

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Jacquelyne VanEmmerik (SBN 339338)
MOON LAW GROUP, P.C.
725 South Figueroa Street, 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
Email: kmoon@moonlawgroup.com
Email: afeghali@moonlawgroup.com
Email: jvanemmerik@moonlawgroup.com

Attorneys for Plaintiff, *Rodrigo Gonzalez Guzman*

Nazo Koulloukian (SBN 263809)
KOUL LAW FIRM
3435 Wilshire Boulevard, Suite 1710
Los Angeles, California 90010
Telephone: (213) 761-5484
Fax: (818) 561-3938
Email: nazo@koullaw.com

Sahag Majarian (SBN 146621)
Law Offices of Sahag Majarian II
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 609-0807
Email: sahagii@aol.com

Attorneys for Plaintiff, *Freddy Espinoza*

Attorneys for Defendant on following page.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RODRIGO GONZALEZ GUZMAN aka JESUS
ZAMORA, individually, and on behalf of all other
similarly situated,

Plaintiff,

v.

WAYNE PROVISIONS CO., INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendant.

Lead Case No.: 21STCV41124
Consolidated with Case Nos.: 22STCV34665 and
23STCV03860

[Honorable Maureen Duffy-Lewis,
Department 38]

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT**

Complaint Filed: November 9, 2021

1 Keith E. Smith (SBN 244505)
Erica E. Amin (SBN 291136)
2 WOOD, SMITH, HENNING & BERMAN LLP
21804 Cactus Avenue, Suite 200
3 Riverside, California 92518-3010
Telephone: (951) 779-5000
4 Fax: (951) 755-1650
Email: kesmith@wshblaw.com
5 Email: eamin@wshblaw.com

6 Attorneys for Defendant, *Wayne Provision Co., Inc.*

1 **PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT**

2 This Private Attorneys General Act Settlement Agreement (“Settlement” or “Agreement”) is made
3 by and between Plaintiffs Rodrigo Gonzalez Guzman and Freddy Espinoza (“Plaintiffs”) and Defendant
4 Wayne Provision Co., Inc. (“Defendant”) (Plaintiffs with Defendant, the “Parties”).

5 **1. DEFINITIONS**

6 1.1. “Action” means *Rodrigo Gonzalez Guzman v. Wayne Provision Co., Inc.*, Superior Court of
7 the State of California for the County of Los Angeles, Consolidated Case Number 21STCV41124.

8 1.2. “Administrator” means Simpluris, Inc., the neutral entity the Parties have agreed to appoint to
9 administer the Settlement.

10 1.3. “Administration Expenses Payment” means \$5,000.00, the amount allocated to the
11 Administrator from the Gross Settlement Amount for reimbursement of its reasonable fees and expenses,
12 in accordance with the “not to exceed” bid submitted to the Court in connection with the approval of this
13 Settlement.

14 1.4. “Aggrieved Employee” means all persons who worked for Defendant in California as an
15 hourly paid or non-exempt employee during the PAGA Period.

16 1.5. “Aggrieved Employee Data” means the Aggrieved Employee identifying information in
17 Defendant’s possession, including the name, last-known mailing address, and Social Security number of
18 the Aggrieved Employee and the number of PAGA Pay Periods that the Aggrieved Employee worked
19 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 with Aggrieved Employees.

24 1.7. “Approval Order” means the Court’s Order Granting Approval of the Settlement.

25 1.8. “Court” means the Superior Court of the State of California for the County of Los Angeles.

26 1.9. “Defendant” means Wayne Provision Co., Inc.

27 1.10. “Defense Counsel” means Keith Smith and Erica E. Amin of Wood, Smith, Henning &
28 Berman LLP.

1 1.11. "Effective Date" means the date by when both of the following have occurred: (a) the Court
2 enters Judgment on its Approval Order and (b) the Judgment is final. The Judgment is final as of the day
3 the Court enters Judgment.

4 1.12. "Gross Settlement Amount" means \$400,000.00, the total amount Defendant agrees to pay
5 under the Settlement, except as provided in Section 7 herein. The Gross Settlement Amount will be used to
6 pay the Individual PAGA Payments, LWDA PAGA Payment, PAGA Counsel Expenses Payment, PAGA
7 Counsel Fees Payment, PAGA Representative Enhancement Payments, and Administration Expenses
8 Payment.

