

SETTLEMENT AGREEMENT

This Settlement Agreement (this “Settlement” or “Agreement”) is made by and between Benito Segura (“Plaintiff”) and Altia Transportation Corporation and Thomas Gasparini, (each a “Defendant” and collectively, “Defendants”). Plaintiff and Defendants collectively are referred to in this Agreement as the “Parties,” and each as a “Party.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- A. “Action” means the civil action titled *Segura v. Altia Transportation Corporation and Thomas Gasparini*, Case No. CGC-20-586926, pending in the San Francisco Superior Court (the “Court”).
- B. “Agreement” shall refer to this document.
- C. “Class Member” means the named Plaintiff in this Action and any non-exempt delivery drivers who work or have worked for Defendants within the State of California during the period four (4) years prior to the filing of the initial complaint in this action (September 16, 2016) through preliminary approval (also known as the “Class period”).
- D. “Class Counsel” means Marco A. Palau, Joseph D. Sutton and Eric S. Trabucco of Advocates for Worker Rights LLP.
- E. “Class Counsel Fees and Expenses Payment” means the amount awarded to Class Counsel by the Court to compensate them for their fees and litigation expenses in connection with the Action, including their pre-filing investigation, their commencement of the Action and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.
- F. “Class Notice” means the court-approved Notice of Proposed Settlement, Conditional Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final Court Approval.
- G. “Class Notice Packet” means the Class Notice and the Individual Class Member Verification Form.
- H. “Class Representative Service Award” means the payment made, in addition to his respective settlement share, to Plaintiff in his capacity as Class Representative to compensate him for initiating and pursuing the Action, undertaking the risk of liability for attorneys’ fees and litigation costs in the event the Action was unsuccessful, and the reputational risks associated with filing a lawsuit against a former employer.
- I. “Defendants’ Counsel” means Brian Koegle, Caleb Miller, and Michael Fostakowsky of Poole Shaffery.
- J. “Effective Date” means: (a) if no Class Member files and serves any timely and valid objection to the Settlement, then the date upon which the Court grants Final

Approval of the Settlement; (b) if any Class Member files and serves a timely and valid objection but it is subsequently withdrawn, then the date upon which the Court grants Final Approval of the Settlement; or (c) if any Class Member files and serves a valid and timely objection, then the date which is sixty-five (65) days after (i) service of notice of entry of the Final Approval Order and Judgment on the Parties to the Action and all objectors to the Settlement, if any, without appeals or requests for review being taken, or (ii) order affirming the Final Approval Order and Judgment or denying review after exhaustion of all appellate remedies, if appeals or requests for review have been taken

- K. "Employer Payroll Contributions" shall mean those payroll taxes and other monetary contributions required by state and federal law to be made by an employer on wage payments, including but not limited to FICA, Medicare, FUTA, and SUTA, and any federal and state unemployment taxes, payable with respect to amounts treated as wages under this Agreement.
- L. "Final Approval Hearing" means the hearing to be conducted by the Court to determine whether to finally approve and implement the terms of this Agreement.
- M. "Individual Class Member Dispute Form" means the form in the Class Notice Packet that details the number of pay periods worked by each individual Class Member for the period from September 16, 2016 to preliminary approval.
- N. "Judgment" means the Order Granting Final Approval of Class Action Settlement and Entering Final Judgment entered by the Superior Court.
- O. "Gross Settlement Amount" ("GSA") means the maximum amount to be paid by Defendants as provided by this Agreement, four-hundred and fifty thousand dollars (\$450,000.00), inclusive of employer-side payroll taxes for the portion of the settlement that is characterized as wages, Defendants' mediation costs of two-thousand dollars (\$2,000), and settlement administrator costs. In no event will Defendants be required to pay more than \$450,000. The settlement shall be non-reversionary.
- P. "Net Settlement Amount" means the Gross Settlement Amount, less (as approved by the Court) (1) the employer-side payroll taxes for the portion of the settlement that is characterized as wages; (2) Defendants' mediation costs of two-thousand dollars (\$2,000); (3) the Class Representative Service Award; (4) the Class Counsel Fees and Expenses Payment (which includes all attorneys' fees and expenses incurred to date and to be incurred in documenting the Settlement, securing court approval of the Settlement, attending to the administration of the Settlement, and obtaining dismissal of the Action); (5) the portion of the PAGA Payment allocated to the LWDA; and (6) the Settlement Administrator's reasonable fees and expenses incurred in administering the Settlement.
- Q. "PAGA Employees" means all persons classified by Defendants as non-exempt delivery drivers who work or have worked for Defendants within the State of California during the period one (1) year prior to Plaintiff giving the Labor Workforce and Development Agency and Defendants notice of the alleged Labor Code violations (December 3, 2020) through preliminary approval (also known as

the “PAGA period”).

