

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT (Agreement) is between Plaintiff, Amritpal Hundal (“Hundal” or “Plaintiff”), who resides in Stockton, California, and Defendants, QFS Transportation, LLC (“QFS”), a Nevada limited liability corporation with its principal place of business located in Indiana, and MMG Group (“MMG”), a California corporation with its principal place of business located in California, (QFS and MMG are collectively referred to as the “Defendants”) (Hundal, QFS and MMG are together referred to as the “Parties”).

Recitals

A. On July 8, 2022, Plaintiff filed a Class Action Complaint and Demand for Jury Trial (“Complaint”) against Defendants and Contractor Management Services, LLC d/b/a Openforce (“Openforce”) in the Superior Court of the State of California, County of San Joaquin, under Case No. STK-CV-UOE-2022-5694 (the “Action”). In the Complaint, Plaintiff alleged claims for failure to pay all minimum wages due in violation of California Labor Code §§ 510, 1194, and 1194.2; failure to reimburse all business-related expenses in violation of California Labor Code § 2802; knowing and intentional failure to comply with itemized employee wage statement provisions in violation of California Labor Code §§ 226(a) and (e); failure to time pay wages due at separation of employment in violation of California Labor Code §§ 201-203; and for injunctive and restitution under California Business and Professions Code §§ 17200 *et seq.* (“UCL”). On November 2, 2022, Plaintiff filed a First Amended Class Action Complaint and Demand for Jury Trial (“FAC”), in which he re-alleged his claims under the California Labor Code and the UCL, and added a claim for penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), codified as Labor Code §§ 2699(a) and (f).

B. Defendants have denied and continue to deny any liability to Plaintiff and have raised various defenses to the claims made in the FAC, including that Plaintiff signed a valid and enforceable arbitration agreement with Openforce, which also contains an enforceable class action waiver; that Defendants properly classified Plaintiff as an independent contractor; and that the amount paid to Plaintiff for his services under Plaintiff’s agreement with Defendants covered all of the work necessary to complete pick-up and delivery of any load Plaintiff hauled and any reasonable and necessary business expenses Plaintiff incurred in performance of those services.

C. Pursuant to the terms and conditions of this Agreement, which the parties acknowledge and represent to be fair, reasonable, and adequate and in their mutual best interests, Plaintiff desires to resolve all disputes between the parties, to compromise and settle the claims asserted in the FAC, to release all rights and claims arising out of or in any way connected with the claims that were asserted or could have been asserted in the FAC, to end his suit on behalf of all allegedly aggrieved employees under PAGA, and any and all transactions, occurrences, or matters occurring between Plaintiff and Defendants prior to the date of this Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals and upon the terms and conditions set forth in this Agreement, the parties agree as follows:

1. Settlement Amount and Payment. QFS will pay Plaintiff the gross sum of \$175,000 (the "Settlement Amount"), which shall be payable to the Gaines & Gaines, APLC Client Trust Account, to fully compensate Plaintiff for any and all claims for damages, penalties, attorney fees, and costs. The consideration set forth in this paragraph represents an amount to which Plaintiff would not otherwise be entitled but for his entry into this Agreement. Under no circumstances will Defendants be obligated to pay any amount to Plaintiff or his attorney in excess of the Settlement Amount.

The Settlement Amount will be delivered to the Gaines & Gaines, APLC, 4550 E. Thousand Oaks Blvd., Suite 100, Westlake Village, California 91362, in five equal installments of \$35,000. The first payment is not due until the latter of December 27, 2022, or 10 days after the following conditions have been satisfied:

- (a) this Agreement is signed by Hundal, QFS and MMG;
- (b) QFS receives a completed IRS W-9 Form from Plaintiff's counsel;
- (c) QFS receives a file-stamped copy of the signed Order granting Plaintiff's Request for Dismissal (i) with prejudice of Plaintiff's individual claims asserted in the Action, and (ii) without prejudice of all claims asserted on behalf of other members of the putative class, including all PAGA claims ("Request for Dismissal"); and
- (d) the expiration of the revocation period described below in paragraph 7 of this Agreement.

