

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is made and entered into between VICENTE JHONATAN BARRALES CAMACHO, on the one hand ("Plaintiff"), and EMPIRE BUILDING AND REMODELING, INC. & ELEAZAR BECERRA ("Defendants") on the other hand (together collectively "the Parties") with respect to the following:

RECITALS

A. Plaintiff filed a civil lawsuit against Defendants on or about October 18, 2021 in the Superior Court for the County of Los Angeles, captioned *Vicente Jhonatan Barrales Camacho V. Empire Building and Remodeling, Inc, Et Al*, Los Angeles County Superior Court Case No. 21stcv38235. In his Complaint, Plaintiff alleges he was employed until March 19 2021. On or about May 17, 2021, Plaintiff filed with the Labor and Workforce Development Agency ("LWDA") a notice of Labor Code Violations Pursuant to California Labor Code Section 2699 *et seq.* (the "PAGA Notice") alleging wage and hour violations by Defendants including misclassification, failure to pay overtime, failure to provide meal and rest periods, and failure to provide accurate itemized wage statements, among other related claims. The Complaint and PAGA Notice shall be referred to herein collectively as the "Action."

B. Defendants deny that they have violated any applicable law, or breached any contract or committed any wrong against Plaintiff or that either of them has otherwise damaged Plaintiff in any manner.

C. Subject to the terms and conditions set forth in this Agreement, the Parties mutually desire to settle all matters in controversy among themselves as set forth below. As such, this Agreement is intended to be a mutual and complete compromise between the Parties and is intended as a complete and final resolution in settlement of the respective differences, positions and claims of the Parties, subject to the terms and conditions as set forth in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as part of the Agreement, and the promises contained herein, Plaintiff and Defendants agree as follows:

1. Defendants agree to pay in settlement of these matters the gross sum of Thirty Thousand Dollars and no cents (\$30,000.00), as a compromise payment (the "Settlement Amount") and in settlement of all claims covered by this Agreement to be paid as follows.

- a. One check in the amount of Thirty Thousand Dollars (\$30,000.00) payable to Sirmabekian Law Firm, Client Trust Account, within 10 calendar days of Plaintiff's counsel's email notice to Defendants' counsel of the Court's approval of the PAGA penalty distribution as set forth below.

The parties agree that, subject to the Court's approval, \$5,000 of the total settlement amount will be allocated towards penalties under Plaintiff's *Labor Code* §2699 ("Private Attorney General Act") Claims. The Parties will enter into a stipulation detailing the terms of PAGA allocation and

administration, provided however, that Plaintiff will bear the cost of any administrative fees or costs incurred in connection with distribution of the PAGA penalties. The parties agree that Plaintiff and her counsel will be responsible for all required submissions (including the submission of required documentation) to the LWDA.

The parties further agree that the mutual promises, covenants, and obligations contained in this Settlement Agreement are contingent on the Court approving the allocation of PAGA penalties as discussed herein. Should the Court not approve the allocation of PAGA penalties specified herein within 180 days of the execution of this Agreement, this Agreement will be voidable by any party to this Agreement.

2. As to settlement amounts paid to counsel, Defendants shall provide an IRS 1099 form reporting same as "Gross proceeds paid to an Attorney" or similar language. The IRS 1099 form outlined above shall be delivered to Plaintiff's counsel. Plaintiff's counsel will provide a W9 form prior to any receipt of the Settlement Amount. Notwithstanding any other provision of this Agreement, no Settlement Amount is due until Plaintiff's counsel provides a completed W9 form to Defendant's counsel.

As payment of settlement funds represents payment of disputed claims, and there are no tax withholdings, Plaintiff agrees to be liable for all of the tax consequences arising from these payments. Plaintiff acknowledges and agrees that he is responsible for payment of any taxes required to be paid to the State of California, the United States Government, or any other entity as a result of this settlement. Plaintiff further acknowledges and agrees that no person has made any representations to him regarding the tax consequences of the monies received by him pursuant to this Settlement Agreement. Plaintiff agrees to indemnify and hold Defendants and their agents, owners, attorneys or employees harmless for the amount of any taxes, penalties, or interest that may be assessed by any governmental tax authority against any of them in connection with such governmental authority's determination that Defendants were required to, but failed to, withhold or report the correct amount of income or employment taxes from the payments made to Plaintiff pursuant to this Settlement Agreement. Plaintiff agrees that Plaintiff shall indemnify Defendants for the full amount of such liability within thirty (30) days after receipt of notice from Defendants of the assessment of such taxes, penalties, or interest.

