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Attorneys for Plaintiff Kobi Keithley, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

KOBI KEITHLEY, on behalf of herself and all
“aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

MICHIGAN HOUSE, INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No: 23CECG03558

*Assigned to the Hon. D. Tyler Tharpe, Dept.
501*

**DECLARATION OF EVAN S. GAINES IN
SUPPORT OF STIPULATION RE:
DISMISSING CLASS AND
REPRESENTATIVE PRIVATE
ATTORNEYS GENERAL ACT ACTION**

Complaint Filed: August 30, 2023

1 I, EVAN S. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I
3 the owner of Gaines Law Corporation and counsel for Plaintiff Kobi Keithley (“Plaintiff”) in
4 this action. I have personal knowledge of the facts set forth herein and if called to testify to
5 them, I could and would do so competently.

6 2. On August 30, 2023, Plaintiff, on behalf of herself and on behalf of all aggrieved
7 employees filed a representative complaint against Defendant Michigan House, Inc.
8 (“Defendant”), pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”),
9 Labor Code § 2698 *et seq.*, seeking civil penalties for violations of the California Labor Code.

10 3. On October 29, 2024, Plaintiff amended her complaint to include standalone class
11 action claims premised on the PAGA previously alleged PAGA claims. The First Amended
12 Complaint is the operative complaint in this Action.

13 4. After a review of the claims and defenses to the Action, and considering
14 Defendants’ contentions (1) that Plaintiff has been paid all wages due and owing and maintains
15 claims that are individual to the other Class Members; and (2) that Defendant is suffering severe
16 financial difficulties that could greatly hinder its ability to pay any class settlement or further
17 defend this Action, I have concluded that it is in all Parties’ best interest to resolve Plaintiff’s
18 individual claims only.

19 5. The Parties have negotiated a settlement of Plaintiff’s individual claims only, and
20 the class and PAGA claims will be dismissed *without* prejudice. Attached hereto as **Exhibit A**
21 is a true and correct redacted copy of the Parties’ Settlement And Release Agreement (the
22 “Settlement Agreement”).

23 6. The settlement between Plaintiff and Defendant does not contemplate the waiver
24 of any claims by anyone other than Plaintiff and does not provide for the waiver of class and
25 PAGA claims asserted on behalf of any employee or the state, such that there is no allocation of
26 civil penalties in the Settlement.

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1 7. Concurrent to the filing of this Stipulation, the Parties have submitted the
2 Settlement Agreement to the LWDA in compliance with Labor Code section 2699(1)(2).
3 Attached as **Exhibit B** is a true and correct copy of the upload confirmation.

4 8. No notice is required to be given to the putative class because no notice of the
5 pending Action was ever given; there has been no publicity of which the Parties are aware;
6 neither Plaintiff nor my office has communicated with any absent class members about the
7 Action; there is no other pending action, of which the Parties are aware, brought by a member
8 of the putative class or including an overlapping putative class; and the putative class is not
9 reasonably ascertainable at the present time; consequently, no absent putative class member will
10 suffer prejudice as a result of this dismissal

11 9. Plaintiff, therefore, requests that the Court enter a dismissal of this action *with*
12 *prejudice* as to Plaintiff's individual claims and dismissal *without prejudice* of the class and
13 representative PAGA action claims, pursuant to the stipulation submitted concurrently herewith.

14 I declare, under penalty of perjury, under the laws of the State of California, that the
15 foregoing is true and correct. Executed on February 21, 2025 at Westlake Village, California.

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EVAN S. GAINES

EXHIBIT A

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT (Agreement) is between Plaintiff Kobi Keithley (“Plaintiff”) and Defendant Michigan House, Inc. (“Defendant”) (Plaintiff and Defendant are together referred to as the “Parties”).

Recitals

A. On August 30, 2023, Plaintiff filed a Representative Action Complaint (“Complaint”) for penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) against Defendant in the Superior Court of the State of California, County of Fresno, under Case No. 23CECG03558 (the “Action”). In the Complaint, Plaintiff alleged claims for failure to pay all minimum and overtime wages due wages due (Labor Code §§ 510 and 1194); failure to pay all wages due wages due (Labor Code §§ 226.7, 227.3, 246, 510, 512, and 1194); failure to provide meal periods Labor Code §§ 226.7, 512, and 558); failure to provide rest periods Labor Code § 226.7); failure to maintain and produce records (Labor Code §§ 1174, 1174.5, and 1175); knowing and intentional failure to comply with itemized employee wage statement provisions (Labor Code §§ 226(a) and (e)); failure to timely pay wages due during employment (Labor Code §§ 204 and 210); and failure to timely pay wages due at separation of employment (Labor Code §§ 201-202 and 227.3).

B. On October 29, 2024, Plaintiff filed a First Amended Class Action Complaint (“FAC”), in which she alleged her claims on a class action basis including relief under California Business and Professions Code §§ 17200 *et seq.* (“UCL”).

