

SECOND AMENDED PAGA SETTLEMENT AGREEMENT

This Second Amended PAGA Settlement Agreement/Stipulation of Settlement (the “Agreement”) is made by and between plaintiff Armida Esquivel (“Plaintiff”) and defendant All-Rite Leasing Company, Inc. (“All-Rite”). The Agreement refers to Plaintiff and All-Rite collectively as “Parties,” or individually as a “Party.” This Agreement supersedes the previous PAGA Settlement Agreement/Stipulation of Settlement that was fully executed by the Parties on April 9, 2024.

1. DEFINITIONS.

1.1 “Action” means Plaintiff’s lawsuit under PAGA alleging wage and hour violations against All-Rite and Angie Lopez captioned Armida Esquivel v. All-Rite Leasing Company, Inc.; Angie Lopez, Case No. 30-2023-01325416-CU-OE-CXC, initiated on March 15, 2023, and pending in Superior Court of the State of California, County of Orange, including the Complaint and Amended Complaint.

1.2 “Administrator” means Phoenix Settlement Administrators (“Phoenix” or “Administrator”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed”, ten thousand dollars (\$10,000.00), bid submitted to the Court in connection with approval of this Settlement.

1.4 “Aggrieved Employee” means all persons who are employed or were previously employed by All-Rite in California and classified as hourly, non-exempt employees during the PAGA Period.

1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in All-Rite’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to,

the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7 “Approval Order” means the Court Order Granting Approval of PAGA Settlement.

1.8 “Amended Complaint” shall refer to the First Amended Complaint to be filed by Plaintiff in the Action, which will include an additional claim for civil penalties under PAGA for failure to provide adequate meal periods that is listed in Plaintiff’s Amended LWDA Letter. Plaintiff’s counsel will work diligently to complete the Amended Complaint and shall file it within a reasonable period of time after sixty-five (65) days has passed since the filing of the Amended LWDA Letter. This Amended Complaint will be filed for settlement purposes only, and Plaintiff shall prepare a joint stipulation when filing the Amended Complaint that specifies that this Amended Complaint is being filed for settlement purposes only and that, if the Court does not approve the settlement of this matter, the Amended Complaint shall be deemed to have never been filed. The Parties reserve all rights regarding any filing (if necessary) of an amended complaint if the Court does not approve the settlement of this matter.

1.9 “Amended LWDA Letter” shall refer to the letter that Plaintiff submitted to the LWDA for settlement purposes only on January 25, 2024, which amended the LWDA Letter and added an additional claim for civil penalties under PAGA for failure to provide adequate meal periods that was not filed in the LWDA Letter.

1.10 “Complaint” shall refer to the original complaint that Plaintiff filed in the Action on March 15, 2023.

1.11 “Court” means the Superior Court of California, County of Orange.

1.12 “Defense Counsel” means Attorneys David A. Wimmer and Allison R. Musante at Swerdlow Florence Sanchez Swerdlow & Wimmer, A Law Corporation.

1.13 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters Judgment on the Approval Order and (b) the Judgment becomes final. The Judgment becomes final as of the latest of the following occurrences: (a) the day the Court entered Judgment assuming no appeal is filed; or (b) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of certiorari) resulting in final judicial approval of the Settlement.

1.14 “Gross Settlement Amount” means One Hundred Fifty Thousand Dollars and Zero Cents (\$150,000.00), which is the total amount All-Rite agrees to pay

under the Settlement, except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the PAGA Representative Award, and the Administrator's Expenses Payment.

1.15 "Individual PAGA Payment" means the 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.

1.16 "Judgment" means the judgment entered by the Court based upon the Approval Order.

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

1.18 "LWDA Letter" means Plaintiff's March 10, 2023, letter to All-Rite, Angie Lopez and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.19 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.20 "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the PAGA Representative Award, and the Administration Expenses Payment. The NSA is to be paid to Aggrieved Employees as Individual PAGA Payments (25% of the NSA) and to the LWDA in the LWDA PAGA Payment (75% of the NSA).

1.21 "PAGA Counsel" means Attorneys John Young and Raleigh Dixon at Mahoney Law Group, APC, the attorneys representing the Plaintiff in the Action.

1.22 "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for their reasonable

attorneys' fees and for the reimbursement of their reasonable expenses, respectively, incurred to prosecute the Action.

1.23 "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for All-Rite for at least one day during the PAGA Period.