9 1.13. "Individual PAGA Payment" means an Aggrieved Employee's *pro rata* share of 25% of the
10 PAGA Penalties, calculated according to the number of PAGA Pay Periods of the Aggrieved Employee
11 and pursuant to Labor Code section 2699, subd. (i).

12 1.14. "Judgment" means the Judgment entered by the Court based on its Approval Order.

13 1.15. "LWDA" means the California Labor and Workforce Development Agency, the agency
14 entitled under Labor Code section 2699, subd. (i).

15 1.16. "LWDA PAGA Payment" means the LWDA's 75% share of the PAGA Penalties, pursuant
16 to Labor Code section 2699, subd. (i).

17 1.17. "Net Settlement Amount" means the Gross Settlement Amount less the following payments
18 in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Expenses Payment,
19 PAGA Counsel Fees Payment, PAGA Representative Enhancement Payments, and Administration
20 Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

21 1.18. "PAGA Counsel" means Kane Moon, Allen Feghali, and Jacquelyne VanEmmerik of Moon
22 Law Group, P.C.; Nazo Koulloukian of Koul Law Firm; and Sahag Majarian of the Law Offices of Sahag
23 Majarian II.

24 1.19. "PAGA Counsel Expenses Payment" means \$50,000.00, the amount allocated to PAGA
25 Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action.

26 1.20. "PAGA Counsel Fees Payment" means one third of the Gross Settlement Amount, the
27 amount allocated to PAGA Counsel for their reasonable fees incurred to prosecute the Action.
28

1 1.21. "PAGA Pay Period" means any Pay Period in which an Aggrieved Employee engaged in
2 any productive work activity for which they were paid as an hourly paid or non-exempt employee, not
3 including paid time off or leaves of absence.

4 1.22. "PAGA Period" means the period of time that starts on November 6, 2020, and ends on June
5 30, 2024.

6 1.23. "PAGA Notices" means the written notices Plaintiffs submitted to the LWDA and sent via
7 certified mail to Defendant on November 6, 2021 and October 20, 2022, pursuant to Labor Code section
8 2699.3, subd.(a).

9 1.24. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the
10 Gross Settlement Amount. The PAGA Penalties will be allocated 75% to the LWDA and 25% to the
11 Aggrieved Employees, pursuant to Labor Code section 2699, subd.(i).

12 1.25. "PAGA Representatives" or "Plaintiffs" means Rodrigo Gonzalez Guzman and Freddy
13 Espinoza, the named Plaintiffs in the Action.

14 1.26. "PAGA Representative Enhancement Payments" means \$20,000.00, the total amount
15 allocated to Plaintiffs for their role, services, and risks undertaken as PAGA Representatives and for their
16 general releases, as described in Paragraph 5.1 herein, to be divided equally among the Plaintiffs.

17 1.27. "Released Claims" means the claims being released by the Aggrieved Employees, as
18 described in Paragraph 5.2 herein.

19 1.28. "Released Parties" means Defendant and each of its former and present directors, officers,
20 shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and
21 affiliates.

22 **2. RECITALS**

23 2.1. On November 6, 2021, Plaintiff Rodrigo Gonzalez Guzman submitted to the LWDA, and sent
24 via certified mail to Defendant, a written notice that he intended to pursue a representative action against
25 Defendant for civil penalties under PAGA, pursuant to Labor Code section 2699.3, subd.(a).

26 2.2. On November 9, 2021, Plaintiff Rodrigo Gonzalez Guzman filed a Class Action Complaint
27 against Defendant, which alleged eight individual and class causes of action under the California Labor
28 Code ("Labor Code") and Business and Professions Code.

1 2.3. On March 25, 2022, Plaintiff Rodrigo Gonzalez Guzman filed a First Amended Class and
2 Representative Action Complaint against Defendant, which alleged a ninth cause of action for civil
3 penalties under PAGA, and a Request for Dismissal of Individual and Class Allegations, in light of the
4 arbitration agreement Plaintiff signed at the commencement of his employment with Defendant.

5 2.4. On August 23, 2022, Defendant filed a Motion to Compel Plaintiff Rodrigo Gonzalez
6 Guzman's individual PAGA claim to arbitration; and on December 1, 2022, the Court denied such Motion
7 on the grounds that it was moot in light of Plaintiff's dismissal of his individual claims.