C. Defendant has denied and continue to deny any liability to Plaintiff and have raised various defenses to the claims made in the FAC.

D. 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 her suit on behalf of all allegedly aggrieved employees under PAGA, and any and all transactions, occurrences, or matters occurring between Plaintiff and Defendant 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. In consideration for the execution of the general release, and agreement to the other terms of this Agreement by Plaintiff herein, Defendant will pay a gross amount of [REDACTED] to Plaintiff. The Settlement Sum will be made as follows:

- A. [REDACTED]
- B. [REDACTED]
- C. [REDACTED]

Plaintiff agrees that her portion of the Settlement Sum compensates her for all economic damages, injuries to reputation, emotional pain and suffering, wages, and any other damages or individual claims of any kind or nature allegedly caused by the purported conduct of Defendant or any party released herein.

Defendant will deliver the sums described above within forty-five (45) days' notice of the Court's dismissal of the Action and upon Defendant's counsel's receipt of: (1) an executed copy of this Agreement by Plaintiff, (2) an executed W-9 from Plaintiff, and (3) an executed W-9 form from Gaines Law Corporation.

2. General Release by Plaintiff. Subject to Defendant's full payment of the Settlement Amount, Plaintiff, on behalf of herself and her heirs, assigns, legal representatives, and in consideration of the payment of the Settlement Amount, release and discharge Defendant, and its past and present owners, directors, officers, members, employees, and agents, and any other persons acting by or on its 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 she may now have or may have after the signing of this Agreement, against the Releasees arising out of or in any way connected with her 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 Defendant 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 she is paid the Settlement Sum, she lacks standing to assert her PAGA claims against the Defendant, 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 Defendant 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 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 Defendant or the Releasees related to conduct occurring prior to the date of this Agreement. Plaintiff will forever abandon her 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 she 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 her 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 Defendant's full payment of the Settlement Amount, Plaintiff hereby relinquishes and waives any and all claims against Defendant and the Releasees, and she expressly warrants that she has been fully advised by her 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 Defendant 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 her 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 she is providing Defendant 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 her 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. 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 Defendant. Defendant 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 her contractual relationships or employment with Defendant, and any and all transactions, occurrences, or matters occurring between or among the parties prior to the date of this Agreement.

8. Non-Disparagement. Plaintiff agrees not to testify in any matter in which Defendant has an interest unless Plaintiff is under compulsory process. If Plaintiff is served with process concerning any matter in which Defendant is a named party, Plaintiff will immediately notify, by overnight mail and by email, counsel for Defendant, Kevin G. Little, Esq., Kevin G. Little Attorney at Law, Post Office Box 8656, Fresno, California 93747, kevin@kevinglittle.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.

9. Confidentiality. Plaintiff, and anyone to whom she 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 her 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 she 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, Defendant.

10. Remedy for Breach of Non-Disparagement or Confidentiality Provisions. The Parties agree that significant harm will be caused if any Party breaches either paragraphs 8 and/or 9 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 8 and/or 9 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 her or their reasonable attorney's fees and costs incurred in such action or proceeding.

11. 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.

12. 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.

13. Representations and Warranties. Plaintiff represents and warrants (a) that she has read this Agreement and fully understands it, (b) that she is fully aware of her rights, (c) that she has had the opportunity for the advice and assistance of an attorney throughout the negotiation of this Agreement, (d) that she has sought and received the advice of an attorney, (e) that Gaines Law Corporation, is the only counsel who have represented her 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 she has not transferred her interest in her claims to any other person, (g) that she is entering into this Agreement freely, voluntarily and without duress, undue influence, coercion, or promise of benefit, except as expressly set forth herein, and (h) no attorney representing her in this action has pending any other potential claims of any sort against Defendant.

14. 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.

15. 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.

16. Neutral Reference. In response to any inquiry from any of Plaintiff's prospective motor carriers or employers, Defendant 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.

17. Enforcement. If the payment required hereunder is not received on the date due, Defendant shall be in default of its obligations under this Settlement. Plaintiff may thereafter move the Court, pursuant to Code of Civil Procedure 664.6, for entry of a judgment against Defendant, plus actual attorneys' fees and costs incurred to enforce the judgment and this Agreement.

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

PLAINTIFF

Kobi Keithley

KOBI KEITHLEY

Dated: 02 / 14 / 2025

DEFENDANT

DEFENDANT MICHIGAN HOUSE, INC.

By: _____

Its _____

Dated: _____

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PLAINTIFF

KOBI KEITHLEY

Dated: _____

DEFENDANT

DEFENDANT MICHIGAN HOUSE, INC.

By:  _____

Its CEO _____

Dated: 2/19/25

EXHIBIT B

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_____ (For messenger) my business address is:

Kevin G. Little
Attorney at Law
P.O. Box 8656
Fresno, CA 93747
SERVICE@KEVINGLITTLE.COM

____ (BY x U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

I declare under penalty of perjury that the foregoing is true and correct.


EVAN S. GAINES, ESQ.