

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIM

This Settlement Agreement and Release of PAGA Claim (“Settlement Agreement”) is made by and between Plaintiff Manuel E. Barrios (“Plaintiff”), on behalf of himself and as representative for the California Labor Workforce Development Agency (“LWDA”), and Defendant 2640 W Woodland, LLC (“Defendant”), who may collectively be referred to as the “Parties,” and each may be individually referred to as a “Party.”

A. Definitions

The following terms, when used in this settlement agreement, shall have the following meanings:

1. “*Barrios Action*” or “*Action*” means *Barrios v. 2640 W Woodland, LLC*, Orange County Superior Court Case Number 30-2024-01377367-CU-OE-CXC.
2. “*Agreement*,” “*Stipulation*,” or “*Settlement Agreement*,” mean this Settlement Agreement and Release of PAGA Claim, including any attached Exhibits.
3. “*Attorneys’ Fees and Costs*” means the amount of up to \$41,666.67 (one-third of the Gross Settlement Amount) which shall be allocated to Plaintiff’s Counsel for attorneys’ fees, and actual costs incurred in the litigation not to exceed \$15,000.00, all of which shall be paid out of the Gross Settlement Amount. This Settlement is not conditioned on approval of the Attorneys’ Fees and Costs; in other words, this Settlement shall remain in full force and effect if the Court awards less than the requested Attorneys’ Fees and Costs. Any portion of the amount allocated to Attorneys’ Fees and Costs not awarded by the Court shall return to the Net Settlement Amount.
4. “*Court*” (or “*Judge*”) means the Orange County Superior Court, the Honorable Lon F. Hurwitz presiding.
5. “*Defendant*” means 2640 W Woodland, LLC.
6. “*Defendant’s Counsel*” means Jerome H. Mooney and Rebekah Frushtick of Weston, Garrou & Mooney.
7. “*Effective Date*” means the last of the following dates: (a) sixty-one (61) days after the Final Approval Date; or, (b) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected, the Settlement is upheld, and the Final Order and Judgment is no longer subject to further judicial review.
8. “*Eligible Pay Period*” means any pay period worked by a PAGA Employee during the Payroll Release Period.
9. “*Final Approval Date*” means the date that the Court enters the Final Order and Judgment.

10. “Final Order and Judgment” means the Court’s order approving this Private Attorneys General Act of 2004 (“PAGA”) Settlement and Judgment. The Final Order and Judgment will be submitted to the Court substantially in the form attached hereto as **Exhibit 1**.

11. “Funding Date” means the date by which the Gross Settlement Amount must be fully funded by Defendant by transmitting the funds to an account maintained by the Settlement Administrator. Defendant shall fund the Gross Settlement Amount in accordance with the schedule set forth below. The Settlement Administrator shall notify counsel for all Parties if an Installment Payment is not received within five (5) calendar days of the scheduled payment date. If Defendant fails to make payment within seven (7) calendar days of such notice, it shall be considered in default, and it shall be obligated to pay \$100.00 for each calendar day that accrues until the Installment Payment is paid in full. All late payments shall become part of the Net Settlement Amount.

Installment Payment No.	Date	Amount
1	12/1/2024	\$12,500.00
2	1/1/2025	\$12,500.00
3	2/1/2025	\$12,500.00
4	3/1/2025	\$12,500.00
5	4/1/2025	\$12,500.00
6	5/1/2025	\$12,500.00
7	6/1/2025	\$12,500.00
8	7/1/2025	\$12,500.00
9	8/1/2025	\$12,500.00
10	9/1/2025	\$12,500.00
Total		\$125,000.00

12. “Gross Settlement Amount” means the maximum settlement amount that Defendant will pay in connection with this Settlement, which is \$125,000.00. This is a non-reversionary Settlement; no portion of the Gross Settlement Amount will return to Defendant under any circumstances.

13. “LWDA Settlement Proceeds” means the seventy-five percent (75%) of the Net Settlement Amount that shall be paid to the Labor Workforce and Development Agency (“LWDA”).

14. “Net Settlement Amount” means the amount that remains after deducting Attorneys’ Fees and Costs, Settlement Administration Costs, and the Service Award, from the Gross Settlement Amount.

