

Armond M. Jackson, SBN 281547
ajackson@jacksonapc.com
Andrea M. Fernandez-Jackson, SBN 295924
afernandez@jacksonapc.com
Anthony S. Filer, Jr. SBN 337704
afiler@jacksonapc.com
Jackson APC
2 Venture Plaza, Ste. 240
Irvine, CA 92618
Phone (949) 281-6857
Fax (949) 777-6218

Attorneys for Plaintiff Eva Jardon

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

EVA JARDON, as an individual and on behalf
of other similarly situated employees,

Plaintiff,

vs.

FULLERTON BAEKJEONG, LLC, a
California Corporation; IRVINE BAEKJEONG,
LLC, a California corporation, ROWLAND
HEIGHTS BAEKJEONG, LLC, a California
corporation, SAN JOSE BAEKJEONG, LLC, a
California corporation, TEMPLE CITY
BAEKJEONG, LLC, a California corporation,
TORRANCE BAEKJEONG, LLC, a California
corporation, and DOES 1-50, inclusive,

Defendant.

Case No. 30-2021-01207008-CU-OE-CXC

Assigned for all purposes to: Hon. James. J.
Di Cesare, Department C16

PAGA SETTLEMENT AGREEMENT

PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the Superior Court of the State of California for the County of Orange, Plaintiff Eva Jardon (“Plaintiff”) and Defendant Fullerton Baekjeong, LLC, Irvine Baekjeong, LLC, Rowland Heights Baekjeong, LLC, San Jose Baekjeong, LLC, Temple City Baekjeong, LLC, and Torrance Baekjeong, LLC (“Defendants”) (collectively with Plaintiff, the “Parties”) hereby agree to the following binding settlement (“Settlement” or “Settlement Agreement”) of the action entitled *Jardon v. Fullerton Baekjeong, LLC, et al.*, No. 30-2021-01207008-CU-OE-CXC (Orange County Superior Court) (the “Action”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Jardon v. Fullerton Baekjeong, LLC, et al.* Orange County Superior Court Case No. 30-2021-01207008-CU-OE-CXC.
2. “Aggrieved Employees” means all persons who were employed by Defendants as non-exempt, hourly paid employees in the State of California at any time from March 30, 2020 to the date of execution of this agreement.
3. “Court” means the Superior Court for the State of California, County of Orange.
4. “LWDA” means the California Labor and Workforce Development Agency.
5. “Maximum Settlement Amount” means the maximum settlement amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000.00) to be paid by Defendant in full satisfaction of all Settled Claims arising from the Action, which includes all payments to Aggrieved Employees, Plaintiff, Plaintiff’s Counsel, the LWDA, and the Settlement Administrator.
6. “PAGA Penalties Fund” means the Maximum Settlement Amount less the Attorneys’ Fees and Costs, Service Award, and Settlement Administrator Costs.
7. “Plaintiff’s Counsel” means Jackson APC.
8. “Service Award” means the amount to be paid to Plaintiff as payment for her service on behalf of the LWDA and Aggrieved Employees.
9. “Settled Claims” means any and all claims for PAGA civil penalties under the California

Labor Code, Wage Orders, regulations, and/or other provisions of law alleged or could reasonably have been alleged to have been violated in the Action with respect to Aggrieved Employees based on the facts alleged in the Action during the Settlement Period.

10. "Settlement Period" means March 30, 2020 to the date of execution of this Agreement.

TERMS

11. Maximum Settlement Amount. In consideration for Plaintiff's promises and representations described in this Settlement Agreement, and subject to all of the conditions of the Settlement being met, Defendants will pay a maximum amount of Three Hundred and Twenty-Five Thousand Dollars (\$325,000.00) ("Maximum Settlement Amount"), which represents the maximum amount payable in this Settlement by Defendants, and includes attorneys' fees, litigation costs and expenses, consideration for Plaintiff's service on behalf of the LWDA and Aggrieved Employees, Settlement Administration Costs, and payments to Aggrieved Employees and the LWDA for their share of the PAGA Penalties Fund. No portion of the Maximum Settlement Amount will be retained by, or revert to, Defendants.

12. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees and the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action with respect to Aggrieved Employees. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees according to the following formula:

12(a) Defendants will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the Settlement Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the Settlement Period.

12(b) To determine each Aggrieved Employee's payment from the PAGA Penalties Fund, the Settlement Administrator will use the following formula:

$$\text{Settlement Payment} = 25\% \text{ of PAGA Penalties Fund} \times [\text{Pay Periods Worked by Individual Aggrieved Employee During the Settlement Period} \div$$

Total Pay Periods Worked by All Aggrieved Employees during the Settlement Period].

12(c) The Maximum Settlement Amount was calculated based on Defendant's estimate that Aggrieved Employees worked during a total of 26,102 Pay Periods during the Settlement Period. If the number of Pay Periods is Fifteen percent (15%) higher or 30,017 Pay Periods, then Defendant shall, in its sole discretion, have the option to either: (i) end the Settlement Period on the date when the Pay Period count totaled 30,017; or (ii) permit the PAGA Penalties Fund to be increased proportionally by the pay periods worked in excess of 30,017 Pay Periods multiplied by the per Pay Period value.

13. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or motion by Plaintiff's Counsel for Attorneys' Fees and Costs of not more than One Hundred Eight Thousand Three Hundred Twenty-Two Dollars (\$108,322.00), plus the reimbursement of all out-of-pocket costs and expenses associated with Plaintiff's Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Fifteen Thousand Dollars (\$15,000), both of which will be paid from the Maximum Settlement Amount. Any portion of the Attorneys' Fees and Costs not awarded to Plaintiff's Counsel will be added to the PAGA Penalties Fund.

14. Service Award. Defendants agree not to oppose or impede any application or motion by Plaintiff for a service award of up to Five Thousand Dollars (\$5,000) ("Service Award").

15. Settlement Administration Costs. The Parties will retain Simpluris, Inc. as the third-party settlement administrator ("Settlement Administrator"). The Settlement Administrator will be responsible for establishing a qualified settlement fund ("QSF") and issuing payments and appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. The Settlement Administration Costs will be paid from the Maximum Settlement Amount. Based on the estimate that there are approximately one thousand four hundred twenty (1,420) Aggrieved Employees, Settlement Administration Costs are estimated at Ten Thousand Dollars (\$10,000).

16. Court Approval of the Settlement and Distribution of Settlement Payments. Plaintiff will present this Settlement Agreement to the Court and the LWDA. Plaintiff will request that the Court issue

an order and judgment approving and incorporating by reference the terms and conditions of the Settlement Agreement (the “Order and Judgment”), and dismissing the Action with prejudice.

17. List of Aggrieved Employees. Within seven (7) business days after entry of the Order and Judgment, Defendants will provide the Settlement Administrator a complete list of all Aggrieved Employees (“Aggrieved Employee List”). The Aggrieved Employee List will be formatted in Microsoft Office Excel and will include each Aggrieved Employees full name; most recent mailing address and telephone number; Social Security number; the respective number of pay periods during which each Aggrieved Employee worked during the Settlement Period; and any other relevant information needed to calculate settlement payments.

18. Funding of the Settlement. Within seven (7) business days after entry of the Order and Judgment, Defendants will deposit the Maximum Settlement Amount into the QSF to be established by the Settlement Administrator. Within fourteen (14) business days of the funding of the Settlement, the Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; (d) Plaintiff’s Counsel; and (e) itself. The Settlement Administrator, and not Defendants, will issue the appropriate tax forms for all payments issued under this Settlement.

19. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an explanatory letter, attached as **Exhibit 1**, which will be mutually approved by the Parties. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will then perform a single re-mailing. Checks will remain negotiable for 180 days. Those funds represented by un-cashed checks which remain outstanding 180 days after the mailing of the Settlement checks by the Settlement Administrator will be tendered to the LWDA. All settlement

1 payments to Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be
2 issued.

3 20. Settled Claims. Upon entry of the Order and Judgment, Plaintiff and all Aggrieved
4 Employees will be forever barred from pursuing against Defendants any and all Settled Claims during
5 the Settlement Period. Aggrieved Employees, other than Plaintiff, will not be deemed to have released
6 any individual wage and hour claims by virtue of this Settlement.

7 21. No Right to Exclusion or Objections by Representative Action Members. Because this
8 settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a
9 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no
10 Aggrieved Employee has the right to exclude himself or herself from the Settlement. Aggrieved
11 Employees will be bound by the terms of the Settlement Agreement, upon its approval by the Court,
12 regardless of whether he or she cashes any payment received as a result of this Settlement. The Parties
13 also agree that no Aggrieved Employee has the right to object to the terms of the Settlement Agreement.

14 22. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced
15 herein will not be utilized to calculate any additional benefits under any benefit plans to which any
16 Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans,
17 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit
18 plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights,
19 contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

20 23. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
21 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
22 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
23 action or right herein released and discharged.

24 24. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve
25 the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then
26 this Settlement Agreement, and any documents generated to bring it into effect, will be null and void,
27 and the Parties will be returned to their original respective positions.

28 25. Judgment and Continued Jurisdiction. After entry of the Order and Judgment, the Court

will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

26. Entire Agreement. This Settlement Agreement, and the corresponding Settlement Agreement and Release between Plaintiff and defendant Fullerton Baekjeong, LLC, constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

27. Amendment or Modification. This Settlement Agreement, and the corresponding Settlement Agreement and Release between Plaintiff and defendant Fullerton Baekjeong, LLC, may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

28. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. If 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 may seek the assistance of the Court to resolve such disagreement.

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

30. California Law Governs. All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the State of California.

31. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic signatures (e.g., DocuSign), facsimiles, and scanned copies of the signature pages, will be deemed to be one and the same instrument.

1 32. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
2 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
3 Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that
4 they are each represented by competent counsel and that they have had an opportunity to consult with
5 their counsel regarding the fairness and reasonableness of this Settlement.