1.24 "PAGA Period" means the period from March 10, 2022, to October 17, 2024.

1.25 "PAGA" means the California Labor Code Private Attorneys General Act (Labor Code §§ 2698 *et seq.*)

1.26 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount, which is estimated to be Sixty Five Thousand Dollars and Zero Cents (\$65,000.00). The PAGA Penalties are allocated 25% to the Aggrieved Employees (approximately \$16,250.00) as to their Individual PAGA Payments and the 75% to LWDA (approximately \$48,750.00) as the LWDA PAGA Payment in settlement of all PAGA claims.

1.27 "PAGA Representative Award" means the Five Thousand Dollars and Zero Cents (\$5,000.00) sought to be paid to Plaintiff for serving as the named PAGA representative in the Action.

1.28 "Plaintiff" means Armida Esquivel, the named plaintiff in the Action.

1.29 "Released PAGA Claims" means any and all claims for civil penalties under PAGA arising from the pleaded claims and the facts alleged in the LWDA Letter, Amended LWDA Letter, Complaint and the Amended Complaint for the entire duration of the PAGA Period that Plaintiff, on behalf of herself, the LWDA, and the Aggrieved Employees, alleged or could have alleged against Defendant, Angie Lopez, and the Released Parties. The Released PAGA Claims include all claims for civil penalties arising during the PAGA Period under California Labor Code Sections 2698 *et seq.* based on the facts set forth in Plaintiff's March 10, 2023, LWDA Letter, Amended LWDA PAGA Letter, Plaintiff's Complaint, and Amended Complaint, which includes, as specified therein, all claims seeking civil penalties for (1) failure to pay for all wages, including overtime wages, (2) failure to provide rest periods, (3) failure to provide accurate itemized wage statements, (4) failure to pay wages upon ending employment, (5) failure to reimburse for all necessary business expenditures and losses, and (6) failure to provide meal periods, and all claims for civil penalties pursuant to California Labor Code Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1194.2, 1197,

and 2802, California Code of Regulations, Title 8, Section 11150(12), as well as any applicable IWC Orders.

1.30 “Released Parties” means All-Rite and Angie Lopez, and each of its and her former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, trusts, beneficiaries, executors, trustees, employees, subsidiaries, and affiliates, and their marital community.

1.31 “Settlement” means the disposition of the PAGA claims in the Action effectuated by this Agreement and the Judgment.

2. RECITALS.

2.1 Pursuant to Labor Code Section 2699.3(a), Plaintiff gave timely written notice to All-Rite, Angie Lopez, and the LWDA by sending the LWDA Letter.

2.2 On March 15, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against All-Rite and Angie Lopez for civil penalties under PAGA for (1) failure to pay all wages including overtime; (2) failure to provide rest periods; (3) failure to provide accurate itemized wage statements; (4) failure to pay wages upon ending employment; and (5) failure to reimburse for all necessary business expenses and losses. All-Rite and Angie Lopez deny the allegations in the Complaint, deny any failure to comply with the laws identified in the Complaint and deny any and all liability for the causes of action alleged.

2.3 On January 17, 2024, the Parties participated in an all-day mediation presided over by Jill R. Sperber, Esq., which led to this Agreement to settle the Action and to a separate confidential individual settlement with Plaintiff for Plaintiff’s non-representative claims.

2.4 Prior to mediation, Plaintiff obtained, through informal discovery, among other things, electronic payroll and timekeeping data for all alleged Aggrieved Employees, as well as information about All-Rite’s wage and hour policies, Plaintiff’s personnel records, and specific financial information related to All-Rite.

2.5 Plaintiff filed an Amended LWDA Letter on January 25, 2024.

2.6 Within a reasonable period of time after sixty-five (65) days has passed since the submission to the LWDA of the Amended LWDA Letter, Plaintiff will file the Amended Complaint in the Action. The Parties hereby agree that, for settlement purposes only, the statute of limitations for the Amended Complaint shall be deemed to relate back to March 10, 2022. Each Party reserves the right to contest the statute of limitations for the Amended Complaint if this Settlement is not approved. In addition, the Amended Complaint will include all other amendments necessary to give full effect to this settlement. Plaintiff shall prepare

a joint stipulation when filing the Amended Complaint that specifies that this Amended Complaint is being filed for settlement purposes only. All-Rite stipulates to the filing of the Amended Complaint for settlement purposes only, and reserves its rights and declares that it would and will oppose Plaintiff's filing of the Amended Complaint should the Court fail to issue its Approval of the Settlement. Plaintiff reserves the right and declares Plaintiff would and will file a Motion for Leave to amend her Complaint should the Court fail to issue its Approval of the Settlement.

