which shall be inclusive of Plaintiff’s Counsel attorneys’ 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 the following truck drivers that worked for PTG Logistics, LLC or PTG Specialty Transportation Services, LLC within the PAGA claim period which Defendants represent is no more than the following 10 individuals whose hire and termination dates are listed: claim period are indicated: (1) Kevin C. 04/03/2018-04/03/2018; (2) Anthony F. 06/27/2017-03/03/2018; (3) Erick G. 09/27/2016-03/28/2017; (4) Raymond G. 06/20/2017-12/02/2017; (5) Tim M. 08/21/2017-

11/21/2017; (6) William M. 09/27/2016-09/27/2016; (7) James N. 09/27/2016-10/12/2016; (8) Hugo Sandez 03/22/2017-12/02/2019; (9) Lamar W. 09/27/2016-03/24/2017; (10) Anthony D. 3/25/2017-6/27/2017.

- (b) “Complaint” means the operative First Amended Complaint (“FAC”), filed by Plaintiff on 12/20/2021.
- (c) “Court” means the Superior Court for the State of California, County of Los Angeles.
- (d) “Defendants’ Counsel” is:

Christina Loni, Esq.
Wood, Smith, Henning & Berman LLP
9333 Fairway View Place, Suite 200
Rancho Cucamonga, CA 91730

- (e) “Effective Date” means the date the Court enters the Order approving the settlement of the PAGA claims as described in this Agreement.
- (f) “Plaintiff’s Counsel” is:

M. Anthony Jenkins, Esq.
Law Offices of Stephen Glick
1055 Wilshire Blvd., Suite 1480
Los Angeles, CA 90017

- (g) “Release Period” means the time period from July 11, 2016 through the Effective Date of this Agreement.
- (h) “Released Claims” means any and all claims for civil penalties pursuant to PAGA, including, but not limited to, penalties based on underlying violations of Labor Code section 2802, section 9(b) of the Industrial Welfare Commission Order No. 1-2001, section 9(b) of the Industrial Welfare Commission Order No. 4-2001, Labor Code section 1182.12, Labor Code section 1194, Labor Code section 1194.2, Labor Code section 1197, and Labor Code section 226(a), during the Release Period.
- (i) “Released Parties” means Defendants and their former and present parents, subsidiaries and affiliated corporations and its officers, directors, employees, managers, partners, shareholders, agents, insurers, and any other successors, assigns, insurance carriers, or legal representatives.

Article II.

Background.

- (a) Through this Litigation, the Parties, by and through their respective counsel, have engaged in formal discovery, and investigation and analysis of Plaintiff's claims and Defendants' defenses. The Parties reached this Settlement only after such discovery, investigation and analysis were performed and fully considered.
- (b) This settlement contemplates the (a) entry of an Order by the Court approving the payment allocation of the Settlement Amount; (b) dismissal of the Litigation with prejudice; and (c) all parties bearing their respective fees and costs except as expressly provided in this Agreement.

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 the Settlement Amount as described in this Agreement at the earliest possible date. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents to the LWDA, to the extent necessary, and the Court. 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 LWDA and/or the Court relating to, or that are otherwise necessary to the approval and implementation of the payment of the Settlement Amount as described in this Agreement.

Section 3.02 Court Approval; Dismissal Under CCP § 664.6; Breach.

The Parties will seek to obtain the Court's approval of the payment of the Settlement Amount as described in this Agreement by way of a stipulation to be filed by Plaintiff's Counsel. Plaintiff's Counsel and Defendants' Counsel will jointly lodge this Agreement with the Court for its approval. The Court's approval of the payment of the Settlement Amount as described in this Agreement shall be embodied in a written Order. The Parties will provide the LWDA with a copy of this Agreement and/or any joint stipulation or unopposed motion to the Court for approval of the settlement of the PAGA claims.

The Parties agree and request that as part of the approval of this Agreement, that that Court dismiss the entire action in Los Angeles County Superior Court Case No. NC061266 under CCP § 664.6 while retaining jurisdiction to enforce the terms of this Agreement and the confidential settlement agreement between Plaintiff and Defendants resolving Plaintiff's individual claims in this matter, Los Angeles County Superior Court Case No. NC061266.

The Parties agree that in the event of a breach of the payment obligation under this Agreement, which also includes a check returned for insufficient funds, Plaintiff shall give notice to Defendants' Counsel by fax or email of Defendants' breach and that they will 5 business days to cure said breach. If Defendants fail to cure after having been provided with said notice, Plaintiff may apply ex parte on two day's notice for entry of judgment against Defendants for the full unpaid Settlement Amount, plus an award of attorney's fees and costs. Defendants shall be responsible for paying any returned check fee as part of curing a breach based on a check returned for insufficient funds.