- R. “PAGA Payment” means the payment made for civil penalties in the amount of \$10,000 to be paid to the California Labor and Workforce Development Agency (“LWDA”) and the Participating Class Members from the GSA to settle claims pursuant to the Private Attorneys General Act, Labor Code section 2698, *et seq.*
- S. “Participating Class Member” means each individual Class Member, as defined herein, who does not submit a valid and timely request to be excluded from the Settlement.
- T. “Preliminary Approval of the Settlement” means the Superior Court’s preliminary approval of the Settlement without material change, or with material changes to the Settlement to which the Parties agree.
- U. “Settlement” means the terms and conditions set forth in this Agreement meant to resolve the Action.
- V. “Settlement Administrator” means Phoenix Settlement Administrators (“Phoenix”) selected by parties to administer the Settlement.
- W. “Settlement Share” means the total gross amount each Participating Class Member will receive as their respective portion of the Net Settlement Amount.

II. RECITALS

- A. Plaintiff initially filed his class action complaint in San Francisco County Superior Court on September 16, 2020.
- B. On November 25, 2020, Defendants filed an Answer to the Complaint.
- C. On December 3, 2020, Plaintiff submitted his Private Attorney General Act (“PAGA”) Notice to California’s Labor and Workforce Development Agency (“LWDA”) and to Defendants. Following expiration of the administrative exhaustion period and pursuant to the parties’ stipulation, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”) on June 29, 2021, adding a claim under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*
- D. In the FAC Plaintiff alleges claims for (1) failure to pay for all hours worked (Labor Code §§ 223, 226.2 and 1194, and Wage Order 9); (2) failure to pay overtime wages (Labor Code § 510 and Wage Order 9); (3) failure to provide paid rest breaks (Labor Code § 226.7 and Wage Order 9); (4) failure to provide meal periods (Labor Code §§ 226.7, 512 and Wage Order 9); (5) failure to furnish accurate itemized wage statements (Labor Code § 226); (6) failure to timely pay final wages at resignation/termination (Labor Code §§ 201, 202 and 203); (7) failure to reimburse necessary business expenses (Labor Code § 2802 and Wage Order 9); (8) failure to produce records in response to statutory request (Labor Code §§ 226 and 1198.5); (9) violation of the Unfair Competition Law (California Business & Professions Code §§ 17200, *et seq.*); and (10) civil penalties pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code § 2699, *et seq.*). Defendants filed their responsive pleading on August 2, 2021.

- E. Shortly after Defendants filed their answer, the parties began discussing the potential for early mediation. Over the course of the first few months of 2021, the parties negotiated a mediation stipulation detailing the core wage and hour data and documents Defendants would need to produce in order for Plaintiff to engage in fully informed mediation. The stipulation covers comprehensive range of payroll, timekeeping, and class member contact information.
- F. On July 19, 2021, the Parties participated in a remotely conducted mediation with Justice Steven Vartabedian (ret.). Although a settlement was not reached on the day of the mediation, Justice Vartabedian made a mediator's proposal on August 4, 2021, which the parties' accepted.