3. Upon the full execution of this Agreement, and except for the obligations created by or reserved specifically herein, Plaintiff and Defendants, and their respective representatives, heirs, predecessors-in-interest, successors-in-interest, shareholders, officers, directors, officials, partners, members, parents, subsidiaries, affiliates, shareholders, trustees, beneficiaries, attorneys, assigns, subrogees, and any related entities, hereby irrevocably fully and forever release, forgive and discharge each other, as well as their respective representatives, heirs, predecessors-in-interest, successors-in-interest, shareholders, officers, directors, officials, partners, members, parents, subsidiaries, affiliates, trustees, beneficiaries, agents, subrogees, attorneys, and any related entities, from any and all claims, demands, causes of action, rights, obligations, liabilities, damages, attorneys' fees, obligations, costs, expenses, and actions of every kind or nature whatsoever, whether now known or unknown, suspected or unsuspected, which each Party now has, owns or holds, or any time heretofore had, owned, or held, or could or may hereafter have, own or hold arising from anything whatsoever that has occurred up until and including the date of execution of this Agreement. The Parties agree that the mutual release set forth in this paragraph shall be and remain in effect in all respects as a complete general release. The release and waiver contained within this

paragraph shall not include claims to enforce any breach of the obligations of any Party under this Agreement, nor any claims that cannot be released by law.

4. Each Party acknowledges that each is aware that they may hereafter discover facts different from or in addition to what each Party knows or believes to be true with respect to the matters released in this Agreement. Each Party agrees and acknowledges that the releases granted herein are general releases as to all matters released in this Agreement. Each Party acknowledges that such Party has been informed of Section 1542 of the *Civil Code* of the State of California and hereby does expressly waive and relinquish all rights and benefits which such Party has or may have under that Section, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

5. Excluded from the releases contained within this Agreement are any obligations that arise out of the Agreement itself.

6. Each Party to this Agreement hereby represents and warrants to the other Party that it is not aware of any other person or entity having any interest and any claim which is or may be the subject of this Agreement. The Parties to this agreement hereby further represent and warrant that they have not assigned, transferred, subrogated or purported to have assigned, transferred or subrogated any of the rights or claims released herein to any other person or entity. Each Party to this Agreement hereby agrees that they shall indemnify and hold the other Parties harmless from and against any and all claims based on or arising from any such assignment, transfer or subrogation, or any attempt at assignment, transfer or subrogation of any of the claims released herein.

7. The terms, acknowledgements, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, assigns and successors of each of the Parties and their attorneys.

8. Each of the Parties hereto hereby warrants and covenants that its respective representative signing this Agreement has full authority to bind each Party to the terms of this Agreement.

9. Each of the Parties to this Agreement represent and warrant to each other that they have consulted with, and have the advice of, counsel and that they are executing this Agreement after independent investigation and without any fraud, duress or undue influence.

10. Each of the Parties to this Agreement understands and agrees that this settlement is a compromise of disputed claims and that the releases contained in this Agreement are not to be construed as any admission of liability on the part of any Parties hereby released. The Parties to this Agreement specifically deny that there exists any liability on their respective parts and the Parties hereto by entering to this Agreement are merely attempting to avoid costly and lengthy litigation.

11. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California, without regard to principles of conflicts of law otherwise

applicable to such determination; provided, however, this in no way shall prevent the application of the benefits of federal law where applicable. This Agreement is enforceable pursuant to California Code of Civil Procedure Section 664.6. The Los Angeles County Superior Court retains jurisdiction to enforce this agreement. By virtue of the foregoing language and pursuant to Evidence Code sections 1122(a)(1) and 1123(b) and Code of Civil Procedure Section 664.6, it is the intent of the parties that all terms of this Agreement may be disclosed to a court of law and shall be enforceable and binding upon them in a court of law.

12. In the event any provision of this Agreement shall be held to be illegal, invalid or unenforceable under present or future laws which are effective during the time of performance hereto, the legality, validity and enforceability of the remaining portions of this Agreement shall not be affected thereby and such remaining portions shall be liberally construed to effectuate the intention of the Parties to this Agreement as expressed herein.

