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10 Attorneys for Plaintiffs JOSE
11 FERNANDO ROBLES and Aggrieved
12 Employees

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN DIEGO

15
16 JOSE FERNANDO ROBLES, an
17 individual in his representative capacity
18 on behalf of all
19 Aggrieved Employees,

20 Plaintiffs,

21 v.

22 JCS ACQUISITION, INC., a Texas
23 corporation, and DOES 1 through 50,

24 Defendants
25
26
27
28

)
) Case No.: 37-2021-00007056-CU-
) OE-CTL
)
) **DECLARATION OF IAN**
) **PANCER ISO SETTLEMENT OF**
) **PRIVATE ATTORNEYS**
) **GENERAL ACT CLAIMS, AND**
) **DISMISSING THE ACTION**
) **WITH PREJUDICE**

)
) Complaint Filed: February 18, 2021
) Judge: Hon. Katherine Bacal
) Department: 69
)
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1 I, Ian Pancer, attorney of record for Plaintiff Jose Fernando Robles (“Plaintiff”) declare
2 as follows:

3 1. On February 18, 2021, Plaintiff filed his complaint against Defendant JCS
4 Acquisition, Inc. (“Defendant”) (collectively, “Parties”) alleging 1. PAGA Claim for
5 Failure to Pay State Minimum/Regular Wages; 2. PAGA Claim for Failure to Pay State
6 Overtime Wages; 3. PAGA Claim for Failure to Timely Pay Wages; 4. PAGA Claim
7 for Meal and Rest Break Labor Code Violations; 5. PAGA Claim for Inaccurate Wage
8 Statements; 6. PAGA Claim for Failure to Maintain Payroll Records; 7. PAGA Claim
9 for Failure to Comply with California Sick Pay Laws; and 8. PAGA Claim for
10 Miscellaneous Labor Code Provisions.

11 2. After complying with the requirements set forth in Labor Code § 2698
12 *et seq.*, the Private Attorneys General Act (hereinafter, "PAGA"), by sending
13 a letter by online submission to the Labor and Workforce Development Agency
14 ("LWDA"), Plaintiff filed a First Amended Complaint on April 29, 2022.

15 3. Thereafter, Plaintiff propounded discovery on Defendant, including Special
16 Interrogatories and Inspection Demands.

17 4. Thereafter, the Parties agreed to attend mediation, to participate in an
18 informal exchange of documents and information, and to stay formal discovery
19 pending the outcome of mediation. The Parties scheduled mediation on January 5,
20 2022 before well-respected neutral Eve Wagner, Esq.

21 5. The Parties memorialized this understanding in a stipulation that was filed
22 with this Court, and sought an order from the Court regarding the same.

23 6. On June 16, 2021, the Court entered an order on the Parties’ stipulation,
24 staying formal discovery and law and motion practice pending the mediation.

25 7. In advance of mediation, the Parties engaged in an informal exchange of
26 information and documents as contemplated by their stipulation and the Court’s order
27 thereon.

1 8. On January 5, 2022, mediation took place. The Parties were unable to reach
2 a resolution on the date of mediation.

3 9. The mediator made a mediator's proposal following the mediation on
4 January 5, 2022.

5 10. On January 12, 2022, the mediator reported that the proposal had been
6 accepted by all Parties and a settlement had been reached.

7 11. Thereafter, the Parties negotiated the terms of a long form settlement
8 agreement.

9 12. After considerable back and forth regarding the long form agreement, it
10 ultimately became executed by all Parties on June 6, 2022.

11 **TERMS OF THE SETTLEMENT**

12 13. A true and correct copy of the PAGA settlement agreement is attached
13 hereto as Exhibit 1 hereto. Exhibit A attached to the PAGA settlement agreement is
14 the letter which will be included in the mailing to each aggrieved employee.

15 14. The gross settlement payment to be made pursuant to the settlement
16 agreement is \$150,000. (Exhibit 1, para. 6.1). The aggrieved employees covered by
17 the settlement include all current and former employees of Defendant in the State of
18 California at any time during the Settlement Period, which is defined as all pay
19 periods between February 17, 2020 and January 31, 2022. (Exhibit 1, para. 1.1,
20 1.15).