15. “Notice” means the notice that will be sent to the PAGA Employees with payment after the Effective Date. The Notice will be sent to PAGA Employees substantially in the form attached hereto as **Exhibit 2**. The Notice will also be sent in Spanish.

16. “PAGA Employees” means all non-exempt employees who worked for Defendant in California from 3/1/2024 to 12/31/2024 or the Final Approval Date (whichever is sooner) and any non-exempt employee who was hired by Defendant between 10/28/22 and 3/1/2024.

17. “PAGA Employees Settlement Proceeds Fund” means the twenty-five percent (25%) of the Net Settlement Amount that shall be paid to the PAGA Employees.

18. “PAGA Claim” means all known and unknown claims brought on behalf of the State of California and PAGA Employees under California Labor Code § 2698 *et. seq.* based on alleged predicate violations of the California Labor Code and all applicable sections of the applicable Industrial Welfare Commission Wage Order, that were or could have been pleaded based on the factual allegations of the operative complaint on file in the Action.

19. “PAGA Settlement” or “Settlement” means the settlement of the PAGA Claim.

20. “PAGA Release Periods” means (1) 10/28/2022 to 3/1/2024 or the Final Approval Date (whichever is sooner) with respect to Plaintiff’s PAGA Claim predicated on violation of California Labor Code § 2810.5 (§2810.5 Release Period), and (2) 3/1/2024 to 12/31/2024 or the Final Approval Date (whichever is sooner) with respect to every other alleged violation of the California Labor Code pleaded in the operative complaint on file in the Action (Payroll Release Period).

21. “Parties” means Plaintiff and Defendant collectively.

22. “Plaintiff” means Manuel E. Barrios.

23. “Plaintiff Counsel” means Aubry Wand of The Wand Law Firm, P.C.

24. “Released Parties” means Defendant and its parents, subsidiaries, predecessors, successors, assigns, owners, officers, directors, employees and agents.

25. “Settlement Administrator” means Xpand Legal Consulting. The Settlement Administrator will agree to enter into a confidentiality agreement by which it agrees to maintain as confidential the information so designated by Defendant and not to disseminate any designated information without the written approval of Defendant. The Settlement Administrator will be responsible for, *inter alia*, sending Notice and payments to PAGA Employees and the LWDA and distributing other payments as set forth in this Agreement. The Parties and their counsel represent that they do not have any involvement in the governance or work of the Settlement Administrator.

26. “Settlement Administration Costs” means the amount of up to \$7,000, which shall be paid to the Settlement Administrator for performing the duties provided under the Settlement. If less than \$7,000 is approved for Settlement Administration costs, the difference shall return to the Net Settlement Amount.

27. “Service Award” means the amount which shall be allocated to Plaintiff, subject to Court approval, in recognition for his efforts in prosecuting the case, obtaining the benefit of the Settlement, and as consideration for Plaintiff’s released claims, which include a broad general release, against Defendant. Plaintiff shall be eligible to receive a Service Award of up to \$7,500.00. The Service Award shall be paid from the Gross Settlement Amount. This Settlement is not conditioned on approval of the Service Award; in other words, this Settlement shall remain in full force and effect if the Court awards no, or less than the

requested Service Award. Any portion of the amount allocated to the Service Award not awarded by the Court shall return to the Net Settlement Amount.

B. General

1. On October 27, 2023, Plaintiff provided notice to the LWDA and Defendant of the facts and theories in support of his PAGA Claim. On February 2, 2024, Plaintiff filed the Action in Orange Superior Court, alleging one cause of action pursuant to the PAGA, based on the following theories of liability: failure to provide required meal periods, failure to provide required rest breaks, failure to properly pay meal period and rest break premium payments, failure to pay overtime wages, unlawful tip pooling, failure to pay timely wages, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, failure to furnish accurate itemized statements, and failure to provide required information at time of hiring.

2. On September 10, 2024, the Parties participated in a mediation with the Honorable Dickran Tevrizian (Ret). The Parties did not reach a settlement at the conclusion of the mediation. However, the mediator issued a proposal regarding the material terms of a settlement, which the Parties accepted on September 18, 2024, as memorialized herein.

