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individually, and on behalf of Aggrieved
Employees pursuant to the California
Private Attorneys General Act

[Additional Counsel on Next Page]

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

DARREN GARCIA, an individual on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

CLEARFREIGHT, INC., a California
Corporation; and DOES 1 through 50, inclusive,

Defendants.

ALEJANDRA JIMENEZ, individually, and
on behalf of Aggrieved Employees pursuant to
the California Private Attorneys General Act

Plaintiffs,

vs.

CLEARFREIGHT INC., a California
corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No. 23STCV22946 (Lead)
(Consolidated with Case No. 23STCV28938)

*Assigned for all purposes to Hon. Carolyn B. Kuhl,
Dept. 12*

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFFS' MOTION FOR
APPROVAL OF PAGA SETTLEMENT AND
AWARD OF PAGA COUNSEL FEES
PAYMENT, PAGA COUNSEL LITIGATION
EXPENSES PAYMENT, ENHANCEMENT
PAYMENT, AND ADMINISTRATION
EXPENSES PAYMENT**

Date: November 20, 2024
Time: 10:30 a.m.
Department: 12

Garcia Complaint Filed: September 21, 2023
Garcia FAC Filed: November 27, 2023
Jimenez Complaint Filed: November 28, 2023
Garcia SAC Filed: August 2, 2024

**[PROPOSED] ORDER AND JUDGMENT GRANTING PLAINTIFFS' MOTION FOR APPROVAL OF PAGA
SETTLEMENT AND AWARD OF PAGA COUNSEL FEES PAYMENT, PAGA COUNSEL LITIGATION
EXPENSES PAYMENT, ENHANCEMENT PAYMENT, AND ADMINISTRATION EXPENSES PAYMENT**

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9 themselves and others similarly situated
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1 **[PROPOSED] ORDER AND JUDGMENT**

2 On November 20, 2024 at 10:30 a.m. in Department 12 of the above-entitled Court, located at
3 Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Darren
4 Garcia, Taylor Lebowe, and Alejandra Jimenez’s (together, “**Plaintiffs**”) Motion for Approval of
5 PAGA Settlement and Award of PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses
6 Payment, Enhancement Payment, and Administration Expenses Payment (“**Motion**”) came on for
7 hearing before the Honorable Carolyn B. Kuhl. D.Law, Inc. appeared on behalf of Plaintiffs Garcia
8 and Lebowe, Blackstone Law, APC appeared on behalf of Plaintiff Jimenez, and Littler Mendelson
9 P.C. appeared on behalf of Defendant ClearFreight, Inc. (“**Defendant**”).

10 Plaintiffs and Defendant (collectively, the “**Parties**”) have executed the PAGA Settlement
11 Agreement (“**Settlement**,” “**Agreement**,” or “**Settlement Agreement**”).

12 The Court, having carefully considered the papers, argument of counsel, and all matters
13 presented to the Court, and good cause appearing, hereby **GRANTS** Plaintiffs’ Motion.

14 **IT IS HEREBY ORDERED THAT:**

15 1. Plaintiffs’ Motion is granted in its entirety.

16 2. This Order and Judgment incorporates by reference the definitions in the Settlement
17 Agreement, and all capitalized terms defined therein shall have the same meaning in this Order and
18 Judgment as set forth in the Settlement Agreement.

19 3. The Court finds that Plaintiffs have satisfied the prerequisites under the California
20 Private Attorneys General Act (Cal. Labor Code § 2698, et seq.) (“**PAGA**”), including, but not limited
21 to, providing the California Labor and Workforce Development Agency (“**LWDA**”) and Defendant
22 with notice of the specific provisions of the California Labor Code alleged to have been violated,
23 including, but not limited to, the facts and theories to support the alleged violations, in conformity
24 with California Labor Code § 2699.3(a).

25 4. The Court also finds that the Settlement Agreement has been submitted to the LWDA
26 in conformity with California Labor Code § 2699(1)(2) and that the LWDA has not sought to intervene
27 or appear in the above-captioned actions (“**Actions**”).

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1 5. The individuals covered under the Settlement consist of the following: “all current and
2 former non-exempt employees who worked for Defendant in the State of California during the PAGA
3 Period (“**Aggrieved Employees**”). The “**PAGA Period**” is defined as the period from September 1,
4 2022 to June 30, 2024.