21 15. Defendant represents in the settlement agreement that the number of pay
22 periods within the Settlement Period does not exceed 8,400. (Exhibit 1, para. 6.2).

23 16. Defendant further represents that the approximate number of employees in
24 the settlement period is 679.

25 17. If the number of pay periods reaches the maximum of 8,400, the gross
26 settlement of \$150,000 equates to \$17.85 per pay period for the release of civil
27 penalties and averages \$220.91 per aggrieved employee.

18. The settlement agreement permits Plaintiff's counsel to seek attorney fees of up to 35% of the gross settlement, equaling \$52,500, and Plaintiff's counsel seek that sum. (Exhibit 1, para. 6.6).

19. The cost of settlement administration, to be provided by established and respected settlement administrator Simpluris, is (and is capped at) \$4,350. This cap assumes no substantial variance from the 679 employees as stated by Defendant.

20. The costs incurred by Plaintiff's counsel are \$11,630.70 (\$461.36 for filing and efileing complaint, \$40 for service of process, \$15.44 for efileing; \$13.90 for certified mailings; \$1,575 for Berger Consulting Services for data analysis of records produced by Defendant; \$9,450 for mediator services to Signature Resolution for Eve Wagner, Esq.; \$75 to LWDA for filing PAGA Notice).

21. The breakdown on cost reimbursement is \$4,725 to Thomas Rutledge, Esq. and \$6,905.70 to Ian Pancer, Esq.

22. Your undersigned believes the settlement amount represents a fair compromise of the claims. Defendant presented well-reasoned defenses to Plaintiff's claims, such that the opportunity to negotiate this settlement presented greater benefits to the aggrieved employees than continuing to litigate further and expend more time and resources in doing so.

23. Furthermore, the threat of having the PAGA claim eviscerated by the U.S. Supreme Court's recent decision in *Viking River Cruises v. Moriana* was an additional impetus for agreeing to the settlement, as Plaintiff's employment was governed by an arbitration agreement. In light of the *Viking River Cruises* decision, hindsight certainly supports this analysis.

24. Based on your undersigned's experience with class and representative actions, your undersigned believes believes the settlement here is fair and reasonable and warrants approval by the Court.

1 25. Should the Court grant approval of the settlement, the net settlement fund
2 will be \$81,519.30, calculated as follows:

3 \$150,000

4 -\$52,500 (attorney fees)

5 -\$11,630.70 (Plaintiffs' counsel costs)

6 -\$4,350 (settlement administration)

7 -----
8 **\$81,519.30**

9 26. Of the net settlement amount, 75%, equaling \$61,139.47, will be paid to the
10 LWDA, and 25%, equaling \$20,379.83, will be paid to the aggrieved employees.

11 The payment to each aggrieved employee shall be determined on a pro-rata basis
12 based on the number of pay periods that each aggrieved employee worked during the
13 Settlement Period divided by the total number of pay periods worked by all aggrieved
14 employees during the Settlement Period.

15 **PLAINTIFF'S RELEASE OF CLAIMS**

16 27. In addition to the resolution reached on the PAGA claims, the Parties
17 reached a resolution concerning Plaintiff's individual claims, in consideration for
18 which Plaintiff has signed a confidential settlement agreement with a general release.
19 The release of individual claims signed by Plaintiff is contingent on the Court's
20 approval of the PAGA settlement. The release of individual claims also provides that
21 Plaintiff may not disclose anything further absent an inquiry from the Court or the
22 LWDA.

23 **SUBMISSION TO LWDA**

24 28. Concurrent with the filing of this Stipulation, Plaintiff's counsel will submit
25 the Settlement Agreement to the LWDA in compliance with Labor Code section
26 2699(1)(2).

27 I, Ian Pancer, declare under penalty of perjury of the laws of the State of California
28 that the foregoing is true and correct.