Based on these Recitals, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendants may be obligated to pay in connection with the Settlement of this Class & PAGA Action is four-hundred and fifty thousand dollars (\$450,000.00). This amount will cover (as approved by the Court): (1) all Settlement Shares paid to Participating Class Members; (2) the Class Representative Service Award; (3) the Class Counsel Fees and Expenses Payment; (4) the PAGA Payment; (5) the Settlement Administrator's fees and expenses; (6) Defendants' mediation costs (\$2,000); and (7) the employer-side payroll taxes for the portion of the settlement that is characterized as wages. Within thirty (30) days following the Effective Date, Defendants will transfer to the Claims Administrator the Gross Settlement Amount.
- B. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will allocate Settlement Shares from the Net Settlement Amount to Participating Class Members as follows:
 - 1. **Calculation.** A Participating Class Member's Settlement Share shall be calculated by multiplying the Net Settlement Amount by the ratio of (a) the number of pay periods worked by the Class Member for Defendants between September 16, 2016 through the date of preliminary approval (the "Class period"), and (b) the total number of pay periods worked by all Participating Class Members during the Class period.
 - 2. **Treatment.**
 - a. Sixty-six percent (66%) of each Settlement Share will be treated as a payment in settlement of the Participating Class Member's claims for statutory and civil penalties and interest. This sixty-six percent (66%) portion (the "Non-Wage Portion") will not be reduced by payroll tax withholdings and deductions. Instead the Settlement administrator will issue to the Participating Class Member an IRS Form 1099 when required with respect to the Non-Wage Portion.
 - b. Thirty-four percent (34%) of each Settlement Share (the "Wage

Portion”) will be treated as a payment in settlement of the Participating Class Member’s claims for unpaid wages. Accordingly, the Wage Portion will be reduced by applicable payroll tax withholding and deductions, and the Settlement Administrator will issue to the Class Member an IRS Form W-2 with respect to the Wage Portion.

3. **Class Members Are Not Required to Submit a Claim Form to Receive a Share of the Settlement.** Class Notice Section F will provide the number of workweeks (based on Defendant’s records) and the approximate proportional share of the settlement payment attributed to any individual Class Member. If the Participating Class Member does not dispute the number of workweeks set forth in Section F of the Class Notice, then the Settlement Administrator will mail that Class Member’s shares of their individual settlement payment within the time frame specified in § III.A. The Individual Class Member Dispute Form only needs to be returned to the Settlement Administrator if the Participating Class Member disputes Defendant’s records as to the number of workweeks that individual worked from September 16, 2016 through the date of preliminary approval. Should a current or former employee of Defendant claim that they have been improperly excluded from the Class, they must contact the Settlement Administrator within 60 calendar days after the Settlement Administrator mails the Class Notice Packet and provide documentation that they worked for Defendant at some point during the Class Period and have not already resolved the claims asserted in the Action, whether by settlement or adjudication. Defendant’s records will be controlling when it comes to determining whether a current or former employee was improperly excluded from the Class.
4. Class Members will be provided with an individual Class Member Verification Form with the Class Notice that states the total number of pay periods attributed to that Class Member per Defendants’ records. If a Class Member does not dispute the number of pay periods he worked outlined in the Class Member Verification Form by notifying the Settlement Administrator in writing by either FAX or mail postmarked no later than the time frame specified in the Class Member Verification Form, the Settlement administrator will mail to that Class Member their *pro rata* share of the Settlement thirty-five (35) days after the Effective Date.
5. **Effect of Class Members Who Request to Be Excluded from the Settlement.** A Class Member who elects not to participate in the Settlement will not share in any Settlement proceeds or be bound by the Settlement; that Class Member’s pay period worked will not be included in the calculations of Settlement Shares for those Class Members who do not request exclusion; and the Settlement Share that otherwise would have been payable to such Class Member will be retained in the Net Settlement Amount for distribution to all other Participating Class Members who do not request to be excluded from the Settlement.

C. **Payments to Plaintiff, Class Counsel, and Settlement Administrator.** Subject

to the terms and conditions of this Agreement and the Court's approval, the Settlement Administrator will make the following payments out of the Gross Settlement Amount as follows:

