

STIPULATION FOR SETTLEMENT OF PAGA CLAIM

I. RECITALS

WHEREAS, Defendant DTI ASSOCIATES, LLC at all times relevant operated a transportation business located in Compton, California;

WHEREAS, Defendant BULK TRANSPORTATION at all times relevant operated a transportation business located in Walnut, California;

WHEREAS, Defendant DEBRAH CROSS was at all times relevant an owner of DTI ASSOCIATES, LLC and BULK TRANSPORTATION;

WHEREAS, Defendant BRETT RICHARDSON was at all times relevant an officer of Defendant BULK TRANSPORTATION;

WHEREAS, Plaintiff GERMAN ARRIOLA MEJIA (hereinafter "Plaintiff") performed services classified as an owner-operator truck driver for Defendant DTI ASSOCIATES, LLC, between approximately June 2010 and March 2020;

WHEREAS, on June 29, 2020, Plaintiff filed his Complaint against Defendant DTI ASSOCIATES, LLC and Defendant BULK TRANSPORTATION in Los Angeles County Superior Court, Case No. 20STCV24532 (hereinafter, "the Action");

WHEREAS, in the Complaint filed in the Action, Plaintiff alleged he was misclassified as an independent contractor and individually sought damages, penalties, injunctive relief, restitution, prejudgment interest, costs, and attorney's fees for eight causes of action: (1) Failure to Reimburse Business Expenses; (2) Unlawful Deductions from Wages; (3) Failure to Pay Minimum Wages; (4) Failure to Provide Meal Periods; (5) Failure to Authorize and Permit Rest Periods; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Continuing Wages Penalty; and (8) Unfair Competition;

WHEREAS, on or about June 16, 2020; September 18, 2020; and December 10, 2021, Plaintiff filed three notice letters ("PAGA Notice Letters") with California's Labor and Workforce Development Agency ("LWDA") relating to his claims and Labor Code violations alleged in the Action against Defendants;

WHEREAS, on September 21, 2020, Plaintiff filed a First Amended Complaint in Los Angeles County Superior Court, Case No. 20STCV24532 asserting as an "aggrieved employee" an additional cause of action based upon the Private Attorneys General Act of 2004 ("PAGA") (First Amended Complaint, Cause of Action No. 7);

WHEREAS, on December 10, 2020, Plaintiff filed his operative Second Amended Complaint asserting additional facts in support of his prior allegations and dismissing without prejudice his causes of action for Failure to Provide Meal Periods (First Amended Complaint,

Cause of Action No. 4) and Failure to Authorize and Permit Rest Periods (First Amended Complaint, Cause of Action No. 5);

WHEREAS, Defendants deny Plaintiff's allegations, deny that they caused any damage to Plaintiff and deny all liability and/or wrongdoing asserted against them in the Action, PAGA Notice Letters, or otherwise, and deny that they have committed any misconduct, statutory or regulatory violation, wrongdoing, or any other actionable conduct whatsoever;

WHEREAS, on September 9, 2020, Plaintiff and Defendants (hereinafter, the "Parties") participated in a full-day private mediation through professional neutral Hon. Michael M. Johnson but failed to reach an agreement on terms of settlement;

WHEREAS, prior to the mediation, Defendants had produced information relevant to Plaintiff's individual claims and data for the putative aggrieved employees to facilitate analysis of potential liability under PAGA;

WHEREAS, as part of the discovery that took place after the mediation, Defendants provided substantive responses to Plaintiff's form and special interrogatories and requests for production, and supplemental responses thereto, and produced over 1,000 pages of documents;

WHEREAS, on February 25, 2021, the Parties began renewed settlement discussions via direct arms-length negotiations and Defendants provided further information in the course of those negotiations, including additional data required to calculate potential liability under PAGA;

WHEREAS, on March 9, 2021, the Parties were able to reach an agreement on terms of settlement of the Action, contingent upon the Court's approval of the settlement of the PAGA claim. (Second Amended Complaint, Cause of Action No. 7);

WHEREAS, Defendants represent that the transportation businesses of Defendant DTI ASSOCIATES, LLC and Defendant BULK TRANSPORTATION were sold to a third party in July 2020, have ceased all operations, and are no longer going concerns;

WHEREAS, Defendants represent that as a result of the sale, DTI ASSOCIATES, LLC and BULK TRANSPORTATION have not been operational since July 23, 2020;

WHEREAS, Plaintiff is represented for his claims by counsel and has received legal advice as to the terms of this Agreement. Plaintiff understands that he is waiving significant legal rights by signing this Agreement and enters into this Agreement voluntarily. Plaintiff represents that he fully understands and agrees with all of its terms in this Agreement;