Executed on September 8, 2022 by /s/ Ian Pancer

Ian Pancer

EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

This Private Attorneys General Act (“PAGA”) Settlement Agreement and Release (the “Agreement”) is made by and between Jose Fernando Robles (“Plaintiff”), on behalf of himself and each of the other alleged “Aggrieved Employees,” as defined herein, on the one hand, and JCS Acquisition, Inc. (“Defendant”) on the other hand. Plaintiff and Defendant are referred to hereafter collectively as the “Parties” and each a “Party.” Through this Agreement the Parties hereby resolve the action entitled Jose Fernando Robles, an individual in his representative capacity on behalf of all Aggrieved Employees, Plaintiffs, v. JCS Acquisition, Inc., a Texas corporation, and DOES 1 through 5, Defendants, San Diego Superior Court Case No. 37-2021-00007056-CU-OE-CTL (the “Action”).

1. DEFINED TERMS

In addition to the defined terms referenced above, as used herein, the following terms are defined as:

1.1 The term “Aggrieved Employees” means all current and former employees of Defendant employed in the State of California at any time during the Settlement Period.

1.2 The term “Attorneys’ Fees and Cost Award” means the amount authorized by the Court to be paid to PAGA Counsel or their assigns for their services rendered and expenses incurred in prosecuting the Action.

1.3 The term “Court” as used herein means the Superior Court of California, San Diego County.

1.4 The term “Effective Date” will be the last to occur of the following: (a) the date that the Court’s order approving the Settlement is not subject to further judicial review; or (b) if an appeal, review, or writ is sought from the Court’s order granting approval of the Settlement, the day after such order is affirmed, and/or the appeal, review, writ, or order is no longer subject to further judicial review. At no time will Defendant have any obligation to fund the Settlement, in whole or in part, until after this Effective Date.

1.5 The term “Gross Settlement Fund” means an amount not to exceed One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) that will be used to fund the Qualified Settlement Fund. The Gross Settlement Fund includes

all Individual PAGA Payments, the Attorneys' Fees and Cost Award, the Settlement Administration Costs, and the PAGA Payment to the Labor and Workforce Development Agency ("LWDA").

1.6 The term "Individual PAGA Payment" means the amount to be paid to an Aggrieved Employee pursuant to Section 6 of this Agreement.

1.7 The term "Net Settlement Proceeds" means the funds from the Qualified Settlement Fund available to be distributed to Aggrieved Employees under this Agreement after payment of the Attorneys' Fees and Cost Award, the Settlement Administration Costs, and the portion of the PAGA Payment made to the LWDA.

1.8 The term "PAGA Payment" means the net amount to be paid by the Settlement Administrator to the LWDA and Aggrieved Employees after deduction of Settlement Administration Costs and the Attorneys' Fees and Costs Award from the Gross Settlement Fund, in full satisfaction of the Released Claims as defined below. Pursuant to the PAGA, Seventy-Five Percent (75%) of the PAGA Payment will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees. This PAGA Payment is made pursuant to Labor Code §2699(i).

1.9 The term "Pay Periods" means the number of pay periods worked by the Aggrieved Employees during the Settlement Period as determined by the Settlement Administrator.

1.10 The term "PAGA Counsel" means the Law Office of Ian Pancer and the Law Office of Thomas D. Rutledge.

1.11 "Qualified Settlement Fund" shall be the fund established and administered by the Settlement Administrator pursuant to Internal Revenue Code Section 1.468B-1 in connection with the Settlement.

1.12 The term "Settlement" means the settlement described in this Agreement.

1.13 The term "Settlement Administration Costs" means all Settlement Administrator fees and costs incurred in administering the Settlement.

1.14 The term “Settlement Administrator” means CPT Group, Inc., the firm that the Parties mutually agree shall be responsible for the administration of the Settlement, pursuant to the terms of this Agreement.

1.15 The term “Settlement Period” means the following time period: all pay periods between February 17, 2020 and ending January 31, 2022.

2. SCOPE, PURPOSE, AND BENEFITS OF THE SETTLEMENT

2.1 As detailed below, this Agreement establishes a procedure to resolve all claims for penalties, attorneys fees, costs, and interest under PAGA arising out of or in any way relating to the facts giving rise to the claims in the Action, directly or indirectly, or claims that they have alleged or that could have been alleged based on the facts alleged in the Action. The Parties believe that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests. In light of these realities, the Parties believe that this Settlement is the best way to resolve the disputes between them.