5 6. The Court finds that the Parties reached the Settlement as a result of arm’s-length
6 negotiations.

7 7. Pursuant to California Labor Code section 2699(1)(2), the Court has reviewed the sum
8 allocated for payment of penalties under PAGA (“**Net Settlement Amount**”), and determines that it
9 is fair, just, reasonable, and adequate. The Court hereby approves the Net Settlement Amount, which
10 shall be the Gross Settlement Amount (\$290,000.00) less the approved PAGA Counsel Fees Payment
11 and PAGA Counsel Litigation Expenses Payment to PAGA Counsel, Enhancement Payment to
12 Plaintiff Lebowe, and Administration Expenses Payment to ILYM Group, Inc. (“**Administrator**”).
13 Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (“**LWDA**
14 **PAGA Payment**”) and twenty-five percent (25%) of the Net Settlement Amount shall be distributed
15 to the Aggrieved Employees in accordance with this Order and Judgment and the Settlement
16 Agreement.

17 8. The Court has considered the Settlement, and the monetary allocations provided
18 thereby, and finds that they are fair, just, reasonable, and adequate. The Court hereby directs the
19 Administrator to administer the Settlement and to make the payments as provided for by, and
20 consistent with, this Order and Judgment and the Settlement Agreement.

21 9. The Court approves the payment of \$96,666.67 to PAGA Counsel for attorneys’ fees,
22 which shall be divided amongst PAGA Counsel pursuant to the Joint Prosecution and Attorney Fee
23 Split Agreement. This amount shall be paid from the Gross Settlement Amount and shall be disbursed
24 in accordance with this Order and Judgment and the Settlement Agreement.

25 10. The Court approves the payment of \$14,904.87 to PAGA Counsel for reimbursement
26 of actual litigation costs and expenses incurred in the Actions, which shall be divided amongst PAGA
27 Counsel pursuant to the Joint Prosecution and Attorney Fee Split Agreement. This amount shall be
28 paid from the Gross Settlement Amount and shall be disbursed in accordance with this Order and

Judgment and the Settlement Agreement.

11. The Court approves the payment in the amount of \$5,000.00 Plaintiff Lebowe for an Enhancement Payment. This amount shall be paid from the Gross Settlement Amount and shall be distributed in accordance with this Order and Judgment and the Settlement Agreement.

12. The Court approves payment in the amount of up to \$4,000.00 to the Administrator for the Administration Expenses Payment. This amount shall be paid from the Gross Settlement Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

13. The Court approves the cover letter ("**Cover Letter**"), attached hereto as **Exhibit 1**, and the Administrator shall distribute the Cover Letter to Aggrieved Employees at the same time that it distributes Individual PAGA Payment checks to the Aggrieved Employees.

14. Within fifteen (15) calendar days of the Effective Date, Defendant will deliver Aggrieved Employee identifying information in Defendant's possession, including each Aggrieved Employee's full name, last-known mailing address, Social Security number, and number of PAGA Pay Periods (collectively, "**Aggrieved Employee Data**") to the Administrator in the form of a Microsoft Excel spreadsheet.

15. Within thirty (30) calendar days of the Effective Date, Defendant will fund the Gross Settlement Amount by transmitting the funds to the Administrator.

16. Within seven (7) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Enhancement 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.

17. Individual PAGA Payment checks that are issued to Aggrieved Employees will be valid and negotiable for up to one hundred and eighty (180) calendar days after the checks are initially mailed to the Aggrieved Employees, and thereafter, will be canceled. Any funds associated with such canceled checks will be distributed to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

1 18. If the actual number of pay periods during the period September 1, 2022 through April
2 30, 2024 is more than ten percent (10%) above 2,250, then the Gross Settlement Amount will be
3 increased by the percentage in excess of this ten percent (10%) threshold.

4 19. Aggrieved Employees shall not have the right to opt out of or object to the Settlement.