3. The Parties have conducted a thorough investigation into the facts of the Action. This includes, *inter alia*, conducting extensive formal discovery that involved the exchange of information and documents relating to the PAGA Claim. Defendant produced hundreds of pages of documents consisting of time and payroll records, wage statements, employee handbooks, and other documents. Based on the foregoing data and on their own independent investigation and evaluation, Plaintiff's Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the LWDA and PAGA Employees in light of all known facts and circumstances, including the risk of significant delay, uncertainty associated with litigation, various defenses asserted by Defendant, and potential appellate issues. Defendant and counsel for Defendant also agree that the Settlement is fair.

4. The Parties understand, acknowledge, and agree that this Agreement constitutes a compromise of Plaintiff's PAGA Claim and that it is the desire and intention of the Parties to affect a final and complete resolution of the Action, against Defendant. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by Defendant.

5. Under California Law, the State may assess and collect civil penalties from employers for violations of certain provisions of the California Labor Code. (*See* Cal. Lab. Code § 2698, *et seq.*) Under PAGA, however, if an "aggrieved employee" "give[s] written notice by certified mail to the [State] and the employer of the specific provision of the [Labor Code] alleged to have been violated," and the State thereafter decides not to investigate, as was the case here, or does investigate and determines that a citation against the employer should not issue, the employee may, "as an alternative" to enforcement by the State, act as a proxy or agent of the state's labor law enforcement agencies and bring a civil action under PAGA to recover civil penalties "on behalf of himself or herself and other current or former employees." *Id.*

“[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25 percent to the aggrieved employees.” *Id.*

6. California Labor Code § 2699(1)(2) provides that the trial court shall “review and approve any settlement of any civil action filed pursuant to this part.” Plaintiff will submit this Settlement Agreement to the LWDA concurrently with the filing of a stipulation or motion for approval with the Court.

7. Defendant has entered into a separate PAGA settlement in another matter which encompasses all of the claims set forth in Plaintiff’s PAGA action with the exception of the labor Code §2810.5 claims up to and including 2/29/2024. In accordance with *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664 (2024) those overlapping claims are not included in this settlement.

8. In consideration of the promises and agreements contained herein, the Parties agree and covenant as follows:

C. Terms of Settlement

1. Subject to the Court’s approval of the Settlement pursuant to California Labor Code § 2699(1)(2), which counsel and the Parties agree to recommend in good faith to the Court, the Parties agree to the following binding settlement of the Action. Counsel for Plaintiff shall simultaneously submit a copy of the proposed settlement to LWDA.

2. The Gross Settlement Amount will be distributed in the following manner:

- a. **Settlement Administration Costs:** The costs of \$7,000 associated with settlement administration shall be paid to the Settlement Administrator.
- b. **Attorneys’ Fees and Costs:** Attorneys’ fees of \$41,666.67, plus actual litigation costs not to exceed \$15,000.00, shall be paid to Plaintiff’s Counsel.
- c. **Service Award to Plaintiff.** A Service Award of \$7,500.00 shall be paid to Plaintiff Manuel E. Barrios.
- d. **Net Settlement Amount:** After deducting Settlement Administration Costs, Attorneys’ Fees and Costs, and the Service Award from the Gross Settlement Amount, the remainder forms the Net Settlement Amount. The Net Settlement Amount shall be allocated seventy-five percent (75%) to the California Labor & Workforce Development Agency (“LWDA Settlement Proceeds”). The remaining twenty-five percent (25%) of the Net Settlement Amount shall be paid to the PAGA Employees on a *pro rata* basis (“PAGA Employees Settlement Proceeds Fund”), which shall be determined based on the number of Eligible Pay Periods that he or she worked for Defendant during the Payroll Release Periods plus the equivalent of one Pay Period for the §2810.5 Release Period and shall be calculated as follows:

The PAGA Employees Settlement Proceeds Fund will be divided by the total number of Eligible Pay Periods worked by all PAGA Employees during the Payroll Release Period plus the total number of §2810.5 Release Period violations, and the resulting figure will be referred to as the “Multiplier.” Each PAGA Employee’s *pro rata* share of the PAGA Employees Settlement Proceeds Fund will be determined by multiplying the Eligible Pay Periods that the PAGA Employee worked by the Multiplier plus one if they qualify for a §2810.5 violation. That amount shall be referred to as the PAGA Employee’s “Individual Share.” If any non-exempt employee was hired by Defendant between 10/28/22 and 3/1/2024 but did not perform work for Defendant in California from 3/1/2024 to 12/31/2024 or the Final Approval Date (whichever is sooner), he or she shall only be entitled to payment for one pay period based on a violation of §2810.5.