8 2.5. On October 20, 2022, Plaintiff Freddy Espinoza submitted to the LWDA, and sent via
9 certified mail to Defendant, a written notice that he intended to pursue a representative action against
10 Defendant for civil penalties under PAGA, pursuant to Labor Code section 2699.3, subd.(a).

11 2.6. On February 22, 2023, Plaintiff Freddy Espinoza filed a Representative Action Complaint
12 against Defendant, which alleged a single cause of action for civil penalties under PAGA.

13 2.7. The Parties met and conferred between February 2023 and September 2023, and agreed to
14 engage in an informal exchange of data and documents and attempt to resolve the *Guzman* and *Espinoza*
15 matters through private mediation.

16 2.8. On September 7, 2023, the Parties participated in private mediation with experienced wage-
17 and-hour mediator, Deborah Saxe, Esq. The mediation session did not result in resolution.

18 2.9. On November 28, 2023, Plaintiffs moved the Court to consolidate the *Guzman* and *Espinoza*
19 matters; and on February 1, 2024, the Court approved such motion.

20 2.10. On April 30, 2024, the Parties participated in private mediation with experienced wage-and-
21 hour mediator, Steven Rottman, Esq. The mediation session resulted in a Mediator's Proposal, which was
22 accepted by all Parties on May 1, 2024. The terms of the Mediator's Proposal are incorporated herein.

23 2.11. The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any
24 other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

25 2.12. Defendant denies the allegations in the operative Consolidated Complaint, denies any failure
26 to comply with the laws identified in the operative Consolidated Complaint, and denies any and all
27 liability for the causes of action alleged in the operative Consolidated Complaint.
28

1 **3. MONETARY TERMS**

2 3.1. *Gross Settlement Amount.* The Gross Settlement of \$400,000.00 is the total amount Defendant
3 agrees to pay under the Settlement, except as provided in Section 7 herein. Defendant has no obligation to
4 pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.2 of this Agreement. The
5 Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved
6 Employees to submit a claim as a condition of payment. None of the Gross Settlement Amount will revert
7 to Defendant. The Administrator will make and deduct the following payments from the Gross Settlement
8 Amount, in the amounts specified by the Court in its Approval Order:

9 3.1.1. *To PAGA Counsel:* A PAGA Counsel Expenses Payment of not more than
10 \$50,000.00 for reimbursement of their reasonable expenses incurred to prosecute the Action; and a PAGA
11 Counsel Fees Payment of not more than one third of the Gross Settlement Amount, or \$133,333.33, for
12 their reasonable fees incurred to prosecute the Action. Defendant will not oppose requests for Court
13 approval of these payments provided they do not exceed these amounts. Plaintiff and/or PAGA Counsel
14 will file a Motion for Court approval of the PAGA Counsel Expenses Payment and PAGA Counsel Fees
15 Payment. If the Court approves a PAGA Counsel Expenses Payment and/or a PAGA Counsel Fees
16 Payment less than the amounts requested, the Administrator will allocate the remainder to the Net
17 Settlement Amount. Released Parties shall have no liability to PAGA Counsel arising from any claim to
18 any portion of any PAGA Counsel Expenses Payment or PAGA Counsel Fees Payment. The
19 Administrator will pay the PAGA Counsel Expenses Payment and PAGA Counsel Fees Payment using
20 one or more IRS 1099 Forms. PAGA Counsel assume full responsibility and liability for taxes owed on
21 the PAGA Counsel Expenses Payment and PAGA Counsel Fees Payment, and hold Defendant harmless,
22 and indemnify Defendant, from any dispute or controversy regarding any division of any of these
23 Payments.

24 3.1.2. *To the PAGA Representatives:* PAGA Representative Enhancement Payments of not
25 more than \$20,000.00 total, or \$10,000.00 each, for Plaintiffs' role, services, and risks undertaken as
26 PAGA Representatives of the State of California and for their general release of claims, as described in
27 Paragraphs 5.1, et seq., herein.

1 3.1.3. *To the Administrator:* An Administration Expenses Payment of not more than
2 \$5,000.00 for reimbursement of the Administrator’s reasonable fees and expenses. To the extent the
3 Administration Expenses Payment is less or the Court approves payment less than \$5,000.00, the
4 Administrator will retain the remainder in the Net Settlement Amount. Simpluris, Inc. has been mutually
5 selected as the Administrator.