2.7 The Amended Complaint will be the operative complaint in the Action for settlement purposes only. All-Rite denies the allegations in the Complaint and Amended Complaint, denies any failure to comply with the laws identified in the Complaint and Amended Complaint, and denies any and all liability for the causes of action alleged.

2.8 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. Except as otherwise provided by Paragraph 8 below, All-Rite promises to pay One Hundred Fifty Thousand Dollars and Zero Cents (\$150,000.00) and no more as the Gross Settlement Amount. All-Rite has no obligation to pay the Gross Settlement Amount prior to forty five (45) days after the Effective Date, as stated in Paragraph 4.2 of this Agreement, except as otherwise noted in Paragraph 9.1. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to All-Rite.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33.33% which is currently estimated to be Fifty Thousand Dollars and Zero Cents (\$50,000.00) and PAGA Counsel Litigation Expenses Payment of not more than Twenty Thousand Dollars and Zero Cents (\$20,000.00). All-Rite will not oppose requests for Court approval of these payments provided that they do not exceed these amounts and or percentage of the Gross Settlement Amount. Plaintiff will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court

approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the unincurred balance shall be included in 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 any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will report the PAGA Counsel Fees Payment and PAGA Counsel Litigation 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 the PAGA Counsel Litigation Expenses Payment and holds All-Rite harmless, and indemnifies All-Rite, from any dispute or controversy regarding any division or sharing of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) except for a showing of good cause and as approved by the Court. To the extent the administration expenses are less or the Court approves payment less than Ten Thousand Dollars (\$10,000.00), the balance shall be included in the Net Settlement Amount.

3.2.3 To the Plaintiff: The PAGA Representative Award not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00). To the extent the Court approves payment less than Five Thousand Dollars (\$5,000.00), the remaining balance shall be included in the Net Settlement Amount.

3.3 Payment from Net Settlement Amount: The Administrator will make and deduct the following payments from the Net Settlement Amount in the amounts specified by the Court in the Approval Order:

3.3.1 To the LWDA and Aggrieved Employees: PAGA Penalties in the estimated amount of Sixty Five Thousand Dollars and Zero Cents (\$65,000.00) to be paid from the Net Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)

multiplying the result by each Aggrieved Employee's PAGA Pay Periods.

3.2.3.2. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.3. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Aggrieved Employee Data. Within thirty (30) calendar days of the Court filing the Approval Order, All-Rite will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. All-Rite has a continuing duty to provide corrected or updated Aggrieved Employee Data to the Administrator as soon as reasonably feasible upon the Administrator's request. Without any extension of the deadline by which All-Rite must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use good-faith efforts to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.2 Funding of Gross Settlement Amount. All-Rite shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than forty five (45) days after the Effective Date, except as otherwise noted in Paragraph 9.1.

4.3 Payments from the Gross Settlement Amount. Within thirty (30) calendar days after All-Rite funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Representative Award, the Administration Expenses Payment, the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.3.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of

mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.3.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced if requested by the Aggrieved Employee prior to the void date.
- 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 All-Rite to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those expressly specified in this Agreement.
- 4.3.5 The Individual PAGA Payments shall not adjust or effect the regular rate of pay in any way for any and all Aggrieved Employees.
- 4.3.6 Whereas the Parties agree that there is no statutory obligation to provide notice of the Settlement to Aggrieved Employees, after the Court enters its Approval Order, every Aggrieved Employee will be provided with the letter attached hereto as Exhibit A in the form evidenced by Exhibit A, which shall be addressed to the Aggrieved Employee and reference the Aggrieved Employee's Individual PAGA Payment.

- 5. **RELEASES OF CLAIMS.** Effective on the date when All-Rite fully funds the entire Gross Settlement Amount, Plaintiff and the Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff has executed a general release for all known and unknown claims against All-Rite and Angie Lopez in a separate Settlement and General Release Agreement, executed by Plaintiff on January 31, 2024. That Settlement and General Release Agreement is hereby incorporated herein.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

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 and the LWDA:

Plaintiff, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all Aggrieved Employees, for themselves and for their respective spouses, domestic partners, children, estates, heirs, trusts, and representatives, will forever completely release and discharge the Released Parties from the Released PAGA Claims. It is the intent of the Parties that the Approval Order entered by the Court shall have full equitable and collateral estoppel and res judicata effect and be final and binding upon Plaintiff, the LWDA, and the Aggrieved Employees regarding the Released PAGA Claims. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

6.1 Within thirty (30) business days after the filing of the Amended Complaint, Plaintiff shall file a Motion for Approval of the PAGA claims in this Action.