2.2 The Parties believe this Agreement constitutes a fair, adequate, and reasonable settlement of the Action and have arrived at this Agreement in arms-length negotiations, following a mediation before mediator Eve Wagner, Esq., taking into account all relevant factors, present and potential, and will so represent to the Court. This Settlement was reached after extensive informal discovery and negotiations. In addition, the Parties have conducted significant investigation of the facts and law concerning the Action. The Parties have also investigated the applicable law as applied to the facts discovered regarding the alleged claims of Plaintiff and potential defenses thereto, and the civil penalties claimed by Plaintiff.

3. JURISDICTION

The Court has jurisdiction over the Parties and the subject matter of this dispute. The Action includes claims that, while Defendant denies them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the California laws cited therein. If the Settlement is approved, the Court will retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

4. STATEMENT OF NO ADMISSION

4.1 The Parties agree that this Agreement reflects their good faith compromise of the claims raised by Plaintiff, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel. This Agreement does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission of liability by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

4.2 Neither this Agreement, nor any action taken or made in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to the Agreement, is intended by the Parties (nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding) as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, the Agreement may be used in any proceeding that has as its purpose the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered into in connection therewith.

4.3 Evidence produced or created by the Parties in connection with the Settlement procedure do not constitute, are not intended to constitute, and will not be deemed to constitute, an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

4.4 In the event that this Settlement is not approved by the Court, is terminated, or otherwise fails to be enforceable, Defendant will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Action.

5. WAIVER, RELEASE, AND DISMISSAL

5.1 Release and Waiver of Claims by Aggrieved Employees. Upon the Effective Date, all Aggrieved Employees, and their successors, assigns, and/or agents, shall be deemed to have fully and finally released and discharge Defendant

and each of its past or present officers, directors, employees, agents, members, shareholders, owners, principals, heirs, trustees, fiduciaries, administrators, representatives, partners, attorneys, accountants, auditors, consultants, insurers and reinsurers, assigns, successors and predecessors in interest, subsidiaries, affiliates, related entities, and parent companies, jointly and severally (collectively, the “Released Parties”), from the “Released Claims.” For purposes of this Agreement, the “Released Claims” are defined as all claims for penalties, attorneys fees, costs or interest recoverable under PAGA arising out of or in any way relating to the circumstances giving rise to any of the claims in the Action, directly or indirectly, or claims that have been alleged or that could have been alleged based on the facts or claims alleged in the Action, predicated upon the alleged failure of Defendant to comply with or provide Aggrieved Employees with compensation or penalties as required by state law, including claims and potential claims for penalties recoverable under PAGA concerning: (i) the failure to pay wages, including failure to pay minimum wages, regular wages, straight time compensation, overtime compensation, and double-time compensation; (ii) the failure to provide compliant meal periods and/or meal premiums or compensation; (iii) the failure to provide compliant rest periods and/or rest period premiums or compensation; (iv) the failure to timely pay all wages owed during employment; (v) the failure to timely pay all wages owed upon separation of employment; (vi) the failure to provide accurate or compliant itemized wage statements; (vii) the failure to maintain any required records; (viii) for violation of California’s sick pay laws; (ix) misclassification; (x) the failure to identify all required items on wage statements; (xi) any and all potential claims for penalties recoverable under PAGA predicated upon Labor Code §§ 96(k), 98.6, 200, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205., 205.5, 206, 206.5, 208, 209, 210, 212, 213(d), 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225.5, 226, 226.3, 226.6, 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, 231, 232(c), 232.5(c), 233, 234, 246, 246.5, 247, 247.5, 248.5, 256, 351, 353, 403, 404(b), 432, 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 558, 558.1, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.3, 1198.5, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, 1695, 1695.5(a), 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 1815, 2651, 2673, 2673.1(a), 2695.2, 2800, 2801, 2802, 2806, 2810, 2810.5, 2929(b), 3073.6, 6310, 6311, 6399.7, any duplicative or similar provisions arising under the Wage Orders of the California Industrial Welfare Commission; and (x) any other PAGA penalty claims

whatsoever alleged in the Action, whether known or unknown, from and including February 17, 2020 up to and including January 31, 2022.