6 3.1.4. *To the LWDA and Aggrieved Employees:* PAGA Penalties to be paid from the Gross
7 Settlement Amount equal to the Gross Settlement Amount less the PAGA Counsel Expenses Payment,
8 PAGA Counsel Fees Payment, PAGA Representative Enhancement Payments, and Administration
9 Expenses Payment. PAGA Penalties will be allocated 75% to the LWDA (“LWDA PAGA Payment”) and
10 25% to the Aggrieved Employees (“Individual PAGA Payments”), pursuant to Labor Code section 2699,
11 subd.(i).

12 3.1.4.1. The Administrator will calculate each Individual PAGA Payment by (a)
13 dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties (i.e., the Net Settlement
14 Amount) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the
15 PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods.
16 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual
17 PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. The
18 Individual PAGA Payments shall be allocated 100% as penalties and interest.

19 **4. SETTLEMENT FUNDING AND PAYMENTS**

20 4.1. *Aggrieved Employee Data.* No later than thirty (30) calendar days after the complete
21 execution of this Agreement, Defendant shall deliver the Aggrieved Employee Data to the Administrator
22 in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees’ privacy rights, the
23 Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee
24 Data only for purposes of the Settlement and for no other purpose, and restrict access to the Aggrieved
25 Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect
26 and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel
27 if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide
28 corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of

1 the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the
2 Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
3 resolve any issues related to missing or omitted Aggrieved Employee Data.

4 4.2. *Funding of Gross Settlement Amount.* No later than fourteen (14) calendar days after the
5 Effective Date, Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the
6 Administrator.

7 4.3. *Payments from the Gross Settlement Amount.* No later than fourteen (14) calendar days after
8 Defendant fully funds the Gross Settlement Amount, the Administrator shall mail checks for all Individual
9 PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Expenses Payment, the PAGA
10 Counsel Fees Payment, the PAGA Representative Enhancement Payments, and the Administration
11 Expenses Payment. Disbursement of the PAGA Counsel Expenses Payment and PAGA Counsel Fees
12 Payment shall not precede disbursement of Individual PAGA Payments.

13 4.3.1. The Administrator will issue checks for the Individual PAGA Payments and send
14 them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid, along with the Notice of
15 PAGA Representative Action Settlement attached hereto as **Exhibit A**. The face of each check shall
16 prominently state the date (180 days after the date of mailing) when the check will be voided. The
17 Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the
18 Settlement Administrator must update the recipients' mailing addresses using the National Change of
19 Address Database.

20 4.3.2. The Administrator must conduct an Aggrieved Employee Address Search for all
21 Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. The
22 Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained
23 through the Aggrieved Employee Address Search within seven (7) business days of receiving a returned
24 check. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-
25 mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to
26 any Aggrieved Employee whose original check was lost, misplaced, or requested by the Aggrieved
27 Employee prior to the void date.
28

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

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

5. RELEASE OF CLAIMS

Pursuant to the requirements of Labor Code sections 2698, et seq., Plaintiffs are the designated agents of the LWDA and are proceeding as private attorney generals by bringing this enforcement action to recover civil penalties on behalf of the LWDA and Aggrieved Employees. The Parties and Plaintiffs agree that, effective on the date Defendant fully funds the entire Gross Settlement Amount, the LWDA shall release the Released Parties from any claim for civil penalties arising out of the Released Claims. As consideration for this release, the LWDA shall receive 75% of the PAGA Penalties, consistent with the requirements of the Labor Code sections 2698, et seq.; and the Aggrieved Employees shall receive 25% of the PAGA Penalties consistent with the requirements of the Labor Code sections 2698, et seq.

5.1. *Plaintiffs' Release.* Effective on the date Defendant fully funds the Gross Settlement Amount, Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to release the Released Parties from all claims, transactions, or occurrences that occurred during their employment with Defendant, including, but not limited to all claims that were, or reasonably could have been, alleged based on the facts contained in the operative Consolidated Complaint and PAGA Notices, which shall include, but not be limited to, claims for civil penalties under PAGA for violations of the California Labor Code based on Defendant's alleged failure to pay all wages due (including minimum wages, straight time wages, regular rate wages, and overtime wages), failure to provide compliant meal periods, failure to authorize and permit compliant rest periods, failure to provide accurate and itemized wage statements, failure to factor bonus payments into regular rate of pay, failure to timely pay all wages due during employment and at the time of termination, failure to reimburse employees for all business-related expenses, and all damages, interest, penalties,

attorneys' fees, costs, and other amounts recoverable under said representative causes of action ("Plaintiffs' Release").

