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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

BRIAN A. BUENROSTRO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

PRO TRAFFIC SERVICES, INC., a California
corporation; and DOES 1 through 10 inclusive,

Defendants.

Case No.: 37-2021-00046081-CU-OE-CTL

[Honorable Eddie C. Sturgeon,
Department C-67]

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT**

Complaint Filed: October 28, 2021

1 **PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT**

2 The instant Private Attorneys General Act Settlement Agreement (“Settlement” or “Agreement”)
3 is made by and between Plaintiff Brian A. Buenrostro (“Plaintiff”) and Defendant Pro Traffic Services,
4 Inc. (“Defendant”). This Agreement refers to Plaintiff and Defendant collectively as “Parties,” and
5 individually as “Party.”

6 **1. DEFINITIONS**

7 1.1. “Action” means the Private Attorneys General Act (“PAGA”) representative action entitled,
8 *Brian A. Buenrostro v. Pro Traffic Services, Inc.*, filed and pending in the Superior Court of the State of
9 California for the County of San Diego, with Case Number 37-2021-00046081-CU-OE-CTL.

10 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
11 appoint to administer the Settlement.

12 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from
13 the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with its “not to
14 exceed” bid submitted to the Court in connection with the approval of this Settlement.

15 1.4. “Aggrieved Employee” means all persons who worked for Defendant in California as an
16 hourly paid or non-exempt employee during the PAGA Period.

17 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in
18 Defendant’s possession, including the Aggrieved Employee’s name, last-known mailing address, Social
19 Security number, and number of PAGA Pay Periods worked during the PAGA Period.

20 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search
21 for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and
22 means, including, but not limited to, the National Change of Address database, skip traces, and direct
23 contact by the Administrator with Aggrieved Employees.

24 1.7. “Court” means the Superior Court of California for the County of San Diego.

25 1.8. “Defense Counsel” means Shane P. Criqui of STRADLING YOCCA CARLSON &
26 RAUTH.

1.9. "Effective Date" means the date both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Approval of the Settlement and (b) the Judgment is final. The Judgment is final on the latest of the following occurrences: (a) if no objections are filed to the Settlement or if all objections are withdrawn prior to the Court ruling on them, the day the Court enters Judgment; or (b) if objections are filed and overruled and no appeal is taken from the order approving the Settlement, sixty-one (61) days after the date of entry of the settlement approval order; or (c) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected, the Settlement is upheld, and the Settlement approval order is no longer subject to further judicial review.

1.10. "Gross Settlement Amount" means \$525,000.00, or the total amount Defendant agrees to pay under the Settlement, except as provided in Section 8 of this Agreement. The Gross Settlement Amount will be used to pay the Individual PAGA Payments, LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Expenses Payment, PAGA Representative Enhancement Payment, and Administration Expenses Payment.

1.11. "Individual PAGA Payment" means an Aggrieved Employee's *pro rata* share of 25% of the PAGA Penalties, calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.12. "Judgment" means the judgment entered by the Court based on the Order Granting Approval of the Settlement.

1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled under California Labor Code ("Labor Code") section 2699, subd. (i).

1.14. "LWDA PAGA Payment" means the LWDA's 75% share of the PAGA Penalties, paid pursuant to Labor Code section 2699, subd. (i).

1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Expenses Payment, PAGA Representative Enhancement Payment, and Administration Expenses Payment. The remainder is to be paid *pro rata* to Aggrieved Employees as Individual PAGA Payments.

1 1.16. "PAGA Counsel" means Kane Moon, Allen Feghali, and Jacquelyne VanEmmerik of
2 Moon Law Group, P.C.

3 1.17. "PAGA Counsel Fees Payment" means the amount allocated to PAGA Counsel for the
4 reasonable fees incurred to prosecute the Action.

5 1.18. "PAGA Counsel Expenses Payment" means the amount allocated to PAGA Counsel for
6 reimbursement of the expenses incurred to prosecute the Action.

7 1.19. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked
8 for Defendant and recorded time worked for Defendant for at least one day during the PAGA Period.

9 1.20. "PAGA Period" means the period from October 27, 2020, to December 28, 2023.

10 1.22. "PAGA Notice" means Plaintiff's October 27, 2021 letter to Defendant and the LWDA
11 providing notice pursuant to Labor Code section 2699.3, subd.(a).