6. COMPUTATION AND DISTRIBUTION OF PAYMENTS

6.1 Gross Settlement Fund. The Gross Settlement Fund of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) is on an all-in, non-reversionary basis to settle the Action and to resolve all claims, penalties, attorneys' fees, costs, administrative fees, and interest. In no event shall Defendant be liable for more than One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) as a result of this Settlement, and any of the attorneys' fees, costs, administrative fees, penalties, and sums specified in this Agreement shall be paid from this amount, except as otherwise noted in this Agreement. This Gross Settlement Fund amount of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) has been agreed to by Plaintiff and Defendant. It is expressly understood that if the Court awards less than the total amounts requested by PAGA Counsel to be awarded for attorneys' fees and costs, the difference in any such amounts will be included in the PAGA Payment.

6.2 Representation Concerning Pay Periods. It was estimated for purposes of mediation that there were approximately 7,500 pay periods for the period February 17, 2020 to November 29, 2021. Defendant represents that the number of pay periods for work performed through the Settlement Period does not exceed 8,400.

6.3 Deposit of the Gross Settlement Fund Amount into the Qualified Settlement Fund. Not later than thirty (30) days following the Effective Date, Defendant shall deposit the Gross Settlement Fund into the Qualified Settlement Fund. At no time will Defendant have any obligation to make that deposit or otherwise fund the Settlement, in whole or in part, until after the Effective Date. All payments that that are required to be made pursuant to the Agreement shall be made from the Qualified Settlement Fund.

6.4 Distribution Formula. The Settlement Administrator shall distribute the PAGA Payment to the LWDA and Aggrieved Employees as described in this Section 6.4.

Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Payment will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees.

The Parties have agreed that the Net Settlement Proceeds shall be divided up and paid to the Aggrieved Employees on a pro-rata basis based on the number of pay periods that each Aggrieved Employee worked during the Settlement Period divided by the total number of pay periods worked by all Aggrieved Employees during the Settlement Period. The Settlement Administrator's determination of eligibility for, and the amounts of, any Individual PAGA Payments under the terms of this Agreement, shall be conclusive, final, and binding on all Aggrieved Employees, including Plaintiff.

For tax purposes, all Individual PAGA Payments will constitute penalties and will be reported on an IRS Form-1099, which the Settlement Administrator will provide to Aggrieved Employees if necessary, as required by law. No person or entity shall have any claim against Defendant, Defendant's counsel, Plaintiff, any Aggrieved Employees, PAGA Counsel, or the Settlement Administrator based upon distributions and payments made in accordance with this Agreement.

6.5 Distribution to the Aggrieved Employees. Individual PAGA Payments shall be paid out of the Net Settlement Proceeds pursuant to the Distribution Formula set forth in Section 6.4 of this Agreement.

Not later than twenty (20) days following the Effective Date, Defendant shall send a list of all Aggrieved Employees to the Settlement Administrator containing: (1) name; (2) last known home address and (where available) telephone number; (3) number of pay periods as an Aggrieved Employee during the Covered Period; and (4) social security number. This shall be known as the "Group List." Defendant shall transmit the Group List in Excel or similar format or other method as agreed to by the Parties in good faith as technology requires to transmit the data.

Not later than three (3) days following receipt of the Group List, the Settlement Administrator shall email the Parties confirming receipt of the Group List and stating the number of Aggrieved Employees and the number of Pay Periods included therein.

Not later than ten (10) days following receipt of the Group List, the Settlement Administrator shall cross-reference all the addresses provided in the Group List with the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information.

Not later than fifteen (15) days following receipt of the Gross Settlement Fund from Defendant, the Settlement Administrator shall make the following payments from those proceeds: (1) the Individual PAGA Payments; (2) the Attorneys' Fees and Cost Award; (3) the portion of the PAGA Payment to the LWDA; and (4) payment to the Settlement Administrator for administration of the Settlement.

The Settlement Administrator shall mail via U.S. First Class mail each Individual PAGA Payment to each Aggrieved Employee's last known address with directions to the Postmaster to deliver the checks to any applicable forwarding address and to return all undeliverable checks to the Settlement Administrator. The date of the initial mailing of the check shall be conclusively determined according to the records of the Settlement Administrator.