1. **To Plaintiff:** In addition his Settlement Share, Plaintiff Benito Segura will apply to the Court for a service award of up to \$15,000 in consideration for initiating and pursuing the Action, undertaking the risk of liability for attorneys' fees, expenses and litigation costs in the event that the Action was unsuccessful, and the reputational risk associated with suing a former employer. Defendants will not oppose Plaintiff's request for a Class Representative Service Award of up to \$15,000.00. The Settlement Administrator will pay the Class Representative Service Award approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Award of less than \$15,000.00, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Tax deductions and withholdings will not be taken from the Class Representative Service Payment, and instead a Form 1099 will be issued to Plaintiff with respect to this payment.
 2. **To Class Counsel:** Class Counsel will apply to the Court for an award of attorneys' fees of not more than thirty-three and 1/3 percent (33 & 1/3%) of the Gross Settlement Amount, or one-hundred and fifty thousand dollars (\$150,000.00), and (b) litigation costs not to exceed \$10,000.00 incurred in this action by Class Counsel. Defendants will not oppose Class Counsel's request for a Class Counsel Fees and Expenses Payment of these amounts. If the Superior Court approves an attorneys' fees and costs award of less than \$150,000.00, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. The Settlement Administrator will pay the amount approved by the Court out of the Gross Settlement Amount. Tax deductions and withholdings will not be taken from the Class Counsel Fees and Expenses Payment, and instead a Form 1099 will be issued to Class Counsel.
 3. **To the Settlement Administrator.** The Settlement Administrator will pay itself out of the Gross Settlement Amount its reasonable fees and expenses as approved by the Court, not to exceed \$5,950.00.
- D. **PAGA Payment.** Ten Thousand Dollars (\$10,000) of the Gross Settlement Amount is allocated to settle claims for civil penalties under Private Attorneys General Act, Cal. Lab. Code section 2698, *et seq.* Seventy-five percent (75%) of the PAGA Payment (\$7,500) shall be paid to the California Labor and Workforce Development Agency ("LWDA") as required by PAGA. The \$2,500 remainder of the PAGA Payment shall be distributed to the PAGA Employees based on their comparatively number of pay periods worked during the PAGA period (December 3, 2020 through preliminary approval).
- E. **The Settlement Administrator.** The Parties will ask the Superior Court to approve a the parties' chosen Settlement Administrator, Phoenix, which, as a

condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing to all Class Members the Class Notice Packet; translating the Class Notice Packet from English to Spanish; conducting a National Change of Address search and using Accurint and other reasonable and cost-effective skip trace methods to locate any Class Member whose Class Notice Packet was returned by the U.S. Postal Service as non-deliverable, and re-mailing the Class Notice Packet to the Class Member's new address; setting up a toll-free telephone number to field calls from Class Members; receiving requests for exclusion in Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of requests for exclusions; calculating Settlement Shares; issuing the checks to effectuate the payments due under the Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to resolve all disputes concerning the calculation of a Class Member's Settlement Share, subject to the dollar limitations set forth in this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount.

F. Procedure for Approving Settlement.

1. Motion for Preliminary Approval.

- a. The Parties jointly will file a motion (the "Motion for Preliminary Approval") with the Court for an order granting Preliminary Approval of the Settlement, conditionally certifying the Settlement Class, setting a date for the Final Approval Hearing, appointing Plaintiff as Class Representatives and his counsel of record in the Action as Class Counsel, and approving the Class Notice.
- b. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an order granting the motion.
- c. Should the Court decline to preliminarily approve all material aspects of the Settlement, or order material changes to the Settlement to which the Parties do not agree, the Settlement will be null and void and the Parties will have no further obligations under it.

2. Notice to Class Members. After the Court enters its order granting Preliminary Approval of the Settlement, every Class Member will be provided with the Class Notice Packet, which will include the Class Notice completed to reflect the order granting Preliminary Approval of the Settlement and an Individual Class Member Verification Form stating the total number of pay periods attributed to that Class Member by Defendants' records.

- a. Within 7 days after the Court enters its order granting Preliminary Approval of the Settlement, Defendants will provide to the Settlement

Administrator with Class Member Data, preferably in electronic form for the Class Members containing, for each Class Member, the Class Member's name, employee identification number, last known address, and Social Security number, the end date for each Class Member's employment, and the number of pay periods worked by the Class Member for Defendants during the Class Period. If any or all of the Class Members' Data are unavailable to Defendants, Defendants will use best efforts to deduce or reconstruct the Class Members' Data prior to when it must be submitted to the Settlement Administrator. At the time Defendants transmits the Class Member Data to the Settlement Administrator, it shall also provide to Class Counsel a signed verification confirming the accuracy of the number of Class Members.