12 1.23. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the
13 Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to the LWDA in
14 settlement of PAGA claims.

15 1.24. "Plaintiff" or "PAGA Representative" means the named Plaintiff, Brian A. Buenrostro.

16 1.25. "Released PAGA Claims" means the claims being released by Plaintiff, the Aggrieved
17 Employees, and PAGA Counsel, as provided for in Section 5 of this Agreement.

18 1.26. "Released Parties" means Defendant and each of its former and present directors, officers,
19 shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and
20 affiliates.

21 1.27. "Settlement" means the disposition of the Action effected by this Agreement and the
22 Judgment.

23 1.28. "Defendant" means the named Defendant, Pro Traffic Services, Inc.

24 1.29. "PAGA Representative Enhancement Payment" means \$10,000.00, the amount allocated to
25 Plaintiff for his role, service, and risks undertaken as the PAGA Representative of the State of California
26 in this Action and for his general release, as provided in Paragraph 5.1 of this Agreement.

1 **2. RECITALS**

2 2.1. On October 27, 2021, Plaintiff sent a letter to the LWDA, stating that he intended to pursue a
3 representative action under PAGA for civil penalties against Defendant for the following Labor Code
4 violations: Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174,
5 1174.5, 1194, 1197, 1197.1, 1198, 2699(f)(2) and 2802;

6 2.2. On December 28, 2021, Plaintiff commenced the Action by filing a Class Action Complaint,
7 which sought damages on his behalf and on behalf of a class of all non-exempt or hourly employees for
8 the following alleged violations of the Labor Code and Business and Professions Code: (1) failure to pay
9 all minimum wages (in violation of Labor Code sections 204, 1194, 1194.2, and 1197); (2) failure to pay
10 all overtime compensation (in violation of Labor Code sections 1194 and 1198); (3) failure to provide
11 compliant meal periods (in violation of Labor Code section 226.7 and 512); (4) failure to provide
12 compliant rest periods (in violation of Labor Code section 226.7); (5) failure to indemnify for necessary
13 business expenses (in violation of Labor Code section 2802); (6) failure to timely pay all wages due at the
14 time of termination (in violation of Labor Code sections 201-203); (7) failure to provide accurate itemized
15 wage statements (in violation of Labor Code section 226); and (8) unfair competition (Business and
16 Professions Code section 17200 *et seq.*)

17 2.3. On January 24, 2022, Plaintiff filed a First Amended Complaint (“Operative Complaint”),
18 which alleged an additional cause of action for civil penalties pursuant to PAGA based on the same Labor
19 Code violations alleged in the Class Action Complaint.

20 2.4. On October 21, 2022, Plaintiff filed a Request for Dismissal of Class Allegations, which
21 requested dismissal of all claims alleged on a classwide basis pursuant to the enforceable arbitration
22 agreement Plaintiff signed at the commencement of his employment with Defendant and to California
23 Rules of Court rules 3.770, *et. seq.* Defendant denies the allegations in the Operative Complaint, denies
24 any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability
25 for the causes of action alleged.

26 2.5. On November 28, 2023, the Parties participated in a private mediation presided over by the
27 Honorable Carl West, a retired judge and well-respected wage and hour class and PAGA action mediator,
28 which led to the instant Settlement.

2.6. Prior to mediation, Plaintiff obtained, through informal discovery, employee and payroll data, policy documents, and additional information regarding the Aggrieved Employees, which PAGA Counsel reviewed and analyzed.

2.7. The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. *Gross Settlement Amount.* Defendant agrees to pay Five Hundred Twenty-Five Thousand Dollars (\$525,000.00) as the Gross Settlement Amount, and no more, unless Defendant invokes an option contemplated by Paragraph 8 of this Agreement. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit a claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. *Payments from the Gross Settlement Amount.* The Administrator will make and deduct the following payments from the Gross Settlement Amount:

3.2.1. *To PAGA Counsel:* A PAGA Counsel Fees Payment of not more than one third of the Gross Settlement Amount, or \$175,000.00, and a PAGA Counsel Expenses Payment of not more than \$19,000.00. Defendant will not oppose requests for Court approval of these payments provided they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file a motion for approval of the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or PAGA Counsel Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's counsel arising from any claim to any portion of the PAGA Counsel Fee Payment and/or PAGA Counsel Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment, holds Defendant harmless, and indemnifies Defendant from any dispute or controversy regarding any division or sharing of any of these Payments.