5.1.1. Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.2. Plaintiffs specifically stipulate and agree that, upon the date on which the Approval Order becomes "Final," they shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2. *Release by Aggrieved Employees.* Effective on the date Defendant fully funds the Gross Settlement Amount, the Aggrieved Employees and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to release the Released Parties from (i) all PAGA claims asserted in the operative Consolidated Complaint and PAGA Notices, (ii) all PAGA claims that could reasonably have been asserted in the operative Consolidated Complaint and PAGA Notices, and (iii) all PAGA claims arising out of the same operative facts, including claims for civil penalties under PAGA for violations of the California Labor Code based on Defendant's failure to pay all wages due (including minimum wages, straight time wages, regular rate wages, and overtime wages), failure to provide compliant meal periods, failure to authorize and permit compliant rest periods, failure to provide accurate itemized wage statements, failure to factor bonus payments into regular rate of pay, failure to timely pay all wages due during employment and at the time of termination, failure to reimburse

employees for all business-related expenses, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said representative causes of action under California law, to the extent permissible ("Released Claims").

5.3. *Release by PAGA Counsel.* Effective on the date Defendant fully funds the Gross Settlement Amount, PAGA Counsel and their present and former attorneys, employees, agents, successors, and assigns, will be deemed to release the Released Parties from all claims for fees or expenses incurred in connection with the claims alleged in the operative Consolidated Complaint and the facts stated in the operative Consolidated Complaint and PAGA Notices.

6. SETTLEMENT ADMINISTRATION

6.1. *Selection of Administrator.* The Parties have jointly selected Simpluris, Inc. to serve as the Administrator and verified that, as a condition of appointment, Simpluris, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of any administration expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

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

7. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Defendant represents that there were a total of 24,428 biweekly pay periods worked by an estimated 413 Aggrieved Employees from November 6, 2020 to April 30, 2024. If the number of biweekly pay periods during the PAGA Period is more than 10% greater than this figure (*i.e.*, if there are approximately 26,871 or more biweekly pay periods worked by Aggrieved Employees), Defendant agrees to increase the Gross Settlement Amount proportionately by one percent (1%) (*i.e.*, if there is an 11%

1 increase in the number of biweekly pay periods during the PAGA Period, Defendant agrees to increase the
2 Maximum Settlement Amount proportionately by 1%); or in the alternative, elect to end the PAGA Period
3 at an earlier date, so as to have an earlier end to the PAGA Period to limit the covered pay periods to
4 26,870 or less, in lieu of paying an increase to the Gross Settlement Amount.

5 **8. CONTINUING JURISDICTION OF THE COURT**

6 8.1. *Continuing Jurisdiction.* The Parties agree that, after entry of Judgment, the Court shall retain
7 jurisdiction over the Parties, Action, and Settlement for purposes of (i) enforcing this Agreement and/or
8 the Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment
9 matters as are permitted by law. This Agreement shall be binding and enforceable pursuant to California
10 Code of Civil Procedure section 664.6.

11 8.2. *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions
12 of this Agreement, specifically including the PAGA Counsel Expenses Payment and PAGA Counsel Fees
13 Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including
14 all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
15 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
16 right to oppose such motions, writs, or appeals. If another party appeals the Judgment, the Parties'
17 obligations to perform under this Agreement will be suspended until such time as the appeal is finally
18 resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net
19 Settlement Amount.

20 **9. ADDITIONAL PROVISIONS**

21 9.1. *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed stipulation or motion
22 for approval of the Settlement, PAGA Counsel and Defense Counsel will expeditiously work together on
23 behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.
24 If the Court does not grant the motion for approval of the Settlement or conditions its approval on any
25 material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together
26 on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement
27 and otherwise satisfy the Court's concerns.
28

1 9.2. *No Admission of Liability or Representative Manageability for Other Purposes.* This
2 Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement
3 is intended or should be construed as an admission by Defendant that any of the allegations in the
4 operative Consolidated Complaint have merit or that Defendant has any liability for any claims asserted;
5 nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the
6 Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only.
7 If, for any reason the Court does not approve the Settlement, Defendant reserves all available defenses to
8 the claims in the Action, and Plaintiffs reserve the right to contest Defendant's defenses. The Settlement,
9 this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be
10 admissible in connection with, any litigation, except for proceedings to enforce or effectuate the
11 Settlement and this Agreement.