6.2 Plaintiff's Responsibilities. No later than five (5) business days before the due date to file the Motion for Approval of the PAGA, Plaintiff will deliver to Defense Counsel near final drafts of all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2), including (i) a draft, proposed Approval Order; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve, its competency, its operative procedures for protecting the security of Aggrieved Employee Data, its amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance, all facts

relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA, and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; and (iii) a near final declaration from PAGA Counsel attesting to its timely transmission to the LWDA of all necessary documents required to be sent to the LWDA regarding the settlement of PAGA claims. PAGA Counsel's declaration shall also attach a copy of this Agreement, and it shall include all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of PAGA Counsel. PAGA Counsel is responsible for expeditiously drafting, finalizing and filing the Motion for Approval of this Settlement no later than thirty (30) days after filing the Amended Complaint and obtaining a prompt hearing date for the Motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or videoconference, and in good faith, to resolve the disagreement. If the Court does not grant the Motion for Approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or videoconference, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns, provided that All-Rite shall not be required to contribute any additional funds to the Gross Settlement Amount.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator. PAGA Counsel has verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of 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.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of providing reports to state and federal tax authorities.

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

7.4 Administrator Duties. The Administrator has a duty to perform or observe all designated tasks contained in this Agreement or otherwise required by law.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR**

CLAUSE. Based on its records, All-Rite estimates that there are approximately 305 Aggrieved Employees (140 former employees and 165 current employees) and 5,409 pay periods from March 10, 2022, through October 31, 2023. This settlement is based on the Parties’ belief that there are approximately 6,240 pay periods from March 10, 2022, through January 31, 2024. If the number of pay periods from March 10, 2022, through January 31, 2024, is 10% or 624 pay periods higher than 6,240 pay periods, then All-Rite shall increase, on a pro-rata basis, the Gross Settlement Amount equal to the percentage increase in pay periods above 6,864. For example, if the pay periods increase by 12%, then All-Rite shall increase the Gross Settlement Amount by 2%.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law pursuant to California Civil Procedure Code Section 664.6. If any Party brings an action to enforce this Agreement, the prevailing party shall be entitled to its/her reasonable attorneys’ fees and costs.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another individual or entity who is not a Party to this Agreement 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.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability. 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 All-Rite that any of the allegations in the LWDA Letter, Amended LWDA Letter, Complaint, or Amended Complaint have merit or that All-Rite has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that All-Rite's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, All-Rite reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest All-Rite's defenses. The Settlement, this Agreement and 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 exhibits, if any, 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, as well as the prior Memorandum of Agreement executed by the Parties, the prior PAGA Settlement Agreement/Stipulation of Settlement executed by the Parties on April 9, 2024, and the Amended PAGA Settlement Agreement executed by all the Parties by April 16, 2024, except that the Confidential Settlement and General Release Agreement executed by Plaintiff on January 31, 2024, and All-Rite on February 7, 2024, which resolved Plaintiff's individual claims, remains in full force and effect.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and All-Rite, 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 that are consistent therewith.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their good-faith efforts to implement the Settlement by, among other things, modifying the 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 necessary to implement the Settlement, or on any modification of the Agreement that may

become necessary to implement the Settlement, the Parties will seek the assistance of Mediator Jill Sperber, Esq. and/or the Court for resolution.

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

10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, All-Rite nor Defense Counsel is providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

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

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

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

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

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

10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by All-Rite in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Additionally, the Parties are under a continuing obligation to comply with the Court's Order related to the Parties' *Stipulation Regarding*

Information Provided Under Cover of Mediation Privilege and Written Discovery, which was signed by the Court on August 23, 2023.

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

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

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

To Plaintiff:

John Young, Esq.
Mahoney Law Group, APC
249 E. Ocean Boulevard, Suite 814
Long Beach, California 90802

To All-Rite:

David A. Wimmer, Esq.
Allison R. Musante, Esq.
Swerdlow Florence Sanchez Swerdlow & Wimmer,
A Law Corporation
10877 Wilshire Boulevard, Suite 1650
Los Angeles, CA 90024

10.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign or AdobeSign), 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.