- e. **Taxes and Reporting:** The PAGA Employees’ Individual Share will be treated as non-wage income and reported by the Settlement Administrator on IRS Form 1099 (if applicable) to the respective PAGA Employee and applicable governmental authorities.

D. Release as to the PAGA Claim

1. Upon the Funding Date, Plaintiff, as the representative for the State of California, and on behalf of PAGA Employees, will forever completely release and discharge the Released Parties from any and all known and unknown claims for the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.*, that were or could have been pleaded based on the factual allegations of the operative complaint on file for the Action, for the PAGA Release Periods. This Settlement shall not impact any PAGA Employee’s ability to assert California Labor Code claims other than PAGA claims (i.e., a claim brought under California Labor Code § 2698, *et. seq.*) or any other individual claims that may belong to them.

2. In accordance with *Arias v. Superior Court* (2009) 46 Cal.4th 969, 985, a judgment in “a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 . . . is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding,” which the Final Order and Judgment shall so reflect. The Final Order and Judgment shall not bind nor release the PAGA Employees of any individual wage claims (or other individual claims). However, in accordance with *Arias*, the Final Order and Judgment shall be binding on the PAGA Employees as to all known and unknown claims under California Labor Code § 2698, *et. seq.*, that were or could have been pleaded based on the factual allegations of the operative complaint on file in the Action for the PAGA Release Periods.

E. General Release by Named Plaintiff Only

1. In addition to the Release of the PAGA Claim, Plaintiff agrees to release all known and unknown claims, including a release under Civil Code Section 1542. To effect a full and complete general release as described above, Plaintiff expressly waives and relinquish all rights and benefits of section 1542 of the Civil Code of the State of California and does so understanding and acknowledging the significance

and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the State of California states 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, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this release is intended to include in its effect, without limitation, all claims that Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Agreement, and Plaintiff expressly acknowledges that this Agreement contemplates the extinguishment of any such claims. Plaintiff warrants that he has read this Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Agreement and specifically about the waiver of section 1542, and Plaintiff warrants that he understands this Agreement and the section 1542 waiver, and Plaintiff freely and knowingly enters into this Agreement. Plaintiff further acknowledges that he later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Agreement, and even so Plaintiff agrees that the release contained in this Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts.

Plaintiff's general release shall become effective as of Funding Date.

The general release set forth in Paragraph E of this Agreement applies only to Plaintiff Manuel E. Barrios. It does not apply to any PAGA Employees. Defendant also agrees to release any claims that it may have against Plaintiff Manuel E. Barrios effective as of Funding Date.

F. Settlement Approval and Implementation Procedures

1. Pursuant to California Labor Code § 2699(l)(2), or otherwise for the purposes of obtaining court approval of the Settlement, Plaintiff will file: (a) stipulation or motion for approval, separate declaration(s) advocating that the Settlement is fair, adequate, and reasonable, and any other documents in support of approval of the Settlement. Defendant shall not oppose the filing of any of these documents. Defendant shall also reasonably cooperate with any efforts to obtain approval of this Settlement.

2. No later than the later of thirty (30) calendar days prior to the Funding Date, or Fifteen (15) days following approval of this Settlement Agreement by the Court, Defendant shall send to the Settlement Administrator a list of all PAGA Employees including, to the extent available in Defendant's records, each PAGA Employee's: (1) full name; (2) last known address; (3) social security number; (4) the number of Eligible Pay Periods he or she worked as a non-exempt employee of Defendant in California during the Payroll Release Periods, and (5) whether such individual qualifies for a §2810.5 addition (the "PAGA Employees List"). This information shall be treated as and remain confidential and shall be used solely to manage the notice and payment process described herein, and it shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendant, the individual in question, or by order of the Court.