- b. Within 7 days after receiving the Class Members' Data, the Settlement Administrator will mail the Class Notice Packets to all identified Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendants unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.
- c. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly, and not later than 7 days from receipt of the returned packet, search for a more current address for the Class Member using Accurant and other reasonable and cost-effective skip trace methods, and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Class Members' Data and otherwise work with Defendants to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendants' Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties. Class Counsel and Defendants' Counsel will be entitled to receive from the Settlement Administrator any updated address information about a Class Member as the Settlement Administrator obtains such information.
- d. Each week, the Settlement Administrator will provide to Class Counsel and Defendants' Counsel a report showing whether any Class

Notice Packets have been returned and re-mailed and the receipt of any requests for exclusion.

- e. Not later than sixteen (16) calendar days prior to the Final Approval Hearing, the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. **Objections to Settlement; Disputing the Number of Workweeks; Requests for Exclusion.**

- a. **Objection to Settlement.** A Class Member who wishes to object to any term of the Settlement must send the objection to the Settlement Administrator by either email, FAX or mail postmarked no later than sixty (60) calendar days after the Settlement Administrator mails the Class Notice setting forth the grounds for the objection, the full name, address, and telephone number of the objector, date, and signature. The Settlement Administrator will forward any objections received to the lawyers for Plaintiff and Defendant. Absent good cause found by the Court, objections will be waived or not considered if not timely or otherwise compliant. Class Counsel and Defendant's counsel will file a response to any objection within 7 calendar days before the Final Approval Hearing. The parties will provide the Court with a complete and accurate list of all Class Members who object to the Settlement, along with their objections in the final approval motion.
- b. **Individual Class Member Dispute Form.** A Class Member who wishes to dispute the number of workweeks she or he worked outlined in the Class Member Dispute Form sent to the Class Member as part of the Class Notice Packet, may do so by submitting the Class Member Dispute Form, including any supporting documents (such as paycheck stubs or tax returns) to the Settlement Administrator by either email, FAX or mail postmarked no later than sixty (60) calendar days after the Settlement Administrator mails the Class Member Dispute Form. The Settlement Administrator will make the final determination as to the correct number of compensable workweeks for such a Class Member and will inform the Class Member regarding the final determination of their total number of workweeks. The parties will provide the Court with a complete and accurate list of all Class Members who disputed their workweeks in the final approval motion.
- c. **Requests for Exclusion.** A Class Member who wishes to be excluded from the Settlement must mail, email, or fax the Settlement Administrator a written and signed request for exclusion no later than sixty (60) calendar days after the Settlement Administrator mails the Class Notice Packet. The request must contain the name (printed

legibly), address, telephone number, and last four digits of the Class Member's social security number or their tax identification number. If a question is raised about the authenticity of any request for exclusion, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Class Member who submits a timely request for exclusion will not participate in or be bound by the Settlement and the Judgment and will not receive a Settlement Share, but will retain the right, if any, he or she may have to pursue a claim against Defendant. Class Members who submit a Request for Exclusion that fails to include the aforementioned identifying information will be contacted by the Settlement Administrator so that they may correct their request if they wish to be excluded and shall have 14 days from notice by the Class Administrator to cure any defects. Class Members who do not submit a timely request for exclusion in the manner and by the deadline specified in the Class Notice will automatically be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Superior Court, and by the Judgment, regardless of whether they have objected to the Settlement. Class Members who exclude themselves from the Settlement will lose standing to object to the Settlement. If the Settlement Administrator receives both an objection and an exclusion request from the same Class Member, the Settlement Administrator will exclude the Class Member from the Settlement. The parties will provide the Court with a complete and accurate list of all Class Members who submitted a timely and complete Request for Exclusion in the final approval motion.

- d. **Report.** Not later than five business (5) days after the deadline to contest the Class Member Dispute Form and request to be excluded from the Settlement, the Settlement Administrator will provide counsel for Defendant with a complete and accurate list of all Class Members who have contested the information on their Class Member Dispute Form or requested to be excluded from the Settlement. The Settlement Administrator will provide Class Counsel with the same information by employee identification number only, without disclosing the Class Members' names and other personally identifying information.
4. **No Solicitation of Objection, Appeal, or Election Not to Participate in Settlement.** Neither Party nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
5. **Additional Briefing and Final Approval.**
 - a. Not later than sixteen (16) court days before the Final Approval Hearing, Plaintiff will file with the Superior Court a motion for final approval of the Settlement and payment of the Settlement Administrator's reasonable fees and expenses, the Class

Representative Service Award, the PAGA Payment, and the Class Counsel Fees and Expenses Payment pursuant to this Settlement.