WHEREAS, to conserve attorney's fees and costs, the Parties now wish to resolve Plaintiff's claims;

WHEREAS, the Parties recognize that the question of pre-emption under the Federal Aviation Administration Authorization Act ("FAAAA") is still pending at the federal level, and

the issues presented in the Action carry significant risk and uncertainty for both sides, and are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation;

WHEREAS, the Parties are of the opinion that the PAGA Settlement Sum is fair, reasonable, and adequate and is in the best interests of the State of California, the putative Aggrieved Employees, Plaintiff, and Defendants, in light of all known facts and circumstances and the risks inherent in litigation;

WHEREAS the Parties now hereby enter into this Stipulation for Settlement of PAGA Claim to settle and resolve the PAGA claim in the Action (Second Amended Complaint, Cause of Action No. 7), subject to Court approval;

WHEREAS, the Parties agree that settlement of the PAGA claim in the Action is contingent upon the Court's approval of the terms of this Stipulation for Settlement of PAGA Claim;

WHEREAS, the Parties have also entered into a Confidential Conditional Settlement Agreement and Release of the Plaintiff's individual claims (Second Amended Complaint, Causes of Action Nos. 1-6); and

NOW THEREFORE, in view of the foregoing, and based on the mutual promises set forth below, the Parties hereto agree as follows:

II. AGREEMENT

1. Definitions. As used herein, the following definitions shall apply:

- a. As used herein, the term **"the Action"** means the case of GERMAN ARRIOLA MEJIA v. DTI ASSOCIATES, LLC; BULK TRANSPORTATION; DEBRAH CROSS; and BRETT RICHARDSON, et al., Los Angeles Superior Court Case No. 20STCV24532.
- b. As used herein, the word **"Plaintiff"** means GERMAN ARRIOLA MEJIA.
- c. As used herein, the word **"Defendants"** means DTI ASSOCIATES, LLC; BULK TRANSPORTATION; DEBRAH CROSS; and BRETT RICHARDSON.
- d. As used herein, the term **"the Parties"** means GERMAN ARRIOLA MEJIA; DTI ASSOCIATES, LLC; BULK TRANSPORTATION; DEBRAH CROSS; and BRETT RICHARDSON.
- e. As used herein, the word **"Claims"** means any and all claims, demands, obligations, controversies, debts, attorneys fees and costs, expenses, damages,

judgments, penalties, fines and liabilities of any kind or nature in law, equity or otherwise.

- f. The term “**PAGA**” means the California Labor Code Private Attorneys General Act of 2004, as amended (Labor Code §§ 2698 *et seq.*);
 - g. The term “**PAGA Notice Letters**” means the letters dated June 16, 2020; September 18, 2020; and December 10, 2021 filed by Plaintiff with the LWDA with respect to claims and Labor Code violations alleged in the Action;
 - h. The term “**PAGA Settlement Sum**” means the amount Defendants shall pay in connection with the settlement of the PAGA claim in the Action. Subject to Court approval of this Agreement, the PAGA Settlement Sum Defendants shall be required to pay to settle and resolve the Cause of Action alleged in the Action based on PAGA (Second Amended Complaint, Cause of Action No. 7) is **Thirty-Five Thousand Dollars (\$35,000.00)**.
 - i. As used herein, the term “**Stipulation for PAGA Settlement**” means this Stipulation for Settlement of PAGA Claim.
 - j. The term “**Settlement Administration Costs**” means the costs payable from the PAGA Settlement Sum to the PAGA settlement administrator, Phoenix Settlement Administration (“PSA”) for administering the PAGA settlement. The Settlement Administration costs shall not exceed \$1,250.00.
 - k. The term “**Aggrieved Employees**” means those former truck drivers classified as owner-operators who performed services for DTI ASSOCIATES, LLC and BULK TRANSPORTATION in California from the date of June 29, 2019 (one year prior to filing the Action) through to July 23, 2021 (the date that the businesses were sold and operations ceased) (the “PAGA Claim Period”). Defendants represent that there are a total of **Forty (40)** putative Aggrieved Employees (including Plaintiff) who collectively worked a total of **828 workweeks** during the PAGA Claim Period. Defendants’ representation that this data is accurate is a material term of this Stipulation for Settlement of PAGA Claim.
 - l. The term “**Confidential Conditional Settlement Agreement and Release**” means the Confidential Conditional Settlement Agreement and Release entered into concurrently herewith.
2. **Agreement Contingent Upon Court Approval of Settlement of the Action.** This Agreement, and the obligations of the Parties therein, are wholly contingent upon final approval by the Court of the settlement and compromise of the PAGA claim in the Action on the terms set forth in this Stipulation for Settlement of PAGA Claim. The Parties agree to cooperate and use their best efforts to submit a request for Court approval of this Agreement and timely provide requisite notice to the LWDA. Each Party unilaterally