12 9.3. *Integrated Agreement.* Upon execution by all Parties and their counsel, this Agreement,
13 together with its attached Exhibits, shall constitute the entire agreement between the Parties relating to the
14 Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or
15 by any Party.

16 9.4. *Attorney Authorization.* PAGA Counsel and Defense Counsel separately warrant and
17 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action
18 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
19 execute any other documents reasonably required to effectuate the terms of this Agreement including any
20 amendments to this Agreement.

21 9.5. *Cooperation.* The Parties and their counsel will cooperate with each other and use their best
22 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
23 Agreement, submitting supplemental evidence and supplementing points and authorities as requested by
24 the Court. In the event the Parties are unable to agree upon the form or content of any document necessary
25 to implement the Settlement, or on any modification of this Agreement that may become necessary to
26 implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

27 9.6. *No Prior Assignments.* The Parties separately represent and warrant that they have not directly
28 or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person

1 or entity and portion of any liability, claim, demand, action, cause of action, or right released and
2 discharged by the Party in this Settlement.

3 9.7. *No Tax Advice.* Neither Plaintiffs, PAGA Counsel, Defendant nor Defense Counsel are
4 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
5 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
6 amended) or otherwise.

7 9.8. *Modification of Agreement.* This Agreement, and all parts of it, may be amended, modified,
8 changed, or waived only by an express written instrument signed by all Parties or their representatives, and
9 approved by the Court.

10 9.9. *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the
11 benefit of, the successors of each of the Parties.

12 9.10. *Applicable Law.* All terms and conditions of this Agreement and its Exhibits will be
13 governed by and interpreted according to the internal laws of the State of California, without regard to
14 conflict of law principles.

15 9.11. *Cooperation in Drafting.* The Parties have cooperated in the drafting and preparation of this
16 Agreement. This Agreement will not be construed against any Party on the basis that the Party was the
17 drafter or participated in the drafting.

18 9.12. *Confidentiality.* To the extent permitted by law, all agreements made, and orders entered
19 during the Action and in this Agreement relating to the confidentiality of information shall survive the
20 execution of this Agreement.

21 9.13. *Use and Return of Aggrieved Employee Data.* Information provided to PAGA Counsel
22 pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Aggrieved Employee Data
23 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations,
24 or in connection with the Settlement, may be used only with respect to this Settlement, and no other
25 purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule
26 of court. No later than ninety (90) days after the Administrator discharges its obligation to pay out of all
27 Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data
28 received from Defendant unless, prior to the Administrator's payment of all Settlement funds, Defendant

1 makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved
2 Employee Data.

3 9.14. *Headings*. The descriptive heading of any section or paragraph of this Agreement is inserted
4 for convenience of reference only and does not constitute a part of this Agreement.

5 9.15. *Calendar Days*. Unless otherwise noted, all reference to “days” in this Agreement shall be to
6 calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal
7 legal holiday, such date or deadline shall be on the first business day thereafter.

8 9.16. *Notice*. All notices, demands or other communications between the Parties in connection
9 with this Agreement will be in writing and deemed to have been duly given as of the third business day
10 after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

11 To Plaintiff:

12 MOON LAW GROUP, P.C.
13 Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
14 725 South Figueroa Street, 31st Floor
Los Angeles, California 90017
15 Telephone: (213) 232-3128
Email: kmoon@moonlawgroup.com
16 Email: afeghali@moonlawgroup.com
Email: jvanemmerik@moonlawgroup.com

17
18 KOUL LAW FIRM
Nazo Koulloukian
3435 Wilshire Boulevard, Suite 1710
19 Los Angeles, California 90010
Telephone: (213) 761-5484
20 Fax: (818) 561-3938
Email: nazo@koullaw.com

21
22 LAW OFFICES OF SAHAG MAJARIAN II
Sahag Majarian
18250 Ventura Boulevard
23 Tarzana, California 91356
Telephone: (818) 609-0807
24 Email: sahagii@aol.com

25 To Defendant:

26 Keith E. Smith
Erica E. Amin
27 Wood, Smith, Henning & Berman LLP
21804 Cactus Avenue, Suite 200
28 Riverside, California 92518-3010

Telephone: (951) 779-5000
Fax: (951) 755-1650
Email: kesmith@wshblaw.com
Email: eamin@wshblaw.com

9.17. *Execution in Counterparts.* This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them 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.