Section 3.03

Payment of Settlement

The Parties agree that, subject to Court approval, Defendants shall pay the total sum of \$25,000.00 for settlement of the PAGA claims in the Complaint pursuant to Labor Code § 2698 et seq., and that such amount represents a fair and equitable sum for resolution of said claims. From this Settlement Amount, Plaintiff's Counsel will be paid an award of Attorneys' Fees and Costs under Labor Code § 2699(g) in the amount of \$8,325.00 payable to the "Law Offices of Stephen Glick," subject to Court approval, which represents one-third of the Settlement Amount and shall be paid from the Settlement Amount. Plaintiff's Counsel may seek approval of this attorney fee award as part of the joint ex parte for settlement approval to be submitted by the parties (or by formal motion if required by the Court), and Defendant will not oppose the award of attorney's fees to Plaintiff's Counsel's in this amount. Plaintiff's Counsel is will also be paid an award of costs in the amount of \$1,000.00 payable to the "Law Offices of Stephen Glick," to be paid from the Settlement Amount for reimbursement of reasonable litigation expenses. Plaintiff's counsel will prior to payment provide Defendants with a form W-9 for the money received by the Law Offices of Stephen Glick only. Of the remaining balance of \$15,675.00, 75% will be paid to the LWDA (11,756.25) and 25% (\$3,918.75) will be paid to the 10 Aggrieved Employees on a prorata basis according to the number of weeks from their hire date to termination date, as follows: Kevin 0.143; Anthony 35.571; Erick 26.000; Raymond 23.571; Tim 13.143; William 0.143; James 2.143; Hugo Sandez 140.714; Lamar 25.429; Anthony 13.429. All of the payments to the Aggrieved Employees are considered penalties and will not be subject to local, state or federal tax withholdings. Plaintiff understands and agrees that he is responsible for any taxes that he may owe on the amounts paid to Plaintiff under this Agreement. All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 for their portion of the settlement. The Defendants shall issue IRS Form 1099s (if required) to the Aggrieved Employees for the amount of money each aggrieved party receives. Defendants will send the 1099 to the last known address of each aggrieved party pursuant to the W-9 forms that Defendant has on file.

Payment of the Settlement Amount as allocated above will be made within 30 days after the entry of the Court's granting approval of this settlement and Agreement, as follows: (1) the instrument payable to the "Law Offices of Stephen Glick" for the full amount due the Law Offices of Stephen Glick for its award of attorney's fees and costs, shall be delivered to the Law Offices of Stephen Glick located at 1055 Wilshire Blvd., Ste. 1480, Los Angeles, CA 90017; (2) the instruments for the amount due Plaintiff under this Agreement shall be delivered to the Law Offices of Stephen Glick located at 1055 Wilshire Blvd., Ste. 1480, Los Angeles, CA 90017; (3)

the instruments for the amount due the remaining Aggrieved Employees shall be mailed by Defendants to the last known address for each of the same—if any of these checks are returned, Defendants shall perform a skip search to locate the employee and re-mail the check to that address—any checks that remain uncashed after 180 days shall be cancelled and the uncashed amount shall be redistributed and paid by Defendants to the Aggrieved Employees who cashed their checks. The payment to the LWDA shall be due 30 days after Court approval of this Agreement.

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 Defendants of any liability whatsoever, or as admission by Defendants of any violations of Plaintiff's rights, violation of any order, law, statute, duty or contract whatsoever. Defendants specifically disclaim any liability to Plaintiff 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 the Settlement Amount as described in this Agreement, then (a) this Agreement shall be considered null and void, and (b) 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.
- (b) 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.

Upon entry of the Order approving payment of the Settlement Amount as described in this Agreement, Plaintiff 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 Plaintiff, Plaintiff's Counsel, Defendant and Defense Counsel 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, Plaintiff's 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. Plaintiff expressly warrants that he has 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, Defendants' 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. This Agreement may be signed electronically and signatures may be exchanged by mail, fax or scanned email.

Section 6.08 Attorneys' Fees and Costs.

Except as otherwise stated herein, Defendants and Plaintiff shall each bear their own attorneys' 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.

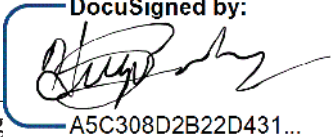
This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

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.

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

APPROVED, ACCEPTED AND AGREED TO BY:

By: Hug  Date: August 9, 2021

By: _____ Date: August __, 2021
PTG Logistics, LLC
By: Roger Pickett
Its: Manager

By: _____ Date: August __, 2021
PTG Specialty Transportation Services, LLC
By: John Schmid
Its: Manager

By: _____ Date: August __, 2021
John Schmid, as an individual

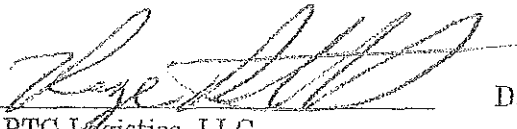
By: _____ Date: August __, 2021
Roger Pickett, as an individual

By: _____ Date: August __, 2021
Ryan Druffel, as an individual

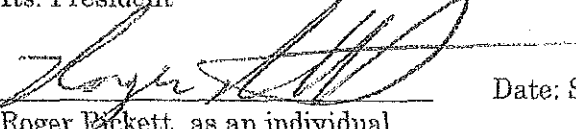
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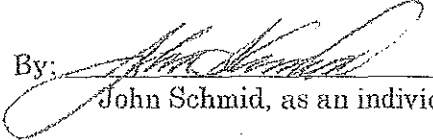
APPROVED, ACCEPTED AND AGREED TO BY:

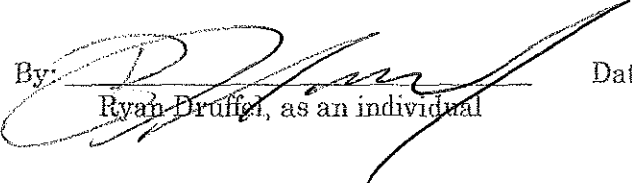
By: _____ Date: September __, 2021
Hugo Sandez

By:  _____ Date: September 3, 2021
PTG Logistics, LLC
By: Roger Pickett
Its: President

By:  _____ Date: September 3, 2021
PTG Specialty Transportation Services, LLC
By: Roger Pickett
Its: President

By:  _____ Date: September 3, 2021
Roger Pickett, as an individual

By:  _____ Date: September 2, 2021
John Schmid, as an individual

By:  _____ Date: September 3, 2021
Ryan Druffel, as an individual