The remaining installments (i.e. four installments of \$35,000 each) shall be paid monthly, beginning thirty (30) calendar days after the first payment and on the same calendar day each subsequent month until paid in full. In no event shall QFS be obligated to pay the first installment of the Settlement Amount until after all requirements identified above have occurred. QFS will issue an IRS Form 1099 to Gaines & Gaines, APLC, for the Settlement Amount. In the event any portion of the Settlement Amount is ultimately construed by the IRS or any other taxing authority to be income taxable as wages from which income taxes should have been withheld, Plaintiff shall pay any and all such income taxes, and any associated interest and penalties, on the amount he receives.

2. General Release by Plaintiff. Subject to QFS's full payment of the Settlement Amount, Plaintiff, on behalf of himself and his heirs, assigns, legal representatives, and in consideration of the payment of the Settlement Amount, release and discharge Defendants, Openforce, and their past and present owners, directors, officers, members, employees, and agents, and any other persons acting by or on their behalf (collectively, the "Releasees"); from all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, penalties, actions, causes of action, suits, rights, demands, costs, losses, debts, expenses (including attorney fees and costs actually incurred), of any nature, known or unknown, at law or in equity,

which he may now have or may have after the signing of this Agreement, against the Releasees arising out of or in any way connected with his contractual or employment relationship with the Releasees and any and all transactions, occurrences, or matters between the parties, individually or collectively, occurring prior to the date of this Agreement. Without limiting the foregoing general release, Plaintiff understands that this general release applies to, but is not limited to, the following:

- a. All individual claims and causes of action asserted in the FAC;
- b. All claims arising from any alleged violation by Defendants or the Releasees of any federal, state, or local statutes, or ordinances, including, but not limited to: (i) the FLSA; (ii) Title VII of the Civil Rights Act of 1964, as amended; (iii) the Age Discrimination in Employment Act; (iv) the Older Workers Benefit Protection Act; (v) the Family and Medical Leave Act; (vi) the Equal Pay Act; (vii) the Americans with Disabilities Act; (viii) 42 U.S.C. § 1981, as amended; (ix) the Employee Retirement Income Security Act; (x) the Consolidated Omnibus Budget Reconciliation Act; (xi) the Rehabilitation Act of 1973; (xii) the Civil Rights Act of 1991; (xiii) the Pregnancy Discrimination Act; (xiv) California Labor Code §§ 98.6, 201-204, 210, 221, 226(a), 226.7, 226.8, 512, 558(a), 1194, 1197, 1197.1, 1198, 2698, *et seq.*, 2802; (xv) the Fair Employment & Housing Act; (xvi) Wage Order No. 9-2001; and (xvii) any other wage and hour and employment discrimination laws;
- c. All claims based on constitutional, statutory, common law, or regulatory grounds, and all claims based on theories of workers' compensation retaliation, breach of contract or implied covenant, deprivation of equity interest, shareholder rights, conversion, defamation, retaliation, wrongful or constructive discharge, fraud, misrepresentation, promissory estoppel, or intentional or negligent infliction of emotional distress;
- d. All claims arising from alleged violations of California and other states' common law, including, but not limited to, claims for breach of duty of good faith and fair dealing; breach of contract; conversion; unjust enrichment; and detrimental reliance; and
- e. All claims for any relief, no matter how denominated, including, but not limited to, claims for penalties, back pay, front pay, vacation pay, holiday pay, personal time off, bonuses, compensatory damages, punitive damages, attorney fees, costs, and expenses.