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

09 / 03 / 2024

EXECUTED this ___ day of August 2024, at Riverside County,
California.



Armida Esquivel

Sep 3, 2024

EXECUTED this ___ day of August 2024, at Orange County, California.

ALL-RITE LEASING COMPANY, INC.

By: 
Ian Rosenberg (Sep 3, 2024 17:53 PDT)

Ian Rosenberg

Its: General Manager

APPROVED AS TO FORM:

MAHONEY LAW GROUP

By: *John A. Young*

Dated: 09 / 03 / 2024

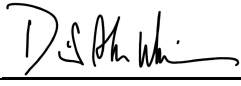
John Young, Esq.

Attorneys for Plaintiff, Armida Esquivel

APPROVED AS TO FORM:

SWERDLOW FLORENCE SANCHEZ

SWERDLOW & WIMMER, A LAW CORPORATION

By: 

Dated: Sep 3, 2024

David A. Wimmer, Esq.

Attorneys for Defendant, All-Rite Leasing Company, Inc.

Exhibit A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Esquivel v. All-Rite Leasing Company, Inc.*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Esquivel v. All-Rite Leasing Company, Inc., et al.*, Orange Superior Court Case No. 30-2023-01325416-CU-OE-CXC.

WHAT IS THE CASE ABOUT?

This case was brought by Plaintiff, Armida Esquivel (“Plaintiff”), and filed against All-Rite Leasing Company, Inc. (“All-Rite”) and Angie Lopez (“Defendants”), pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). Plaintiff filed the lawsuit on behalf of herself, the State of California and all persons who are employed or were previously employed by All-Rite in California and classified as hourly, nonexempt employees during the “PAGA Period,” which covers the time period of March 10, 2022, to October 17, 2024. The group of employees referenced above are called the “Aggrieved Employees,” and you have been identified as an Aggrieved Employee.

WHAT ARE THE IMPORTANT TERMS OF THE SETTLEMENT?

In this case, Plaintiff claimed that Defendants owed civil penalties under PAGA for certain California Labor Code violations because Defendant allegedly (1) failed to pay all wages including overtime; (2) failed to provide meal and rest periods; (3) failed to provide accurate itemized wage statements; (4) failure to pay wages upon ending employment; and (5) failure to reimburse for all necessary business expenses and losses. Defendants denied the allegations in the Complaint, denied any failure to comply with the laws identified in the Complaint and denied any and all liability for the causes of action alleged.

The Parties agreed to resolve the case, and as part of that settlement, All-Rite agreed to pay \$150,000.00, which is called the Gross Settlement Amount. From the Gross Settlement Amount, Plaintiff’s counsel will receive a PAGA Counsel Fees Payment of \$50,000.00 for attorneys’ fees, and a PAGA Counsel Litigation Expenses Payment of \$12,217.98 for litigation costs. In addition, the Settlement Administrator will receive an Administrator Expenses Payment of \$5,000.00 for helping to administer the settlement, and Plaintiff will receive a PAGA Representative Award of \$5,000.00 for bringing this lawsuit on behalf of all Aggrieved Employees. The balance of the monies, called the Net Settlement Fund, in the amount of \$77,782.02, represents the PAGA Penalties.

Under PAGA, the law requires that PAGA Penalties get divided between the California Labor and Workforce Development Agency (the LWDA”) and the Aggrieved Employees, with 75% of the settlement going to the LWDA and 25% being divided amongst the Aggrieved Employees. As a result, \$58,336.52 will be paid to the LWDA for its share of PAGA penalties, and \$19,445.50 will be paid to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties (\$19,445.50) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods, which is any pay period during which an Aggrieved Employee worked for All-Rite for at least one day during the PAGA Period.

As an Aggrieved Employee, you will assume full responsibility and liability for any taxes owed on your Individual PAGA Payment. The Administrator will report all Individual PAGA Payments on IRS 1099 Forms.

The settlement of this action does not constitute an admission by Defendants of any of the matters alleged in the case or an admission of liability. Defendants strongly deny violating any laws or failing to pay any wages. Defendants contend they complied with all applicable laws.

YOUR SETTLEMENT CHECK AND THE RELEASE OF CLAIMS

The enclosed check, in the amount of \$_____.00, represents your Individual PAGA Payment, which is based on the number of pay periods you worked during the PAGA Period. A pay period means any pay period you worked for All-Rite, even if was for one day during the PAGA Period. The Administrator calculated each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods.