1 3.2.2. *To the PAGA Representative:* A PAGA Representative Enhancement Payment of not more
2 than \$10,000.00 for Plaintiff's role, service, and risks undertaken as the PAGA Representative of the
3 State of California in this Action and for his general release of claims, as provided in Paragraph 5.1 of this
4 Agreement.

5 3.2.3. *To the Administrator:* An Administration Expenses Payment of not more than
6 \$5,350.00 owing of good cause and as approved by the Court. To the extent the Administration Expenses
7 are less or the Court approves payment less than \$5,350.00, the Administrator will retain the remainder in
8 the Net Settlement Amount. ILYM Group, Inc. has been selected as the Administrator, based upon its
9 "not to exceed" bid of \$5,350.00.

10 3.2.4. *To the LWDA and Aggrieved Employees:* PAGA Penalties to be paid from the
11 Gross Settlement Amount equal to the Gross Settlement Amount less the following payments in the
12 amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Expenses Payment,
13 PAGA Representative Enhancement Payment, and Administration Expenses Payment—with 75%
14 allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

15 3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a)
16 dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (i.e., the Net Settlement
17 Amount) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during
18 the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay
19 Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their
20 Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099
21 Forms. The Individual PAGA Payments shall be allocated as 100% to penalties and interest.

22 **4. SETTLEMENT FUNDING AND PAYMENTS**

23 4.1. *Aggrieved Employee Pay Periods.* Based on a review of its records to date, Defendant
24 estimates there are 456 Aggrieved Employees who worked a total of 24,397 PAGA Pay Periods from
25 October 27, 2020 through October 9, 2023.

26 4.2. *Aggrieved Employee Data.* Within twenty-one (21) days of the complete execution of this
27 Agreement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a
28 Microsoft Excel spreadsheet.

1 4.2.1. To protect Aggrieved Employees' privacy rights, the Administrator must maintain
2 the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this
3 Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator
4 employees who need access to the Aggrieved Employee Data to effect and perform under this
5 Agreement.

6 4.2.2. Defendant has a continuing duty to immediately notify PAGA Counsel if it
7 discovers that the Aggrieved Employee Data omitted employee identifying information and to provide
8 corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of
9 the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the
10 Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
11 resolve any issues related to missing or omitted Aggrieved Employee Data.

12 4.3. *Funding of Gross Settlement Amount.* Defendant shall fully fund the Gross Settlement
13 Amount by transmitting the funds to the Administrator no later than fourteen (14) days after the Effective
14 Date.

15 4.4. *Payments from the Gross Settlement Amount.* The Administrator will mail checks for all
16 Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Fees Payment, the PAGA
17 Counsel Expenses Payment, the PAGA Representative Enhancement Payment, and the Administration
18 Expenses Payment no later than fourteen (14) days after Defendant funds the Gross Settlement Amount.
19 Disbursement of the PAGA Counsel Fees Payment or PAGA Counsel Expenses Payment shall not
20 precede disbursement of Individual PAGA Payments.

21 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send
22 them to the Aggrieved Employees via First Class U.S. Mail, with postage prepaid, along with the Notice
23 of PAGA Representative Action Settlement, attached hereto as **Exhibit A**. The face of each check shall
24 prominently state the date (180 days after the date of mailing) when the check will be voided. Before
25 mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the
26 National Change of Address Database. The Administrator will cancel all checks not cashed by the void
27 date.
28

1 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all
2 Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. The
3 Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained
4 through the Aggrieved Employee Address Search within no later than seven (7) days of receiving a
5 returned check. The Administrator need not take further steps to deliver checks to Aggrieved Employees
6 whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a
7 replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by
8 the Aggrieved Employee prior to the void date.

9 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed
10 and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to
11 the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

12 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer
13 any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k)
14 contributions or bonuses) beyond those specified in this Agreement.