reserves the right to withdraw from this Agreement if the Court, the LWDA, or any administrative agency acting within its authority, in any way modifies or fails to approve the PAGA Settlement Sum or any material term(s) of this Stipulation for Settlement of PAGA Claim, unless such modification or rejection is solely due to inadequacy of the PAGA Settlement Sum. In such an event, Defendants shall have the first right to agree to the immediate payment of any necessary increased amount of the PAGA Settlement Sum required to obtain Court approval before any Party may invoke the right to withdraw from this Agreement. An Order or ruling by the Court disapproving or denying this Agreement on the basis of requiring submission of supplemental briefs to clarify a point of law, provide additional facts, or cure evidentiary defects shall not be grounds for any Party to unilaterally withdraw from this Agreement, provided the material terms of this Agreement remain unaffected.

3. **Individual Claims.** The Parties have entered into a separate Confidential Conditional Settlement Agreement and Release of the Plaintiffs' individual claims.
4. **Private Attorneys General Act of 2004 ("PAGA).** Defendants shall, not later than Fifteen (15) days after the Court's approval of this Stipulation for PAGA Settlement (Second Amended Complaint, Cause of Action No. 7), pay the PAGA Settlement Sum of **Thirty-Five Thousand Dollars (\$35,000.00)**.
 - a. Payment of the PAGA Settlement Sum shall be made by remitting One (1) payment of \$35,000.00 to Phoenix Settlement Administrators ("PSA"), who shall administer the PAGA Settlement in accordance with the terms of this Agreement. PSA will provide payment instructions to Defendants.
 - b. The Settlement Administration Costs shall not exceed **\$1,250**, based upon the stipulated number of **Forty (40)** putative Aggrieved Employees (including Plaintiff) who collectively worked a total of **828 workweeks** during the PAGA Claim Period. The Settlement Administration Costs shall be deducted from the PAGA Settlement Sum. Any additional fees or administration costs arising from inaccurate or inconsistent data provided by Defendants to PSA, shall be the sole responsibility of Defendants and shall not impact or otherwise reduce the PAGA Settlement Sum.
 - c. After payment of PSA's administration costs, the PAGA Settlement Sum shall be administered as follows: the LWDA shall retain **Twenty Five Thousand Three Hundred Twelve Dollars and Fifty Cents (\$25,312.50)** (*i.e.*, 75% of \$33,750), and **Eight Thousand Four Hundred Thirty Seven Dollars and Fifty Cents (\$8,437.50)** (*i.e.*, 25% of \$33,750) shall be distributed between and among the **Forty 40** putative Aggrieved Employees, as defined above, as follows: pro rata based upon the number of pay periods worked during the PAGA Claim Period.
 - d. PAGA Payments to all putative Aggrieved Employees shall be characterized as penalties and paid pursuant to an IRS Form 1099.

- e. For purposes of administration and disbursement of the PAGA penalties, Defendants shall, within Fifteen (15) days of the Court's approval of this Stipulation for PAGA Settlement, provide PSA with an excel file containing the following data for each and every of the Aggrieved Employees, including Plaintiff, as defined hereinabove: (1) full names; (2) contact information (including last known address, telephone number, and email); (3) start dates and end dates of employment; (4) number of workweeks worked during the PAGA Claim Period; and (5) the total PAGA penalty amount due to each aggrieved employee, pursuant to the formula outlined hereinabove.
 - f. The PAGA payment shall be non-reversionary. Any PAGA checks returned to the claims administrator as undeliverable or remaining un-cashed for more than one hundred twenty (120) calendar days after issuance will be distributed to the California State Controller's Office's Unclaimed Property Division. A notice shall accompany the PAGA payments to the putative Aggrieved Employees, in a form to be approved by the Court.
 - g. Plaintiff may choose a Stipulation, Joint Motion, and/or Joinder, to secure Court approval of the settlement of the PAGA cause of action. The Parties shall cooperate in promptly and expeditiously drafting and filing any such Stipulation, Joint Motion and/or Joinder. Alternatively, Plaintiff may choose at any time to unilaterally draft and file an Unopposed Motion to secure Court approval of the settlement of the PAGA cause of action. Defendants shall not oppose any such Motion by Plaintiff.
 - h. The Parties shall cooperate in good faith to resolve any issues identified by the Court preventing the Court's approval of this Stipulation for Settlement of PAGA Claim. At the time of filing the Stipulation, Joint/Unopposed Motion, and/or Joinder the Parties shall lodge with the Court with a copy of the Confidential Settlement Agreement and Release of the Plaintiffs' individual claims for *in camera* review.
5. **Dismissal.** Within Fifteen (15) days of Court approval of this Stipulation for PAGA Settlement, completion of any final accounting hearings, or similar, as may be set by the Court, and payment of all sums required by this Stipulation for Settlement of PAGA Claim and the Confidential Settlement Agreement and Release, Plaintiff shall file a request for dismissal of the Action in its entirety as to all Defendants with prejudice Pursuant to California Civil Procedure Code 664.6, the Court shall retain jurisdiction to enforce the terms of this Agreement.
6. **Taxes.** The Parties understand and agree that no Party makes any representations, warranties or agreements or otherwise concerning any tax treatment of the settlement amount or any portion of the settlement amount. The Parties, and all of them, understand and agree that they will be responsible for the payment of any and all taxes, assessments,