- b. If the Superior Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement to which the Parties do not agree, then either Party will have the right to void the Settlement; if that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, except that Defendant will pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that the Party exercises the right to void the Settlement under this paragraph. However, an award by the Superior Court of a lesser amount than that sought by Plaintiff and Class Counsel for the Class Representative Service Award or the Class Counsel Fees and Expenses Payment will not constitute a material change to the Settlement within the meaning of this paragraph.
 - c. Upon final approval of the Settlement by the Superior Court, the Parties will present to the Superior Court an Order for its approval and entry of Judgment. After entry of the Judgment, the Superior Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (1) enforcing this Agreement, (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under court rules or applicable law.
6. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the material terms of this Agreement, Plaintiff, Class Members who did not timely submit an objection to the Settlement, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. This paragraph does not preclude Plaintiff or Class Counsel from appealing from a refusal by the Superior Court to award the full Class Representative Payments or the Class Counsel Fees and Expenses Payment sought by them, but not the approval of the Settlement otherwise. If an appeal is taken from the Judgment, the time for consummating the Settlement (including making payments to Class Members under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final, as defined in this Agreement.
7. **Vacation, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal or a petition for certiorari, or any other motion, petition, or application, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material change to

the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then either Plaintiff or Defendant will have the right to void the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing court, and the Superior Court not later than 30 days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Superior Court's award of the Class Representative Service Award or the Class Counsel Fees and Expenses Payment will not constitute a vacating, reversal, or material modification of the Judgment within the meaning of this paragraph.

8. **Uncashed Settlement Share Checks.** A Class Member must cash his or her Settlement Share checks within 180 calendar days after it is mailed to him or her. If a check mailed to a Class Member as part of the first of the two settlement payments is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Class Member at his or her correct address. However, if the Settlement Administrator is unable to locate the Class Member's correct address or the first settlement payment is returned as undeliverable to the Settlement Administrator for a second time, then the Settlement Administrator will reallocate those funds on a *pro rata* basis to Class Members for whom there are correct addresses for the second installment of settlement payments. If any Class Member's first Settlement Share check is not cashed within 120 days after its last mailing to the Class Member, the Settlement Administrator will send the Class Member a letter or postcard informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced but not cashed. If any Class Member's first settlement check remains uncashed after 180 days, those funds will be reallocated during the second disbursement of settlement shares on a *pro rata* basis to Class Members who cashed their first settlement checks. If any Class Member's second Settlement Share check is not cashed within 120 days after its last mailing to the Class Member, the Settlement Administrator will send the Class Member a letter or postcard informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced but not cashed. If one or more Class Members fail to cash their second Settlement Share check within 180 days after it is mailed to their last known address, and if the aggregate funds represented by the uncashed checks total \$5,000.00 or more, they will be distributed to each Class Member who is participating in the Settlement and cashed their first Settlement Share check in the same *pro rata* manner as the first settlement share checks. If the aggregate funds represented by uncashed second checks total less than \$5,000.00, they will be donated to Centro Legal de la Raza.

G. Release and Waiver of Claims.

1. **Plaintiff.** In consideration of his *pro rata* share of the Settlement and the other terms and conditions of the Settlement, Plaintiff releases any and all claims against Released Parties, including but not limited to those raised and those that could have been raised in the Action; those released by Class Members as set forth below; and those arising from or related to his employment with Defendant (the “Plaintiff’s Released Claims”). Plaintiff’s Released Claims include all claims, whether known or unknown. Thus, even if Plaintiff discovers facts in addition to or different from those that he now knows or believes to be true with respect to the subject matter of her Released Claims, those claims will remain released and forever barred. Therefore, because Plaintiff is granting a general release, he expressly waives and relinquishes the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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.