3. Defendant shall wire transfer funds to the Settlement Administrator as set forth in the Funding Date definition above.

4. The Settlement Administrator will perform all settlement administration duties, including (i) performing a National Change of Address (“NCOA”) search to update the addresses of the PAGA Employees, (ii) issuing the Notice and payments to the PAGA Employees, (iii) issuing any required IRS forms, and (iv) issuing payment to the LWDA and Plaintiff’s Counsel. The Settlement Administrator shall issue the Notice and payments to the PAGA Employees along with required IRS forms and issue payment to the LWDA for PAGA penalties, Service Award to Plaintiff, and Attorneys’ Fees and Costs to Plaintiff’s Counsel, no later than fourteen (14) calendar days after the Funding Date.

5. PAGA Employees shall have one hundred and twenty (120) calendar days after the mailing to negotiate their settlement checks. If any PAGA Employee’s check is not cashed within that period, the check will be voided and a stop-payment will be issued. Any funds in the Settlement Administrator’s account as a result of a failure to timely negotiate a settlement check shall be paid to State of California Controller’s Unclaimed Property division. Neither Defendant, Defendant’s Counsel, Plaintiff’s Counsel nor Plaintiff will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, unauthorized negotiation of settlement checks or failure to timely cash a settlement check within the 120-day period.

6. Upon the Funding Date, Final Approval, and no objection by LWDA, the Parties will: (i) be bound by the terms and conditions of this Agreement, and the releases set forth therein; and (ii) be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the settlement and the Court’s Final Order and Judgment.

G. No Right to Object or Opt Out. The Parties agree that there is no statutory right for aggrieved employees to be heard in objection to the PAGA Settlement and there is no statutory requirement to provide aggrieved employees the option to opt out of the PAGA Settlement.

H. Waiver of Appeal. Provided that the Court’s approval of this Settlement is consistent with the material terms of this Agreement, Plaintiff, Defendant, and their respective counsel hereby waive any and all rights to appeal the approval of the Settlement, and the Order therefore will become non-appealable at the time it is entered.

I. Miscellaneous Provisions.

1. **Voiding the Agreement:** The Settlement Agreement shall be voidable and unenforceable as to all Parties herein at the option of either Party if: (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment, or (c) the approval of the Settlement and judgment is reversed, modified or declared or rendered void. In that event, then neither the Settlement nor any of the related negotiations or proceedings shall be of any force or effect, and all parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Any fees already incurred by the Settlement Administrator shall be shared by the Parties equally. Notwithstanding the foregoing, the Parties shall attempt in good faith to cure any perceived defects in the Settlement to facilitate approval.

2. **Waiver:** The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

3. **Parties' Authority:** The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

4. **Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of Defendant and Defendant's counsel, take all necessary steps to secure the Court's approval of the settlement, and the Final Order and Judgment.

5. **No Prior Assignments:** The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Settlement Agreement.

6. **No Admission:** Defendant denies any and all liability to Plaintiff and/or the PAGA Employees, as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendant desires to settle and compromise the matters at issue in the Operative Complaint to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken into account the uncertainty and risks inherent in litigation and, without conceding any infirmity in the defenses that it has asserted or could assert against Plaintiff, have determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

7. **Binding Settlement:** Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the Settlement, and/or interpret or enforce this Settlement Agreement.

8. **Enforcement Actions:** Except as otherwise provided in this Settlement Agreement, in the event that one or more of the Parties to this Settlement Agreement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs incurred in connection with any enforcement actions.

9. **Notices:** All notices shall be provided by United States mail and electronic mail. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third calendar day after mailing by United States mail and electronic mail, addressed as follows:

To Plaintiff:

Aubry Wand
The Wand Law Firm, P.C.
100 Oceangate, Suite 1200
Long Beach, California 90802
Telephone: (310) 590-4503
Email: awand@wandlawfirm.com

To Defendant:

Jermone H. Mooney
Rebekah Frushtick
Weston, Garrou & Mooney
12121 Wilshire Boulevard, Suite 525
Los Angeles, California 90025-1176
Telephone: (310) 442-0072
Email: JerryM@mooneylaw.com
RFF@wgdlaw.com

10. **Construction:** The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Settlement Agreement.