or other financial obligations, whether federal, state or local, which they owe in connection with the settlement sum.

7. **Reservation of Jurisdiction.** The terms of this Stipulation for Settlement of PAGA Claim may be enforced pursuant to Code of Civil Procedure section 664.6. The prevailing party in any proceeding to enforce this settlement agreement shall be entitled to recover reasonable attorneys' fees and costs.
8. **No Admissions.** Nothing herein shall be deemed or construed to be an admission of any liability or fault in respect of any of the allegations or claims which could have been made by or against any of the Parties to this dispute, for any purpose.
9. **Ambiguities or Uncertainties.** This Stipulation for Settlement of PAGA Claim shall be equally and fairly interpreted and construed without reference to the identity of the Party or Parties who prepared this document, on the express understanding and agreement that the Parties participated equally in the negotiation and preparation of this Stipulation for Settlement of PAGA Claim or have had equal opportunity to do so. Accordingly, this Stipulation for Settlement of PAGA Claim shall be interpreted in accordance with California contract law.
10. **Survival of Executory Provisions.** Except as otherwise stated in this Stipulation for Settlement of PAGA Claim, any and all executory provisions under this Stipulation for Settlement of PAGA Claim shall survive the consummation of this Stipulation for Settlement of PAGA Claim and shall continue in full force and effect until fully performed and satisfied.
11. **Counterparts.** This Stipulation for Settlement of PAGA Claim may be executed in duplicate originals or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one stipulation and agreement. An electronic signature transmitted by email or facsimile shall be deemed valid and binding for all purposes.
12. **Invalidity of Provision.** Wherever possible, each provision in this Stipulation for Settlement of PAGA Claim shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Stipulation for Settlement of PAGA Claim shall be prohibited by or invalid by any such law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision, or the remaining provisions of this agreement.
13. **Successors.** This Stipulation for Settlement of PAGA Claim shall be binding upon the administrators, executors, receivers, trustees, successors, assigns and heirs of the respective Parties.
14. **Further Papers.** Each Party hereto agrees to execute such further papers or documents as shall be necessary or proper in order to fulfill the terms, conditions and intent of this Stipulation for Settlement of PAGA Claim.

15. **Time of Essence.** The parties understand and agree that time is of the essence and that this is a material term of this Stipulation for Settlement of PAGA Claim.

IN WITNESS WHEREOF, the Parties have executed this Stipulation for Settlement of PAGA Claim.

PLAINTIFF

Dated: 3-28-21



German Arriola Mejia

DEFENDANTS

Dated: _____

Debrah Cross

Dated: _____

Brett Richardson

Dated: _____

Debrah Cross
For DTI Associates, LLC.

Dated: _____

Debrah Cross
For BULK Transportation

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IN WITNESS WHEREOF, the Parties have executed this Stipulation for Settlement of PAGA Claim.

PLAINTIFF

Dated: _____

German Arriola Mejia

DEFENDANTS

Dated: April 9, 2021

Debrah Cross

Dated: _____

Brett Richardson

Dated: April 9, 2021

Debrah Cross

For DTI Associates, LLC.

Dated: April 9, 2021

Jill Smit

For BULK Transportation

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IN WITNESS WHEREOF, the Parties have executed this Stipulation for Settlement of PAGA Claim.

PLAINTIFF

Dated: _____

German Arriola Mejia

DEFENDANTS

Dated: _____

Debrah Cross

Dated: 3/25/2021



Brett Richardson

Dated: _____

Debrah Cross
For DTI Associates, LLC.

Dated: _____

Debrah Cross
For BULK Transportation

Last modified: Oct 3, 2