15 **5. RELEASE OF CLAIMS**

16 Pursuant to the requirements of Labor Code sections 2699, *et seq.*, Plaintiff is the designated agent
17 of the California Labor and Workforce Development Agency ("LWDA") and is proceeding as a private
18 attorney general by bringing this enforcement action to recover civil penalties on behalf of the LWDA
19 and the group of Aggrieved Employees. The Parties agree, and Plaintiff agrees, effective on the date
20 Defendant fully funds the entire Gross Settlement Amount, the LWDA shall release the Released Parties
21 from any claim for civil penalties arising out of the Released Claims. As consideration for this release, the
22 LWDA shall receive 75% of the PAGA Penalties, and the Aggrieved Employees shall receive 25% of the
23 PAGA Penalties, consistent with the requirements of Labor Code sections 2698, *et seq.*

24 5.1. *Plaintiff's Release.* Effective on the date Defendant fully funds the entire Gross Settlement
25 Amount in accordance with Paragraph 4.3, Plaintiff and his respective former and present spouses,
26 representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and
27 assigns generally, releases and discharges Released Parties from all claims, transactions, or occurrences
28 that occurred during the PAGA Period, including all claims that were alleged, or reasonably could have

1 been alleged, based on the facts contained in the Operative Complaint and the PAGA Notice, and all
2 claims that that arise out of the same operative facts as alleged in the Operative Complaint and the PAGA
3 Notice, including claims for civil penalties under the PAGA for violations of the Labor Code based on
4 Defendant's failure to pay all wages due (including minimum wages, straight time wages, regular rate
5 wages, and overtime wages), failure to provide compliant meal periods, failure to authorize and permit
6 compliant rest periods, failure to provide accurate and itemized wage statements, failure to timely pay all
7 wages due during employment and at the time of termination, failure to reimburse employees for all
8 business-related expenses, and all damages, interest, penalties, attorneys' fees, costs, and other amounts
9 recoverable under said representative causes of action under California law, to the extent permissible
10 ("Plaintiff's Release").

11 5.1.1. Plaintiff's Release does not extend to any claims or actions to enforce this
12 Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social
13 security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside
14 the PAGA Period. Plaintiff acknowledges that he may discover facts or law different from, or in addition
15 to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's
16 Release shall be and remain effective in all respects, notwithstanding such different or additional facts or
17 Plaintiff's discovery of them.

18 5.1.2. Plaintiff stipulates and agrees that, upon the date on which the Court's Order
19 Approving the Settlement becomes "Final," he shall be deemed to have expressly waived and
20 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of
21 the California Civil Code, or any other similar provision under federal or state law, which provides:

22 **A general release does not extend to claims that the creditor or releasing party does**
23 **not know or suspect to exist in his or her favor at the time of executing the release and**
24 **that, if known by him or her would have materially affected his or her settlement with**
the debtor or released party.

25 This release specifically excludes claims for unemployment insurance, disability, social security,
26 and workers compensation (with the exception of claims arising pursuant to California Labor Code
27 Sections 132(a) and 4553). Accordingly, if the facts relating in any manner to this Settlement are found
28 hereafter to be other than or different from the facts now believed to be true, the release of claims

1 contained herein shall be effective as to all unknown claims.

2 5.2. *Release by Aggrieved Employees.* Effective on the date Defendant fully funds the entire
3 Gross Settlement Amount in accordance with Paragraph 4.3, all Aggrieved Employees are deemed to
4 release, on behalf of themselves and their respective former and present representatives, agents, attorneys,
5 heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties
6 that occurred during the PAGA Period, including all claims that were alleged, or reasonably could have
7 been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, including
8 claims for civil penalties under the PAGA for violations of the Labor Code based on Defendant's failure
9 to pay all wages due (including minimum wages, straight time wages, regular rate wages, and overtime
10 wages), failure to provide compliant meal periods, failure to authorize and permit compliant rest periods,
11 failure to provide accurate and itemized wage statements, failure to timely pay all wages due during
12 employment and at the time of termination, failure to reimburse employees for all business-related
13 expenses, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under
14 said representative causes of action under California law, to the extent permissible. ("Released Claims").

15 5.3. *Release by PAGA Counsel.* Effective on the date Defendant fully funds the entire Gross
16 Settlement Amount, PAGA Counsel are deemed to release, on behalf of their present and former
17 attorneys, employees, agents, successors and assigns, the Released Parties from all claims for attorneys'
18 fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the
19 Operative Complaint and the PAGA Notice.

20 **6. MOTION FOR APPROVAL OF SETTLEMENT.**

21 6.1. The Parties agree to jointly prepare and file a motion for approval of this Settlement.