11. **Captions and Interpretations:** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

12. **Modification:** This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

13. **Choice of Law:** This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

14. **Integration Clause:** This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written

and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

15. **Binding on Assigns:** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

16. **Counterparts:** This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. The Parties further agree that they may use DocuSign, an electronic signature technology, to expedite the execution of this Agreement, pursuant to California Civil Code § 1633.7.

17. **Jurisdiction of the Court.** Pursuant to California Code of Civil Procedure § 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith. All terms of this Settlement Agreement are subject to approval by the Court.

18. **Binding on Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

19. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

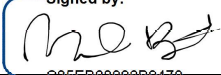
20. **Entire Agreement:** This Agreement sets forth the entire agreement between the Parties hereto and fully supersedes any and all prior and/or supplemental understandings, whether written or oral, between the Parties concerning the subject matter of this Agreement. Any modification to this Agreement must be in writing and signed by the Parties.

IN WITNESS WHEREOF, the Parties knowingly and voluntarily executed this Settlement Agreement and Release as of the date set forth below.

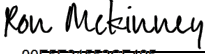
[SIGNATURES ON FOLLOWING PAGES]

Dated: 10/29/2024 _____

PLAINTIFF

Signed by:

C35EB8398B9470...
Manuel E. Barrios

10/30/2024 | 12:19 PDT
Dated: _____

DEFENDANT 2640 W WOODLAND, LLC
Signed by:

00F5E31552CF495...
Ron McKinney
Name: _____
Title: _____

APPROVED AS TO FORM:

Dated: 10/29/2024 _____

THE WAND LAW FIRM, P.C.


Aubry Wand

Attorney for Plaintiff MANUEL E. BARRIOS

10/30/2024 | 10:55 PDT
Dated: _____

WESTON, GARROU & MOONEY

DocuSigned by:

A8CB4C0FDA854A4
Jermone H. Mooney
Rebekah Frushtick

Attorneys for Defendant 2640 W WOODLAND,
LLC

Exhibit 1

THE WAND LAW FIRM, P.C.
Aubry Wand (SBN 281207)
100 Oceangate, Suite 1200
Long Beach, CA 90802
Telephone: (310) 590-4503
Email: awand@wandlawfirm.com

Counsel for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MANUEL E. BARRIOS, an individual, on
behalf of the State of California

Plaintiff,

v.

2640 W WOODLAND, LLC, a California
limited liability company; and DOES 1 through
10, inclusive
Defendants.

Case No.: 30-2024-01377367-CU-OE-CXC

[Hon. Lon F. Hurwitz, Dept. CX103]

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Action Filed: February 2, 2024
Trial Date: None Set

[PROPOSED] FINAL ORDER AND JUDGMENT

The Court has before it Plaintiff's Unopposed Motion for Approval of PAGA Settlement (the "Motion"),¹ and determining that the Settlement provides genuine and meaningful relief that benefits the public, is fair, adequate, reasonable, and otherwise being fully informed and good cause appearing therefor, it is hereby ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. Unless otherwise provided herein, all capitalized terms used herein shall have the same meaning as defined in the Settlement Agreement and Release ("Settlement Agreement"). The Court has jurisdiction over the subject matter of this lawsuit and all matters relating thereto, and over all parties to the action.

2. The Court finds that the Settlement has been reached as a result of serious and non-collusive, arm's-length negotiations. The Court has considered the nature of the claims, the procedural history of this case, the amounts to be paid under the Settlement, the involvement of an experienced private mediator to facilitate the Settlement, the risks of continued litigation that Plaintiff would face, the civil penalties recoverable if Plaintiff was to prevail at trial on his theories of liability under his PAGA claim, the allocation of settlement proceeds among the PAGA Employees, and the fact that a settlement represents a compromise of the Parties' respective positions rather than the result of a finding of liability at trial.

3. The Court hereby finds the Settlement involves the resolution of a bona fide dispute, was entered into in good faith, and is fair, reasonable, and adequate. The Court also finds that the Settlement provides genuine and meaningful relief that benefits the public consistent with the purpose of the Private Attorneys General Act of 2004, California Labor Code § 2699, *et seq.*

4. The Court therefore approves the Settlement as set forth in the Settlement Agreement and directs the Parties to effectuate the Settlement according to the terms set forth in the Settlement Agreement.