This release does not apply to any individual other than Plaintiff, nor to any PAGA claims. Plaintiff, however, concedes that, after he is paid the Settlement Sum, he lacks standing to assert his PAGA claims against the Defendants, and agrees never to do so. Plaintiff does not waive any claims based on events arising after the execution of this Agreement. This general release applies only to those claims that Plaintiff, individually, now has, owns, or holds, or which Plaintiff had, owned, or held, or claimed to own at any time before execution of this Agreement, against Defendants or the Releasees. Excluded from this release are rights and obligations arising out of this Agreement and any claims which cannot be waived or released by law. The action will be

dismissed *without prejudice* to the rights of class members and aggrieved employees, allowing them to bring their own claims. This release in no way impacts the claims of any individual except Plaintiff.

3. **Dismissal.** Pursuant to paragraph 1(c), above, promptly after this Agreement is fully executed by the Parties, Plaintiff shall dismiss the Action. Upon receipt of the fully executed Settlement Agreement, Plaintiff's counsel will file with the Court a Request for Dismissal, with prejudice as to Plaintiff's individual claims and without prejudice as to the class and PAGA claims alleged, together with a supporting declaration from Plaintiff's counsel detailing the basis for the settlement. Concurrently, Plaintiff's counsel shall submit this Agreement, the declaration, and the dismissal form to the Labor & Workforce Development Agency ("LWDA"), in compliance with PAGA. Plaintiff shall attempt to obtain the dismissal without submitting the settlement or detailing its financial terms to the Court, but if the Court requires that Plaintiff submit this Agreement or provide further details in order to effectuate the dismissal, the Plaintiff will first seek to submit the Agreement or the necessary details under seal or *in camera* to comply with the Court's requests, but, if ordered by the Court to file the Agreement or the necessary details on the public docket, Plaintiff will comply with the Court's order.

4. **Covenant Not to Sue.** By executing this Agreement, Plaintiff acknowledges and further agrees not to file or re-file any of the claims asserted in the FAC or any other complaints or charges against Defendants or the Releasees related to conduct occurring prior to the date of this Agreement. Plaintiff will forever abandon his claim with the Labor and Workforce Development Agency ("LWDA").

5. **Release of Unknown Claims/Waiver and Relinquishment of Rights Under Section 1542.** Plaintiff acknowledges there is a risk that, after he signs and returns this Agreement, Plaintiff may incur or suffer losses, damages, or injuries that are unknown or unanticipated at this time. Plaintiff, after conferring with his counsel, hereby assumes that risk and agrees that this Agreement and the general release of claims it contains shall apply to all unknown and unanticipated claims as well as those known and anticipated. Subject to QFS's full payment of the Settlement Amount, Plaintiff hereby relinquishes and waives any and all claims against Defendants and the Releasees, and he expressly warrants that he has been fully advised by his attorney of the contents of California Civil Code § 1542 (Section 1542). Further, it is Plaintiff's desire to fully, finally and forever settle, compromise, and discharge disputes and claims asserted in the Action against Defendants and the Releasees, whether known or unknown, liquidated or unliquidated. Plaintiff waives, as to all claims identified in paragraph 2, all rights and benefits afforded by Section 1542 and does so understanding the significance of that waiver. Section 1542 provides as follows:

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.

Thus, notwithstanding the provisions of Section 1542, Plaintiff hereby expressly waives and relinquishes all rights and benefits under Section 1542 and any law or legal principle of similar effect in any jurisdiction with respect to the releases granted in this Agreement. Plaintiff understands and agrees that he is providing Defendants and the Releasees with a full and complete release with respect to the claims identified in paragraph 2, including any claims for penalties, attorney fees, and costs.

6. **No Claim for Costs and Attorney Fees.** Plaintiff agrees that neither this Agreement nor any action taken pursuant to this Agreement shall be interpreted or construed to render them a prevailing party for any reason, including, but not limited to, an award of attorney fees or costs, and no monies in addition to those referred to paragraph 1 of this Agreement shall be payable to him for attorney fees or costs or for any other reason. Each party hereto shall bear his/its own attorneys' fees and costs, except as expressly provided for herein.