2. **Class Members.** In consideration of the Settlement, each Class Member who does not timely request to be excluded from the Settlement releases any and all claims against Released Parties based on the facts that were alleged in Plaintiff’s First Amended Complaint, or could have been alleged, in the Action or otherwise based on or related to the allegations that that Defendant or any of the Released Parties failed to pay all wages due, including minimum and overtime premium wages; failed to provide compliant rest breaks and meal periods; failed to pay all final wages upon termination; and failed to render accurate wage statements, for the period from September 16, 2016 through preliminary approval. Such claims include, but are not limited to, claims under Labor Code sections 223, 226.2, 1194, 510, 226.7, 512, 226, 201, 202, 203, 2802, 1198.5, 2699 *et seq.*, Business & Professions Code §§ 17200, *et seq.*

H. Miscellaneous Terms.

1. **References.** Defendants agrees to provide Plaintiff a neutral reference. If contacted by a third party for an employment reference about Plaintiff, Defendants will provide only the dates of Plaintiff’s employment, positions, and most recent wage rate(s).
2. **Non-Disparagement.** Plaintiff agrees that he will not make or publish any defamatory or disparaging communication about Defendants, any of Defendants’ officers, any of Defendants’ employees, or any Releasee. Plaintiff agrees not to disparage, derogate, or discuss by innuendo or otherwise, verbally or in writing, in any manner likely to be harmful to Defendants or its business, including on or in any social media forum; provided, however, that Plaintiff may respond accurately and fully to any

request for information to the extent required by legal process. Defendants agree to instruct any employee informed of this settlement agreement, that they are not to make or publish any defamatory communication about Plaintiff including with respect to Plaintiff business or personal reputation, including on or in any social media forum, and will not disparage, derogate, or discuss by innuendo or otherwise, verbally or in writing, in any manner likely to be harmful to Plaintiff; provided, however, that each may respond accurately and fully to any request for information to the extent required by legal process.

3. **Privacy.** Neither Plaintiff nor Class Counsel shall issue any press release or announcement of any kind related in any way to the Settlement, and the Settlement shall not be advertised or mentioned on any website owned directly or indirectly by Class Counsel, including Class Counsel's personal or firm website, except that Class Counsel may post notice of the settlement, including the class notice packet and related documents on their website following preliminary approval, which information shall be removed from Class Counsel's website within 10 days of the class member payments being distributed by the Claims Administrator.
4. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this or other than the representations, warranties, covenants, and inducements expressly stated in this Agreement.
5. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Superior Court, and in all cases all such documents, supplemental provisions and assistance of the Superior Court will be consistent with this Agreement.
6. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest.
7. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

8. **Applicable Law.** All terms and conditions of this Agreement will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
9. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
10. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's length negotiations, taking into account all relevant factors, current and potential. In addition, Mediator John Bates may, at his discretion, execute a declaration supporting the Settlement and the reasonableness of this Settlement, and the Superior Court may, in its discretion, contact Mr. Bates to discuss the Settlement and whether or not the Settlement is fair and reasonable.
11. **No Admission of Liability.** By entering into this agreement, Defendants are not admitting any liability. Defendants are agreeing to stipulate to certification of a class for settlement purposes only. If the settlement is not finally approved, the Parties agree that they will revert to their positions in the lawsuit prior to the time the settlement was reached, and no agreements set forth in the parties' memorandum of understanding, the final stipulation of settlement, or any documents generated or orders issued related to the settlement will be admissible in any future proceeding in this or any other action.
12. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
13. **Severability.** Before declaring any provision of this Settlement invalid, the Parties request that the Superior Court first attempt to construe the provisions valid to the fullest extent possible under applicable precedents. In the event any provision of this Settlement shall be found invalid, void or unenforceable, that provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected
14. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by U.S. Mail, addressed as follows:

Marco A. Palau
Joseph D. Sutton
Eric S. Trabucco
Advocates for Worker Rights LLP

Brian Koegle
Caleb Miller
Michael Fostakowsky
Poole Shaffery

212 9th Street, Suite 314
Oakland, CA 94607
Tel: 510-269-4200

25350 Magic Mountain Parkway, 2nd Fl.
Santa Clarita, CA 91355
Tel: 661-290-2991

15. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures will be accepted if the original signature is provided within seven days. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties hereby execute this Agreement.

Dated: _____

Altia Transportation Company.

Dated: _____

Thomas Gasparini

Dated: 11/05/2021



Benito Segura