A letter substantially in the form of Exhibit "A" hereto will be included in the mailing of each Aggrieved Employee's Individual PAGA Payment.

Individual PAGA Payments shall remain valid and negotiable for one hundred eighty (180) days from the date of their issuance. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days after issuance will be tendered to the California State Controller's Unclaimed Property Fund.

6.6 Attorneys' Fees and Costs. PAGA Counsel shall request, and Defendant will not oppose, an award of attorneys' fees of up to thirty-five percent (35%) or Fifty-Two Thousand Five Hundred Dollars and Zero Cents (\$52,500.00) of the Gross Settlement Fund, and costs subject to court approval. PAGA Counsel shall have the right to reimbursement for all actual costs incurred as approved by the Court. The Attorneys' Fees and Cost Award shall be binding on the Parties and shall not otherwise affect the validity of the Settlement. The Settlement Administrator shall issue an IRS Form 1099 to PAGA Counsel reflecting the awarded attorneys' fees, costs and expenses. Should Plaintiff and/or PAGA Counsel request a lesser amount for attorneys' fees than stated above and/or the Court approve a lesser amount, the difference shall be added to the PAGA Payment for distribution to the LWDA and Aggrieved Employees in accordance with Section 6.4, and PAGA Counsel will not be permitted to void or cancel the Settlement as a result of any such reduction in attorneys' fees. In consideration of the Attorneys' Fees and Cost Award, PAGA Counsel waives all claims to any further attorneys' fees and expenses in connection with the litigation of the Action.

Plaintiff, PAGA Counsel, and Aggrieved Employees shall assume full responsibility and liability for the payment of taxes due on such awards.

PAGA Counsel may elect to have the Settlement Administrator, directly or indirectly, disperse all or part of his attorneys' fees award paid to them in periodic payments, through a structured settlement. PAGA Counsel will bear any and all costs, fees, and expenses of administration for any periodic payments of such award and shall be fully responsible for any taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments, including without limitation, any such issues, claims, and/or disputes brought by the state or federal government concerning the payment of taxes thereon. PAGA Counsel shall indemnify, defend, and hold Defendant harmless for any and all taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments.

The Attorney's Fees and Cost Award shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, costs or expenses in the Action incurred by any attorney on behalf of Plaintiff and the Aggrieved Employees, and shall relieve the Released Parties and the Settlement Administrator of any other claims or liability to any other attorney or law firm for any attorneys' fees, costs and expenses to which any of them may claim to be entitled on behalf of Plaintiff and/or the Aggrieved Employees.

6.7 Settlement Administrator. The estimate of costs of administration for the disbursement of the Gross Settlement Fund is up to \$4,350.00. Any amount awarded for costs of administration to the Settlement Administrator less than \$4,350.00 will result in the non-awarded amount being made part of the PAGA Payment, available for distribution to the LWDA and the Aggrieved Employees in accordance with Section 6.4. A Form 1099 – MISC, Box 7 shall be issued to the Settlement Administrator.

The Settlement Administrator shall calculate the portion of the PAGA Payment to be paid to the LWDA and the Individual PAGA Payments to be paid to the Aggrieved Employees in accordance with the terms and provisions of this Agreement; pay any applicable state and/or federal taxes; make payment to the LWDA and mail the Individual PAGA Payment checks to the Aggrieved Employees along with the letter substantially in the form of Exhibit "A," attached hereto; resolve any disputes regarding the calculation or application of the formula

for determining the Individual PAGA Payments; issue 1099 forms; calculate and disburse any Attorneys' Fees and Cost Award and/or applicable taxes from the Gross Settlement Fund; and perform such other tasks necessary to effectuate the terms of this Agreement or as the Parties mutually agree or the Court orders the Parties to perform.

Any disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court.

7. INTEREST

7.1 The Gross Settlement Fund includes any and all interest accruals and no additional interest shall be due under any circumstances.

8. TAXATION

8.1 Plaintiff and, through PAGA Counsel, Aggrieved Employees represent and warrant that they understand that it is their sole obligation to pay appropriate federal, state, and local income taxes on any amounts they receive under this Agreement that lawfully qualify as taxable income.