7. **Time for Consideration and Revocation.** Plaintiff has had at least 21 calendar days to consider this Agreement. If Plaintiff decides not to use the full 21 calendar days, then Plaintiff has knowingly and voluntarily waived any entitlement to the 21 calendar days to consider this Agreement. Upon executing this Agreement, Plaintiff will have 7 calendar days following his execution of this Agreement in which he may revoke this Agreement. This Agreement will not be effective and enforceable until this revocation period has expired. Notice of the revocation of this Agreement must be in writing and delivered to Christopher J. Eckhart, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 West Market Street, Suite 1400, Indianapolis, Indiana 46204, ceckhart@scopelitis.com, no later than 10:00 a.m. Pacific Daylight/Standard Time on the next business day following the expiration of the 7-day period.

8. **Disclaimer of Liability.** Plaintiff acknowledges that nothing in this Agreement shall constitute or be construed as an admission of liability on the part of or an admission of wrongdoing by Defendants. Defendants expressly denies that they have done anything wrong or unlawful. Plaintiff also understands that this Agreement is entered into solely for the purpose of settlement and compromise and in an effort to fully resolve all matters arising out of his contractual relationships or employment with Defendants, and any and all transactions, occurrences, or matters occurring between or among the parties prior to the date of this Agreement.

9. **Non-Disparagement.** Plaintiff agrees not to testify in any matter in which Defendants have an interest unless Plaintiff is under compulsory process. If Plaintiff is served with process concerning any matter in which QFS or MMG is a named party, Plaintiff will immediately notify, by overnight mail and by email, counsel for QFS, Christopher J. Eckhart, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 West Market Street, Suite 1400, Indianapolis, Indiana 46204, ceckhart@scopelitis.com; and counsel for MMG, Laura McHugh, Duggan McHugh Law Corporation, 641 Fulton Avenue, Suite 100, Sacramento, California 95825, laura@dugganmchugh.com. The Parties agree that they shall not orally or in writing criticize, disparage, make any negative statements, or otherwise undermine any other Party, including their businesses operations, products, services, employees, practices, procedures, or policies. The Parties understand and agree that this paragraph is a material provision of this Agreement, that any breach of this paragraph shall be a material breach of this Agreement, and that the other Party would be irreparably harmed by violation of this paragraph. This paragraph shall not prohibit Plaintiff from cooperating with a governmental investigation, communicating with a government agency, or testifying under oath in a duly-noticed proceeding.

10. Confidentiality. Plaintiff, and anyone to whom he discloses the terms of this Agreement under this paragraph, shall keep confidential and will not disclose any of the terms or conditions of this Agreement, or the negotiations which resulted in this Agreement, except: (a) to legal counsel, accountants, tax authorities, and his spouse, parents, or children; or (b) as otherwise required by law or legal process or for the limited purpose of enforcement of this Agreement, to obtain dismissal of the Action, and to comply with the requirements of PAGA (i.e. submission of this Agreement to the LWDA, if necessary). Plaintiff further acknowledges that confidentiality is the essence of this Agreement. If a Plaintiff, or anyone to whom he discloses the terms of this Agreement under this paragraph, is asked about the facts or circumstances surrounding the case, they are to respond that the case has been resolved to Plaintiff's satisfaction and that they are bound by confidentiality obligations not to speak about the specifics of the case or Plaintiff's work for, or under contracts with, Defendants.

11. Remedy for Breach of Non-Disparagement or Confidentiality Provisions. The Parties agree that significant harm will be caused if any Party breaches either paragraphs 9 and/or 10 of this Agreement, but that such damages will be difficult to specifically quantify. Consequently, liquidated damages in the amount of \$1,000 per breach will be awarded to the offended Party for any breach of paragraphs 9 and/or 10 of this Agreement. In any action or proceeding to enforce this Agreement, or to recover damages for breach of this Agreement, the prevailing party shall be entitled to his or their reasonable attorney's fees and costs incurred in such action or proceeding.