9.18. *Stay of Litigation.* The Parties agree that, upon the full 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.

Signatures on following page.

DocuSigned by:
Rodrigo
Gonzalez
3DBAE42492ED422

Dated: 7/26/2024

Rodrigo Gonzalez Guzman, Plaintiff

Dated:

Freddy Espinoza, Plaintiff

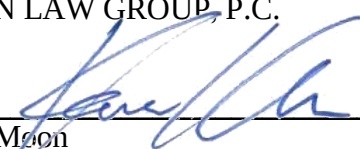
Dated:

Wayne Provision Co., Inc., Defendant

Omer Greenberg
Title: CEO

Dated: 7/26/2024

MOON LAW GROUP, P.C.

By: 
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Rodrigo Gonzalez Guzman

Dated:

KOUL LAW FIRM

By: _____
Nazo Koulloukian
Attorneys for Plaintiff, Freddy Espinoza

Dated:

Law Offices of Sahag Majarian II

By: _____
Sahag Majarian
Attorneys for Plaintiff, Freddy Espinoza

Dated:

WOOD, SMITH, HENNING & BERMAN LLP

By: _____
Keith E. Smith
Erica E. Amin
Attorneys for Defendants, L.A. Downtown Medical
Center, LLC, et al.

DocuSigned by:
Rodrigo
Gonzalez
3DBAE42492ED422

Dated: 7/26/2024

Rodrigo Gonzalez Guzman, Plaintiff

Dated:

Freddy Espinoza, Plaintiff

Dated:

Wayne Provision Co., Inc., Defendant

Omer Greenberg
Title: CEO

Dated: 7/26/2024

MOON LAW GROUP P.C.

By:

Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Rodrigo Gonzalez Guzman

Dated:

KOUL LAW FIRM

By:

Nazo Koulloukian
Attorneys for Plaintiff, Freddy Espinoza

Dated:

Law Offices of Sahag Majarian II

By:

Sahag Majarian
Attorneys for Plaintiff, Freddy Espinoza

Dated: August 1, 2024

WOOD, SMITH, HENNING & BERMAN LLP

By:

Keith E. Smith
Erica E. Amin
Attorneys for Defendants, L.A. Downtown Medical
Center, LLC, et al.

1 Dated:

Rodrigo Gonzalez Guzman, Plaintiff

2
3 Dated: 7/26/2024

DocuSigned by:
49F850B970D1444...
4 Freddy Espinoza, Plaintiff

5 Dated:

Wayne Provision Co., Inc., Defendant

6
7 Omer Greenberg
Title: CEO

8
9 Dated:

MOON LAW GROUP, P.C.

10 By:

Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Rodrigo Gonzalez Guzman

11
12
13 Dated: 7/26/2024

KOUL LAW FIRM

14
15 By:

DocuSigned by:
5F97308C1D414C7...
Nazo Koulloukian
Attorneys for Plaintiff, Freddy Espinoza

16
17 Dated: 7/26/2024

Law Offices of Sahag Majarian II

18
19 By:

DocuSigned by:
6FC1883772AA45C...
Sahag Majarian
Attorneys for Plaintiff, Freddy Espinoza

20
21
22 Dated:

WOOD, SMITH, HENNING & BERMAN LLP

23
24 By:

Keith E. Smith
Erica E. Amin
Attorneys for Defendants, L.A. Downtown Medical
Center, LLC, et al.

1 Dated:

Rodrigo Gonzalez Guzman, Plaintiff

2
3 Dated: 7/26/2024

DocuSigned by:
Freddy Espinoza, Plaintiff

4
5 Dated:

Wayne Provision Co., Inc., Defendant

6
7 Omer Greenberg
Title: CEO

8
9 Dated:

MOON LAW GROUP, P.C.

10 By:

Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Rodrigo Gonzalez Guzman

11
12
13 Dated: 7/26/2024

KOUL LAW FIRM

14
15 By:

DocuSigned by:
Nazo Koulloukian
Nazo Koulloukian
Attorneys for Plaintiff, Freddy Espinoza

16
17 Dated: 7/26/2024

Law Offices of Sahag Majarian II

18
19 By:

DocuSigned by:
Sahag Majarian
Sahag Majarian
Attorneys for Plaintiff, Freddy Espinoza

20
21
22 Dated:

WOOD, SMITH, HENNING & BERMAN LLP

23
24 By:

Keith E. Smith
Erica E. Amin
Attorneys for Defendants, L.A. Downtown Medical
Center, LLC, et al.