5 20. Effective on the Effective Date and date when Defendant fully funds the entire Gross
6 Settlement Amount, the State of California with respect to the Aggrieved Employees and all Aggrieved
7 Employees are deemed to release, on behalf of themselves and their respective former and present
8 representatives, agents, attorneys, heirs, administrators, successors, and assigns, Defendant and each
9 of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors,
10 successors, and assigns from all claims for PAGA penalties that were alleged, or reasonably could
11 have been alleged, based on the PAGA Period facts stated in the Operative Complaints and the PAGA
12 Notices, including violation of California Labor Code Sections 201, 202, 203, 204, 210, 221, 226(a),
13 226.3, 226.7, 246, 510, 512(a), 558, 1174, 1174.5, 1185, 1194, 1194.1, 1197, 1197.1, 1198, 1198.5,
14 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders.

15 21. No individualized notice of this Order and Judgment is required to be provided to the
16 Aggrieved Employees. This Order and Judgment shall be submitted to the LWDA through the online
17 system established for the filing of notices and documents, in conformity with California Labor Code
18 § 2699(l)(3).

19 22. A Non-Appearance Final Accounting Hearing is set for _____ at
20 _____ in Department 12 of the above-entitled Court. A Final Report is due to be filed no later
21 than _____ confirming that disbursements were made pursuant to the Settlement.

22
23 **IT IS SO ORDERED.**

24
25 Dated: _____

Honorable Carolyn B. Kuhl
Judge of the Superior Court

Exhibit 1

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>><<State>><<Zip>>

Re: Settlement Payment from *Darren Garcia and Taylor Lebowe v. Clearfreight, Inc.*, Los Angeles County Superior Court Case No. 23STCV22946 and *Alexandra Jimenez v. Clearfreight, Inc.*, Los Angeles County Superior Court Case No. 23STCV28938

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual PAGA Payment”). This check is your payment from the settlement in the lawsuits entitled *Darren Garcia and Taylor Lebowe v. Clearfreight, Inc.*, Los Angeles Superior Court Case No. 23STCV22946 (“*Garcia Action*”) and *Alejandra Jimenez v. Clearfreight Inc.*, Los Angeles Superior Court Case No. 23STCV28938 (“*Jimenez Action*”) (collectively, “*Actions*”).

The *Garcia Action* was commenced on September 21, 2023 by Plaintiffs Darren Garcia and Taylor Lebowe and the *Jimenez Action* was commenced on November 28, 2023 by Plaintiff Alejandra Jimenez against ClearFreight, Inc. (“*Defendant*”), on behalf of the State of California, with respect to themselves and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“*PAGA*”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders. Prior to initiating the operative complaints in the *Actions* (“*Operative Complaints*”), Plaintiffs Darren Garcia, Taylor Lebowe, and Alejandra Jimenez (collectively, “*Plaintiffs*”) submitted letters to the California Labor and Workforce Development Agency (“*LWDA*”), pursuant to *PAGA*, to provide notice of their intent to seek civil penalties under *PAGA* for Defendant’s alleged violations of the California Labor Code and the applicable Industrial Welfare Commission Wage Orders (collectively, “*PAGA Notices*”).

Defendant denies all of Plaintiffs’ allegations and denies any wrongdoing of any kind associated with Plaintiffs’ allegations. A settlement was reached between Plaintiffs and Defendant.

On <<Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former non-exempt employees who worked for Defendant in the State of California during the *PAGA Period* (“*Aggrieved Employees*”). The period September 1, 2022 to June 30, 2024 is the “*PAGA Period*.”

You are receiving a portion of the settlement (the enclosed Individual *PAGA Payment*) because you have been identified as an Aggrieved Employee. Your Individual *PAGA Payment* is based on the total number of pay periods that you worked for Defendant in California during the *PAGA Period*. The Individual *PAGA Payment* is considered to be 100% penalties, which will be reported on an IRS Form 1099 (if applicable). You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of Effective Date and full funding of the Gross Settlement Amount>>, the State of California with respect to the Aggrieved Employees and all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, and assigns from all claims for *PAGA* penalties that were alleged, or reasonably could have been alleged, based on the *PAGA Period* facts stated in the *Operative Complaints* and the *PAGA Notices*, in violation of California Labor Code Sections 201, 202, 203, 204, 210, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174, 1174.5, 1185, 1194, 1194.1, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders.

The enclosed check is valid for 180 calendar days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 180-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller’s Office Unclaimed Property Division in your name and in the amount of your Individual *PAGA Payment*.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant’s counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [Administrator] at [toll-free phone number].