8.2 Neither the Parties nor their respective counsel provide or purport to provide any tax advice to the Aggrieved Employees in connection with this Agreement or otherwise. The Parties agree that they shall not rely upon any terms of this Agreement for the purpose of determining or avoiding federal, state, or local tax obligations.

9. COURT'S APPROVAL

9.1 Plaintiff will promptly move the Court for approval of the Settlement pursuant to Labor Code § 2699(1). The Parties agree to use their best efforts to obtain approval as quickly as possible, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining the Court's approval of the Agreement in all respects. The Parties agree to a stay of all trial court proceedings in the Action, including but not limited to all pending deadlines (discovery or otherwise) that may currently apply to any party in the Action. The Parties also agree that in the event the Court does not approve the Settlement, the Parties will work in good faith to amend the Settlement to comport with the Court's instructions.

9.2 In the event an appeal or petition for writ of mandamus is filed from the Court's order granting approval of the Settlement, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

10. PUBLICITY

The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the amount or terms of the Settlement. PAGA Counsel may respond to press inquiries by stating the matter has been resolved and refer the press to court filings. In addition, the Parties and their counsel agree that they will not engage in any advertising or distribute any marketing materials specifying any material terms relating to the Settlement of this case, including but not limited to any postings that mention or identify Defendant in any manner on any websites maintained by PAGA Counsel. No claims administrator shall host nor publish any website in association with this Settlement. Any communication about the Settlement to Aggrieved Employees before the Court-approved mailing will be limited to a statement that a settlement has been reached and the details will be communicated in a forthcoming Court-approved notice.

Plaintiff is prohibited from discussing the terms of the Settlement with third parties other than (1) his immediate family members, (2) his accountants or lawyers as necessary for tax purposes, and (3) the California LWDA, DLSE or DIR. With regard to the status of the claims Plaintiff made or could have made in the Actions, Plaintiff may communicate to others only that the matter was resolved by mutual agreement, and that he is not free to comment upon the terms.

11. INAPPLICABILITY OF CALIFORNIA CIVIL PROCEDURE CODE SECTION 384

The Parties agree that California Civil Procedure Code ("CCP") section 384 is not applicable to the Gross Settlement Fund. Neither Plaintiff nor PAGA Counsel shall take, or cause any other person to take, a position before the Court that CCP section 384 applies to the Gross Settlement Fund.

12. MISCELLANEOUS PROVISIONS

12.1 Headings. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

12.2 Interpretation of the Agreement. The Agreement will be interpreted and enforced under the laws of the State of California without regard to its conflict of law provisions.

12.3 Final Agreement. This Agreement constitutes the exclusive and final understanding and expression of all agreements between the Parties with respect to the resolution of the Action and supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof. Plaintiff, on Plaintiff's own behalf and as a representative for the Aggrieved Employees, and Defendant enter into this Agreement based solely upon its terms and not in reliance upon any representations or promises other than those contained in this Agreement. The Agreement may be modified only by a writing signed by the Parties, or their successors, and approved by the Court.

12.4 Counterparts/Facsimile/Electronic. The Agreement may be executed in one or more actual, telecopied or electronic counterparts, all of which will be considered one and the same instrument and all of which will be considered duplicate originals. A signature on this Agreement delivered by facsimile or electronically shall be as legally binding as an original signature, although the Parties will provide original signatures to each other for their records.

12.5 Authority. Counsel for all Parties represent and warrant they are expressly authorized by the Parties whom they represent to negotiate this Agreement and 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 effectuate 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 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties shall seek the assistance of the Court to resolve such disagreement. The persons signing this Agreement on behalf of Defendant represents and warrants that they are authorized to sign this Agreement on behalf of Defendant.

12.6 No Effect on Employee Benefits. The Individual PAGA Payments paid to Plaintiff and the Aggrieved Employees shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of Plaintiff or any Aggrieved Employee. The payment of the Individual PAGA Payments does not represent any modification of Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Individual PAGA Payment shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

12.7 No Injunctive Relief. Defendant shall not be required to enter into any consent decree, nor shall Defendant be required to agree to any provision for injunctive relief, or to modify or eliminate any of its personnel, compensation, or payroll practices, or adopt any new personnel, compensation, or payroll practices.