EXHIBIT A

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

Rodrigo Gonzalez Guzman, et al. v. Wayne Provisions Co., Inc.,
Los Angeles County Superior Court, Case No. 21STCV41124

This is not a solicitation by a lawyer. You are not being sued.

Why am I receiving this Notice?

A settlement (the “Settlement”) has been reached in the lawsuit entitled *Rodrigo Gonzalez Guzman, et al. v. Wayne Provisions Co., Inc.*, Los Angeles County Superior Court, Case Number 21STCV41124 (the “Lawsuit”). You are receiving this Notice because the Settlement affects your rights.

Who is affected by the Settlement?

Aggrieved Employees are affected by the Settlement. Aggrieved Employees are persons who worked for Wayne Provision Co., Inc. in California as an hourly paid or non-exempt employee from November 6, 2020, to June 30, 2024. You are receiving the instant Notice because you have been identified by Wayne Provisions Co., Inc. as an Aggrieved Employee.

What is the Lawsuit about?

In the Lawsuit, Plaintiffs Rodrigo Gonzalez Guzman and Freddy Espinoza (“Plaintiffs”) asserted claims that Wayne Provisions Co., Inc. (with Plaintiffs, the “Parties”) violated provisions of the California Labor Code, giving rise to claims for civil penalties under the California Private Attorneys General Act of 2004 (“PAGA”). Wayne Provisions Co., Inc. denies all liability for these claims based on various legal and factual defenses. Nevertheless, Wayne Provisions Co., Inc. has agreed to settle the Lawsuit to avoid the risks, distractions, and costs associated with further litigation of the Lawsuit.

The Settlement is, therefore, a compromise reached after good faith, arm’s length negotiations between the Parties and is not an admission of liability by Wayne Provisions Co., Inc. The Court has not ruled on the merits of Plaintiffs’ claims or Wayne Provisions Co., Inc.’s defenses but did approve the Settlement.

What are the Settlement terms?

Wayne Provisions Co., Inc. has agreed to pay \$400,000.00 under the Settlement. This sum will be used for the payment of (a) \$[REDACTED] to the California Labor and Workforce Development Agency as its 75% share of the PAGA Penalties; (b) \$[REDACTED] to all Aggrieved Employees to be distributed *pro rata* as their 25% share of the PAGA Penalties; (c) \$133,333.33 to PAGA Counsel for Attorney’s Fees; (d) \$[REDACTED] to PAGA Counsel for actual litigation costs; (e) \$5,000.00 to the Administrator for administration costs; and (f) \$10,000.00 to each Plaintiff, for a total of \$20,000, for their participation in the litigation and general releases under the Settlement.

Under the Settlement terms, all Aggrieved Employees will release Wayne Provisions Co., Inc. and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates, from all PAGA claims asserted in the operative Consolidated Complaint and PAGA Notices, (ii) all PAGA claims that could reasonably have been asserted in the operative Consolidated Complaint and PAGA Notices, and (iii) all PAGA claims arising out of the same operative facts.

The Individual PAGA Payments to Aggrieved Employees are classified as other miscellaneous income and will be reported on an IRS Form 1099-MISC, if required¹. Your *pro rata* share was calculated based on the number of Pay Periods you worked for Wayne Provisions Co., Inc. from November 6, 2020, to June 30, 2024.

All Individual PAGA Payment checks will remain valid and negotiable for one hundred eighty (180) days from the date of their issuance and shall thereafter automatically be void if not cashed within that time. Uncashed checks will be sent to the California State Controller’s Unclaimed Property Fund, in the name of the Aggrieved Employee. You can visit https://www.sco.ca.gov/search_upd.html to search for unclaimed property. If your check is lost or misplaced, you should contact the Administrator, Simpluris, Inc., immediately at [xxx-xxx-xxxx] to request a replacement.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

¹ One hundred percent (100%) of your Individual PAGA Payment under the Settlement will be considered penalties, may be subject to local, state, or federal tax withholdings, and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your Individual PAGA Payment. Neither Plaintiffs nor Wayne Provisions Co., Inc. have made any representations or warranties regarding the taxation of your Individual PAGA Payment. Nothing within this Notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).