5. Neither the Settlement nor any of the terms set forth in the Settlement Agreement are admissions by Defendant, or any of the other Released Parties, of liability on any of the allegations

¹ The Court has also reviewed and considered the records and files of this case, as well as all documents submitted in connection with the Motion.

1 alleged in the Action, nor is this Order a finding of the validity of any claims in the Action, or of any
2 wrongdoing by Defendant, or any of the other Released Parties.

3 6. The Court finds that Plaintiff's Counsel has adequately represented the Plaintiff, the
4 PAGA Employees, and the LWDA throughout the litigation and for purposes of entering into and
5 implementing the Settlement.

6 7. The Court finds that the Settlement, and in particular the Gross Settlement Amount
7 ("GSA") of \$125,000 to be distributed as set forth herein and in the Settlement Agreement, is in all
8 respects fair, reasonable, and adequate and is hereby approved. *See* California Labor Code § 2699(l)(2).

9 8. Pursuant to the terms of the Settlement, Administration Costs in the amount of \$7,000,
10 which are necessary and reasonable to administer the Settlement, are hereby granted and shall be paid to
11 Xpand Legal Consulting, the designated third-party Settlement Administrator.

12 9. Pursuant to the terms of the Settlement, the requested attorneys' fees in the amount of
13 \$41,666.67 are reasonable under both the common fund method and the lodestar method. The GSA
14 represents a true and common fund, as Defendant must pay the full GSA and no amount of the GSA will
15 return to Defendant under any circumstances. It is recognized that attorneys who recover a common fund
16 are entitled to a reasonable fee award from the fund. *See, e.g., Boeing Co. v. Van Gemert* (1980) 444 U.S.
17 472, 478 ("a litigant or a lawyer who recovers a common fund for the benefit of persons other than
18 himself or his client is entitled to a reasonable attorney's fee from the fund as a whole."); *In re*
19 *Washington Public Power Supply Sys. Sec. Litig.* (9th Cir. 1994) 19 F.3d 1291, 1300 ("[T]hose who
20 benefit from the creation of the fund should share the wealth with the lawyers whose skill and effort
21 helped create it."); *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 ("[W]hen a number of persons are entitled
22 in common to a specific fund, and an action brought by a plaintiff or Plaintiff for the benefit of all results
23 in the creation or preservation of that fund, such plaintiff or Plaintiff may be awarded attorney's fees out
24 of the fund. [Citations.]").

25 10. Moreover, one-third or more of the common fund is standard in settlements similar to this
26 one. *See, e.g., Laffitte v. Robert Half International Inc.* (2016) 1 Cal.5th 480, 506 (approving fees of one-
27 third of the common fund); *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558 n.13
28 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used,

1 fee awards in class actions average around one-third of the recovery.”); *Chavez v. Netflix, Inc.* (2008) 162
2 Cal.App.4th 43, 66 n.11 (recognizing that fee awards in class actions average around one-third of the
3 recovery”). Courts also regularly approve fee awards in excess of one-third of the fund. *See, e.g., Scott, et*
4 *al. v. Kuehne+Nagel, Inc.*, Cal. Sup. Ct. San Bernardino Cty. No. CIVDS1707477 (awarding 35% of the
5 common fund); *Cubillas v. Dav-El Los Angeles*, 2018 WL 3760657, at *3-4 (Cal. Sup. Ct.) (awarding
6 40% of the common fund); *Weber v. Einstein Noah Restaurant Group, Inc.*, No. 37-2008-00077680 (San
7 Diego Super. Ct.) (awarding 40% of the common fund); *Crandall v. U-Haul Intl., Inc.*, No. BC178775
8 (L.A. Super. Ct.) (awarding 40% of the common fund); Cabraser, California Class Actions Practice and
9 Procedures, § 15.03 (Lexis Nexis 2003) (finding that payment of 30% to 45% of the fund amount toward
10 attorneys’ fees has been determined to be a reasonable amount).