22 6.2. *Plaintiff's Responsibilities.* Plaintiff will prepare and deliver to Defense Counsel all
23 documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subd.
24 (f)(2)), including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed
25 declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and
26 attesting to its willingness to serve; competency; operative procedures for protecting the security of
27 Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or
28 other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved

1 Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA
2 Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel attesting to its timely
3 transmission to the LWDA of all necessary PAGA documents; and (iv) all facts relevant to any actual or
4 potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations,
5 Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action
6 asserting claims that will be extinguished or adversely affected by the Settlement.

7 6.2. *Responsibilities of PAGA Counsel.* PAGA Counsel and Defense Counsel are jointly
8 responsible for expeditiously finalizing and filing the application or motion for approval of this
9 Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary,
10 obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion.
11 PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

12 6.3. *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed motion for approval
13 of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense
14 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone,
15 and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this
16 Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and
17 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by
18 telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

19 **7. SETTLEMENT ADMINISTRATION**

20 7.1. *Selection of Administrator.* The Parties have jointly selected ILYM Group, Inc. to serve as
21 Administrator and have verified that, as a condition of appointment, ILYM Group, Inc. agrees to be
22 bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in
23 exchange for the Administration Expenses Payment. The Parties and their Counsel represent that they
24 have no interest or relationship, financial or otherwise, with the Administrator other than a professional
25 relationship arising out of prior experiences administering settlements.

26 7.2. *Employer Identification Number.* The Administrator shall have and use its own Employer
27 Identification Number for purposes of calculating payroll tax withholdings and providing reports to state
28 and federal tax authorities.

1 7.3. *Qualified Settlement Fund.* The Administrator shall establish a settlement fund that meets the
2 requirements of a Qualified Settlement Fund (“QSF”) under U.S. Treasury Regulation section 468B-1.

3 7.4. *Administrator Duties.* The Administrator has a duty to perform or observe all tasks to be
4 performed or observed by the Administrator contained in this Agreement or otherwise.

5 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE**

6 Defendant represents that there was a total of 24,397 Pay Periods worked by an estimated 456
7 Aggrieved Employees from October 27, 2020 to October 9, 2023. The PAGA Period that the Parties have
8 agreed to settle is from October 27, 2020, to December 28, 2023. Accordingly, if the number of Pay
9 Periods during the PAGA Period is more than 10% greater than 24,397 Pay Periods, *i.e.*, if there are
10 26,837 or more weekly Pay Periods worked by Aggrieved Employees during the PAGA Period (as
11 evidenced by a Pay Period with payment for time worked, excluding vacation, sick time, and/or other
12 personal leaves of absences), Defendant has the option to either: (1) agree to increase the Gross
13 Settlement Amount on a proportional basis (*i.e.*, if there is an 11% increase in the number of Pay Periods
14 during the PAGA Period, Defendant agrees to increase the Gross Settlement Amount proportionately by
15 1%); or (2) in the alternative, elect to end the PAGA Period at an earlier date than described above, so as
16 to have an earlier end to the PAGA Period at its discretion, in order to limit the covered pay periods to
17 26,836 or less, in lieu of paying an increase to the Gross Settlement Amount.

18 **9. CONTINUING JURISDICTION OF THE COURT**

19 9.1 The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the
20 Parties, Action, and Settlement solely for purposes of (i) enforcing this Agreement and/or the Judgment,
21 (ii) addressing settlement administration matters, and (iii) addressing post-Judgment matters as are
22 permitted by law.

23 9.2. *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions
24 of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Expenses
25 Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including
26 all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment,
27 motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
28 of the right to oppose such motions, writs, or appeals. If another party appeals the Judgment, the Parties’

obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS

10.1. *No Admission of Liability or Representative Manageability for Other Purposes.* This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of the Settlement only. If for any reason the Court does not approve the Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation, except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2. *Integrated Agreement.* Upon execution by all Parties and their counsel, this Agreement, together with its attached exhibit, shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3. *Attorney Authorization.* PAGA Counsel and Defense Counsel separately 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 reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4. *Cooperation.* The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document

1 necessary to implement the Settlement, or on any modification of the Agreement that may become
2 necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court
3 for resolution.

4 10.5. *No Prior Assignments.* The Parties separately represent and warrant that they have not
5 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
6 any person or entity and portion of any liability, claim, demand, action, cause of action, or right released
7 and discharged by the Party in this Settlement.