12.8 Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

12.9 Cooperation and Drafting. Each of the Parties has cooperated in the drafting and preparation of this Agreement. Hence, in any construction made to this Agreement, the same shall not be construed against any of the Parties.

12.10 Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

12.11 Defense. To the extent permitted by law, this Settlement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceedings that may be instituted, prosecuted, or attempted with respect to the Released Claims in breach of or contrary to this Settlement.

WHEREFORE, Plaintiff, as representative of himself and Aggrieved Employees, and Defendant, have executed this Agreement as of the dates set forth below.

Dated: 6/1/2022, 2022 By

DocuSigned by:

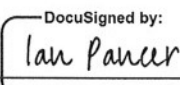
JOSE FERNANDO ROBLES

Dated: 6/6/2022, 2022 By


JCS ACQUISITION, INC.
by its VP

APPROVED AS TO FORM:

Dated: 5/25/2022, 2022 THE LAW OFFICE OF IAN PANCER

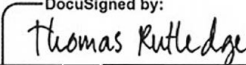
By 
IAN PANCER

Attorneys for JOSE FERNANDO ROBLES,
Aggrieved Employees, and the State of
California

Dated: 5/31/2022, 2022

THE LAW OFFICE OF THOMAS D. RUTLEDGE

By

DocuSigned by:

THOMAS D. RUTLEDGE

Attorneys for JOSE FERNANDO ROBLES,
Aggrieved Employees, and the State of
California

Dated: June 6, 2022

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By


RYAN D. MCCORTNEY
MATTHEW M. SONNE
LAUREN J. BLAES

Attorney for JCS ACQUISITION, INC.

EXHIBIT A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment From *Jose Fernando Robles v. JCS Acquisition, Inc.*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit filed in the San Diego County Superior Court entitled Jose Fernando Robles, an individual in his representative capacity on behalf of all Aggrieved Employees, Plaintiffs, v. JCS Acquisition, Inc., a Texas corporation, and DOES 1 through 5, Defendants, Case No. 37-2021-00007056-CU-OE-CTL (the "Action").

The Action was filed against JCS Acquisition, Inc. ("JCS") pursuant to the California Private Attorneys General Act of 2004, Cal. Labor Code § 2698 *et seq.* ("PAGA"). The claim was brought by an employee on behalf of the State of California and all current and former employees of JCS who were employed by JCS in the state of California at any time from February 17, 2020 through January 31, 2022. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff in the Action claimed that JCS owed penalties under PAGA for alleged violations of the California Labor Code relating to unpaid wages, including failure to pay minimum wages, regular wages, straight time compensation, overtime compensation, and double-time compensation; failure to provide compliant meal periods and/or meal premiums or compensation; failure to provide compliant rest periods and/or rest period premiums or compensation; failure to timely pay all wages owed during employment; failure to timely pay all wages owed upon separation of employment; failure to provide accurate or compliant itemized wage statements; failure to maintain any required records; violation of California's sick pay laws; misclassification; and failure to identify all required items on wage statements. The lawsuit in the Action sought civil penalties consisting of statutorily authorized amounts awarded on a per employee per pay period basis. JCS denies that it did anything wrong or that it owes any penalties.

The Court has not ruled on the merits of the lawsuit but it has approved the civil penalties settlement amount to be paid by JCS. A portion of that settlement amount goes to the State of California's Labor and Workforce Development Agency. Another portion of the settlement amount goes to the current and former employees who worked for JCS within the state of California at any time from February 17, 2020 through January 31, 2022. In agreeing to this settlement, JCS does not admit that it is liable in any way to its current or former employees for the alleged violations.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. You have 180 days from the date of this notice to cash the attached settlement check.

If you do not cash your check in this time, the money will be transferred to the State of California Unclaimed Property Fund, from which you may recover the money.

You are not a party to this lawsuit, but you and the government will be bound by the judgment in this matter as to civil penalties. If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter).

Very truly yours,
[Administrator]