As an Aggrieved Employees, you will be legally barred from asserting any of the claims released under the Settlement. This means that you, along with all Aggrieved Employees, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the facts alleged in the case to have occurred during the PAGA Period and resolved by this settlement. The Aggrieved Employees’ Release is as follows:

Plaintiff, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all Aggrieved Employees, for themselves and for their respective spouses, domestic partners, children, estates, heirs, trusts, and representatives, will forever completely release and discharge the Released Parties from the Released PAGA Claims. It is the intent of the Parties that the Approval Order entered by the Court shall have full equitable and collateral estoppel and res judicata effect and be final and binding upon Plaintiff, the LWDA, and the Aggrieved

Employees regarding the Released PAGA Claims. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

The “Released PAGA Claims” means any and all claims for civil penalties under PAGA arising from the pleaded claims and the facts alleged in the LWDA Letter, Amended LWDA Letter, Complaint and the Amended Complaint for the entire duration of the PAGA Period that Plaintiff, on behalf of herself, the LWDA, and the Aggrieved Employees, alleged or could have alleged against Defendant, Angie Lopez, and the Released Parties. The Released PAGA Claims include all claims for civil penalties arising during the PAGA Period under California Labor Code Sections 2698 et seq. based on the facts set forth in Plaintiff’s March 10, 2023, LWDA Letter, Amended LWDA PAGA Letter, Plaintiff’s Complaint, and Amended Complaint, which includes, as specified therein, all claims seeking civil penalties for (1) failure to pay for all wages, including overtime wages, (2) failure to provide rest periods, (3) failure to provide accurate itemized wage statements, (4) failure to pay wages upon ending employment, (5) failure to reimburse for all necessary business expenditures and losses, and (6) failure to provide meal periods, and all claims for civil penalties pursuant to California Labor Code Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1194.2, 1197, and 2802, California Code of Regulations, Title 8, Section 11150(12), as well as any applicable IWC Orders.

The “Released Parties” means All-Rite and Angie Lopez, and each of its and her former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, trusts, beneficiaries, executors, trustees, employees, subsidiaries, and affiliates, and their marital community.

This release applies to you, regardless of whether you cash your check, and regardless of whether this letter can be delivered to you. Aggrieved Employees have no right to object to this settlement, and they cannot opt out of this settlement. You will be bound by this release whether you cash your check or not.

QUESTIONS?

If you have any questions, you can contact the Settlement Administrator (whose contact information is at the top of this letter) or Plaintiff’s counsel, whose contact information is as follows:

Counsel for Plaintiff:

John A. Young
jyoung@mahoney-law.net
MAHONEY LAW GROUP
249 East Ocean Boulevard, Suite 814
Long Beach, CA 90802
Telephone: (562) 590-5550

Very Truly Yours,

Phoenix Settlement Administrators
[INSERT CONTACT INFORMATION]

Second Amended PAGA Settlement.With Ex. A.P signed

Final Audit Report

2024-09-04

Created:	2024-09-03
By:	Allison Musante (amusante@swerdlowlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgYJ8KAjsJE-eVaNDiKPha-LztgmhfrXc

"Second Amended PAGA Settlement.With Ex. A.P signed" History

-  Document created by Allison Musante (amusante@swerdlowlaw.com)
2024-09-03 - 10:40:29 PM GMT
-  Document emailed to Ian Rosenberg (allriteleasing@gmail.com) for signature
2024-09-03 - 10:42:42 PM GMT
-  Email viewed by Ian Rosenberg (allriteleasing@gmail.com)
2024-09-03 - 11:22:02 PM GMT
-  Document e-signed by Ian Rosenberg (allriteleasing@gmail.com)
Signature Date: 2024-09-04 - 0:53:54 AM GMT - Time Source: server
-  Document emailed to David Wimmer (dwimmer@swerdlowlaw.com) for signature
2024-09-04 - 0:53:59 AM GMT
-  Email viewed by David Wimmer (dwimmer@swerdlowlaw.com)
2024-09-04 - 1:05:22 AM GMT
-  Document e-signed by David Wimmer (dwimmer@swerdlowlaw.com)
Signature Date: 2024-09-04 - 1:05:53 AM GMT - Time Source: server
-  Agreement completed.
2024-09-04 - 1:05:53 AM GMT