6 33. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that
7 Plaintiff may appeal any reduction to the Attorneys' Fees and Costs below the amount they request from
8 the Court, and either party may appeal any court order that materially alters the Settlement's terms.

9 34. Invalidity of Any Provision. Before declaring any provision of this Settlement
10 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
11 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
12 valid and enforceable.

13 35. Captions. The captions and section numbers in this Settlement Agreement are inserted
14 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
15 provisions of this Settlement Agreement.

16 36. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
17 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
18 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

19 37. Enforcement Action. In the event that one or more of the Parties institutes any legal
20 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
21 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
22 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
23 expert witness fees incurred in connection with any enforcement actions.

24 38. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
25 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
26 more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
27 one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties,
28 all Parties have contributed to the preparation of this Settlement Agreement.

39. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

40. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

41. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

42. Denial of Liability. The Parties expressly recognize that the making of this agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the pendency of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in 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, this agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 10/13/2022



Eva Jardon

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: 10/19/22

DEFENDANTS

DocuSigned by:



5CE180939F48424...

Fullerton Baekjeong, LLC,
Irvine Baekjeong, LLC,
Rowland Heights Baekjeong, LLC,
San Jose Baekjeong, LLC,
Temple City Baekjeong, LLC, &
Torrance Baekjeong, LLC

APPROVED AS TO FORM

JACKSON APC

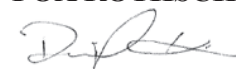
Dated: October 18, 2022



Armond M. Jackson

FOX ROTHSCHILD LLP

Dated: October 19, 2022



Nancy Yaffe
Daniel V. Kitzes

EXHIBIT A

[Date], 2022

[Name of Settlement Administrator]

[ADDRESS]

NOTICE OF SETTLEMENT

Re: *Eva Jardon v. Fullerton Baekjeong, LLC, et al.*, Orange County Superior Court

Case No. 30-2021-01207008-CU-OE-CXC

To: All non-exempt employees who were employed by Fullerton Baekjeong, LLC Irvine Baekjeong, LLC, Rowland Heights Baekjeong, LLC, San Jose Baekjeong, LLC, Temple City Baekjeong, LLC, and/or Torrance Baekjeong, LLC (“Baekjeong” or “Defendants”) in the State of California at any time between March 30, 2020, through [DATE] (“PAGA Members”):

You have received this notice because a settlement has been reached in the above-referenced lawsuit between Plaintiff Eva Jardon (“Plaintiff”), and Defendants.

On [DATE], the Orange County Superior Court issued an Order approving the settlement of claims brought pursuant to California’s Private Attorneys General Act of 2004 (“PAGA”) in the above-referenced case. The Court approved the settlement in the amount of \$325,000.00. After accounting for Plaintiffs’ attorneys’ fees and costs, enhancement payment to the Plaintiff, and settlement administration costs, the State of California will receive [75% of Net Settlement Amount] (75% of the settlement amount as required by law) and the PAGA Members are receiving a pro rata share of the remaining [25% of Net Settlement Amount] (25% of the settlement amount) based upon the number of pay periods they worked for Defendants from March 30, 2020 through [DATE] (the “PAGA Period”).

By way of this Settlement, Defendants have been released from claims that the State of California can pursue for certain Labor Code violations allegedly committed against you, including California Labor Code §§ 201, 202, 203, 226(a), 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1198, 2802, and Wage Order 5, Sections 3, 7, 11, 12, and 14 based upon Plaintiff’s allegations of failure to provide meal periods and rest periods, failure to pay minimum and overtime wages, failure to timely pay wages upon discharge or termination, failure to pay employees for compensable off-the-clock work, failure to timely pay wages during employment in accordance with Labor Code section 204, failure to pay wages on time, failure to provide complete and accurate wage statements, failure to keep complete and accurate payroll records, failure to pay wages on time, and failure to reimburse necessary business-related expenses and costs. In approving this Settlement, the Orange County Superior Court did not make a determination about Plaintiff’s claims and it did not decide that Defendants did anything wrong. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claims. Defendants maintain that they were in compliance with the California Labor Code at all times and enter into this Settlement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation.

You are receiving money under the settlement because you are or were a PAGA Member (defined above). The enclosed settlement check represents your portion of the Court-approved PAGA settlement. Your settlement amount is << \$ Amount >>. Your check will be valid for 180 days from issuance. After that date, you cannot cash your check and it will be voided and a stop payment will be issued. Any unpaid cash residue or unclaimed PAGA Member funds will be sent to the California State Controllers’ Office Unclaimed Property Fund. You are responsible for your own tax obligations as this settlement amount will be treated as non-wage income to the Aggrieved Employees and reported by the Settlement Administrator on IRS Form 1099.

Regardless of what you do with the settlement check, you will have released claims for penalties arising under the PAGA as asserted by Plaintiff in her lawsuit.

If you have any questions about this notice, or would like to review the settlement-related documents between Plaintiff (on behalf of herself and the State of California) and Defendants, please contact the Settlement Administrator, [Name of Settlement Administrator] at [Insert Phone Number]. **PLEASE DO NOT CALL OR CONTACT THE COURT.**