13. In the event of any ambiguity in or disputes regarding the interpretation of this Agreement, any such ambiguity or dispute shall not be resolved by any rule of interpretation providing for the interpretation against the Party who caused the uncertainty to exist, or against the draftsman, and the provisions of *Civil Code* § 1654 shall not apply.

14. Each Party agrees to execute and deliver, upon the reasonable request of the other Party, such further instruments, papers or documents as may be necessary or appropriate to carry out the provisions of this Agreement, and to take such other action as any party may reasonably request to effectuate the purposes of this Agreement. The Parties further agree to cooperate in good faith with respect to the obligations undertaken in this Agreement. This Agreement is binding upon each of the Parties, and each of their respective shareholders, officers, directors, officials, partners, members, parents, subsidiaries, affiliates, employees, agents, attorneys, successors, heirs, assigns, transferees, trustees, beneficiaries and representatives.

15. This Agreement shall not be amended, altered or modified except in writing signed by each of the Parties to this Agreement.

16. This document contains the entire Agreement and understanding concerning the subject matter set forth herein, and supersedes or replaces all prior negotiations, proposed agreements, or other agreements, whether written or oral.

17. This Agreement shall be irrevocable by each party and shall be governed by and construed according to the laws of the State of California. The Court shall retain jurisdiction to enforce this agreement pursuant to California *Code of Civil Procedure* §664.6, et seq. This agreement shall be admissible in any enforcement proceeding and the Court shall award the prevailing party costs including reasonable attorneys' fees.

18. This Agreement and any amendments thereto may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument with the same effect as if all of the parties to this Agreement had executed the same counterpart. A legible executed facsimile may be used in lieu of an original.

19. The Parties hereto hereby agree that neither they, nor their agents, representatives,

nor employees, will disclose the terms of this Agreement to any person or entity, other than those persons or entity to which it is necessary to disclose the terms of this Agreement in order to effectuate this Agreement and to the Parties' agents, attorneys, accountants, or spouse. The Parties hereto may disclose the terms of this Agreement as required by currently existing contractual obligations, or applicable law, or in response to the inquiry of any governmental agency or order of court, or in connection with any action for the enforcement of, or damages for breach of, this Agreement.

20. In responding to third-party inquiries regarding Plaintiff's employment, Defendants shall only confirm the dates of employment and positions held during Plaintiff's employment with Defendants.

21. Each Party to this Agreement shall bear their respective attorneys' fees and costs relating to this Agreement, including the attorney fees and costs associated with the Action, and implementation of this Agreement. The Parties specifically waive any right, on any basis, to recover attorney fees and costs in connection with the Action. Notwithstanding the foregoing, if any action is commenced by any Party to this Agreement to enforce the provisions of this Agreement, the prevailing party shall be entitled to an award of its attorneys' fees, costs and expenses, in addition to other claims or damages, in connection with enforcing this Agreement.

Before signing this Agreement, I state that:

- I have read it;
- I understand it;
- I know I am giving up important rights;
- I am aware of my right to consult an attorney before signing it; and
- I have signed it knowingly and voluntarily.

YO, VICENTE JHONATAN BARRALES CAMACHO, DECLARO QUE ESTE ACUERDO FUÉ TRADUCIDO PARA MI, DEL INGLÉS AL ESPAÑOL A MI SATISFACIÓN.

DocuSigned by:

Vicente Jhonatan Barrales Camacho

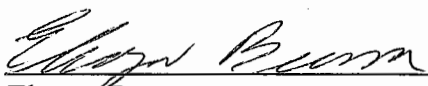
IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement and Mutual Release on the dates set forth below.

APPROVED AND ACCEPTED:

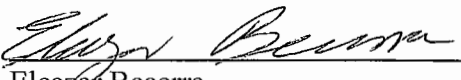
Dated: 10/27/2023 PLAINTIFF, VICENTE JHONATAN BARRALES CAMACHO

By: 
Vicente Jhonatan Barrales Camacho

Dated: 10-27-2023 DEFENDANT, EMPIRE BUILDING AND REMODELING, INC.

By: 
Eleazar Becerra

Dated: 10-27-2023 DEFENDANT, ELEAZAR BECERRA

By: 
Eleazar Becerra