12. Construction of Agreement. This Agreement is the result of negotiation and compromise. In interpreting this Agreement, no party should be considered the drafter of the document and the language should not be strictly construed against any party. Instead, the language of the Agreement should be interpreted in a manner consistent with the ordinary and reasonable meaning of the words used.

13. Binding Effect. This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, officers, directors, members, partners, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, successors, and assigns, each of which shall be considered third party beneficiaries, although not specifically named herein.

14. Representations and Warranties. Plaintiff represents and warrants (a) that he has read this Agreement and fully understands it, (b) that he is fully aware of his rights, (c) that he has had the opportunity for the advice and assistance of an attorney throughout the negotiation of this Agreement, (d) that he has sought and received the advice of an attorney, (e) that Gaines & Gaines, APLC, is the only counsel who have represented him in the matters covered by this Agreement and who may have any claim for fees and costs with regard to these matters and the events giving rise to these matters, (f) that he has not transferred his interest in his claims to any other person, and (g) that he is entering into this Agreement freely, voluntarily and without duress, undue influence, coercion, or promise of benefit, except as expressly set forth herein.

15. Counterparts. This Agreement may be executed in identical counterparts, each of which will constitute an original of this Agreement. Signatures of the parties may be exchanged by facsimile or electronically (e.g., PDF) and same will be treated as an original.

16. Miscellaneous. This Agreement constitutes the entire agreement between the parties concerning the transaction contemplated herein and supersedes all prior negotiations, proposed, and understandings, if any, between the parties. No provision of this Agreement shall be modified except in writing signed by each of the parties. The provisions of this Agreement are severable, and, if any of its provisions are found to be unenforceable, the remaining provisions shall remain fully valid and enforceable. Should any party breach or otherwise fail to comply with the terms and provisions of this Agreement, the prevailing party in any such dispute shall be entitled to recover, in addition to any and all other appropriate relief, all costs arising therefrom, including, but not limited to, attorney fees. The laws of the State of California shall govern this Agreement in all aspects, including execution, interpretation, performance and enforcement.

17. Neutral Reference. In response to any inquiry from any of Plaintiff's prospective motor carriers or employers, Defendants shall provide a neutral job reference for Plaintiff disclosing Plaintiff's dates of contract and last position held, anything else that might be required pursuant to the Federal Motor Carrier Safety Regulations, and nothing more.

18. Enforcement; Default; Notice; Cure; Acceleration; Time is of the Essence. If any payments required hereunder are not received on the dates due, QFS shall be in default of its obligations under this Settlement. Plaintiff shall e-mail notice of the default to Defendant at ceckhart@scopelitis.com. QFS will then have three (3) calendar days from the date notice is e-mailed to cure the default. If the default remains uncured for four (4) calendar days, then all sums remaining unpaid under this Settlement shall be accelerated and become all due and payable and begin to accrue interest at the legal rate. Plaintiff may thereafter move the Court, pursuant to Code of Civil Procedure 664.6, for entry of a judgment against QFS to reflect this acceleration, the accrual of interest, plus actual attorneys' fees and costs incurred to enforce the judgment and this Agreement. Time is of the essence with respect to all provisions of this Agreement.

[Signature Block on Next Page]

IN WITNESS WHEREOF, the parties have signed this Agreement, evidencing their intent to be bound to this Agreement, on the dates below his signature or the signature of their representatives. The date of this Agreement shall be the date of the latest signature.

PLAINTIFF



Amritpal Hundal

Dated: 01 / 05 / 2023, 2022

DEFENDANTS

QFS Transportation, LLC.

By: Anthony B. Holman

Anthony B. Holman, In-House Counsel
Printed Name and Position

Dated: 01/06/23, 2022

MMG Group d/b/a Greatwide Truck Load
Management

By: 

~~Mauro Ghio~~
Printed Name and Position

Dated: 01 / 05 / 2023, 2022