8 10.6. *No Tax Advice.* Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are
9 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
10 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
11 amended) or otherwise.

12 10.7. *Modification of Agreement.* This Agreement, and all parts of it, may be amended, modified,
13 changed, or waived only by an express written instrument signed by all Parties or their representatives,
14 and approved by the Court.

15 10.8. *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the
16 benefit of, the successors of each of the Parties.

17 10.9. *Applicable Law.* All terms and conditions of this Agreement and its exhibits will be
18 governed by and interpreted according to the internal laws of the State of California, without regard to
19 conflict of law principles.

20 10.10. *Cooperation in Drafting.* The Parties have cooperated in the drafting and preparation of
21 this Agreement. This Agreement will not be construed against any Party on the basis that the Party was
22 the drafter or participated in the drafting.

23 10.11. *Confidentiality.* To the extent permitted by law, all agreements made, and orders entered
24 during Action and in this Agreement relating to the confidentiality of information shall survive the
25 execution of this Agreement.

26 10.12. *Use and Return of Aggrieved Employee Data.* Information provided to PAGA Counsel
27 pursuant to Cal. Evid. Code § 1152, and all copies and summaries of the Aggrieved Employee Data
28 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations,

1 or in connection with the Settlement, may be used only with respect to this Settlement, and no other
2 purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule
3 of court. Not later than ninety (90) days after the Administrator discharges its obligation to pay out of all
4 Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data
5 received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant
6 makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved
7 Employee Data.

8 10.14. *Calendar Days*. Unless otherwise noted, all reference to "days" in this Agreement shall be
9 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or
10 federal legal holiday, such date or deadline shall be on the first business day thereafter.

11 10.15. *Notice*. All notices, demands or other communications between the Parties in connection
12 with this Agreement will be in writing and deemed to have been duly given as of the third business day
13 after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

14 To Plaintiff:

15 Kane Moon, Esq.
16 Allen Feghali, Esq.
17 Jacquelyne VanEmmerik, Esq.
18 MOON LAW GROUP, P.C.
19 1055 West Seventh Street, Suite 1880
20 Los Angeles, California 90017
Telephone: (213) 232-3128
kmoon@moonlawgroup.com
afeghali@moonlawgroup.com
jvanemmerik@moonlawgroup.com

21 To Defendant:

22 Shane P. Criqui, Esq.
23 STRADLING YOCCA CARLSON & RAUTH LLP
24 660 Newport Center Drive, Suite 1600
25 Newport Beach, CA 92660-6422
Telephone: 949 725 4000
scriqui@stradlinglaw.com

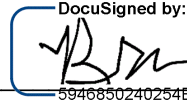
26 10.16. *Execution in Counterparts*. This Agreement may be executed in one or more counterparts
27 by facsimile, electronically (*i.e.*, DocuSign), or email, which for purposes of this Agreement shall be
28 accepted as an original. All executed counterparts will be deemed to be one and the same instrument if

counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17. *Stay of Litigation.* The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree, upon the signing of this Agreement and pursuant to CCP section 583.330, to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

The Parties hereby execute this Agreement:

Dated: 1/17/2024

DocuSigned by:

 5946850240254E3...

Brian A. Buenrostro

Dated:

Pro Traffic Services, Inc.

Name

Title

APPROVED AS TO FORM:

Dated: 01/17/2024

MOON LAW GROUP, P.C.

By:


 Kane Moon, Esq.
 Allen Feghali, Esq.
 Jacquelyne VanEmmerik, Esq.
 Attorneys for Plaintiff, Brian A. Buenrostro

Dated:

STRADLING YOCCA CARLSON & RAUTH

By:

Shane P. Criqui, Esq.
 Attorneys for Defendant, Pro Traffic Services, Inc.

counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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The Parties hereby execute this Agreement:

Dated:

Brian A. Buenrostro

Dated: 01/17/2024

Pro Traffic Services, Inc.
Janet Andrews

Name
President

Title

APPROVED AS TO FORM:

Dated:

MOON LAW GROUP, P.C.

By: _____
Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
Attorneys for Plaintiff, Brian A. Buenrostro

Dated: 1-17-24

STRADLING YOCCA CARLSON & RAUTH

By: _____
Shane P. Criqui, Esq.
Attorneys for Defendant, Pro Traffic Services, Inc.