11 11. The Court also finds that the requested attorneys’ fees are reasonable under the lodestar
12 method, or as a crosscheck on the percentage fee. *See Laffitte*, 1 Cal.5th at 506. Plaintiff counsel’s
13 lodestar well exceeds the requested attorneys’ fees. In fact, the fee award amounts to a significant implied
14 negative multiplier on Plaintiff’s counsel’s lodestar.

15 12. The Court further finds that Plaintiff counsel’s requested litigation costs of \$6,301.69 are
16 reasonable and were necessary to prosecute the action.

17 13. Accordingly, and consistent with California Labor Code § 2699(g)(1), which authorizes an
18 award of attorneys’ fees and costs, the requested attorneys’ fees in the amount of \$41,666.67 and
19 litigation costs in the amount of \$6,301.69, are hereby granted and shall be paid to the Wand Law Firm,
20 P.C.

21 14. Pursuant to the terms of the Settlement, a Service Award in the amount of \$7,500.00 shall
22 be paid to Plaintiff Manuel E. Barrios, in recognition of his efforts in prosecuting this action for the
23 benefit of the State of California and PAGA Employees, and Plaintiff’s broad general release of all of
24 their individual claims against Defendant, is hereby granted and shall be paid to Plaintiff Manuel E.
25 Barrios. Comparable service awards are routinely issued to named Plaintiff in analogous wage-and-hour
26 class action settlements. *See, e.g., Cellphone Termination Cases*, 186 Cal. App. 4th 1380, 1394-1395
27 (2010) (approving enhancement awards of \$10,000 to each of the four named plaintiffs); *Vizzi v.*
28 *Mitsubishi Motors North America, Inc.*, No. 08-cv-00650-JVS (RNBx), 2010 WL 11508375, at * 11

(C.D. Cal. Mar. 29, 2010) (approving \$10,000 service award); *Covillo v. Specialty's Cafe*, 2014 WL 954516, at *8 (N.D. Cal. Mar. 6, 2014) (awarding \$8,000 each to two named Plaintiff, noting that “the incentive awards are particularly appropriate in this wage and hour class action, where Plaintiff undertook a significant ‘reputational risk’ in bringing this action against their former employer.”); *Alikhan v. Goodrich Corp.*, 2020 WL 4919382, at * (C.D. Cal. Jun. 25, 2020) (approving a \$10,000 service award). Court also routinely approve service awards in PAGA settlements like this one. *See, e.g., Abelar v. American Residential Services, L.L.C.*, 2019 WL 6054607, at *6 (C.D. Cal. Nov. 14, 2019) (approving PAGA only settlement and holding “[t]he service award of \$5000 is reasonable compensation for the time and acceptance of adverse employment risk by Plaintiff.”); *Garcia v. Macy's West Stores, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1515007 (Sept. 13, 2017) (awarding the PAGA plaintiff a service award of \$10,000).

15. After deducting Settlement Administration Costs, Attorneys' Fees and Costs, and the Service Award from the GSA, the remainder of \$62,531.64, consistent with California Labor Code § 2699(i), shall be allocated seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to PAGA Employees. Accordingly, \$46,898.73 shall be paid to the LWDA, and \$15,632.91 shall be paid to PAGA Employees. The amount paid to PAGA Employees shall be a *pro rata* basis (“PAGA Employees Settlement Proceeds Fund”), which shall be determined based on the number of Eligible Pay Periods that he or she worked for Defendant during the Payroll Release Periods plus the equivalent of up to one Pay Period for a §2810.5 violation if applicable during the Release Period and shall be calculated as follows: The PAGA Employees Settlement Proceeds Fund will be divided by the total number of Eligible Pay Periods worked by all PAGA Employees during the Payroll Release Period plus the total number of §2810.5 Release Period violations, and the resulting figure will be referred to as the “Multiplier.” Each PAGA Employee's pro rata share of the PAGA Employees Settlement Proceeds Fund will be determined by multiplying the Eligible Pay Periods that the PAGA Employee worked by the Multiplier plus one if they qualify for a §2810.5 violation. That amount shall be referred to as the PAGA Employee's “Individual Share.” If any non-exempt employee was hired by Defendant between 10/28/22 and 3/1/2024 but did not perform work for Defendant in California from 3/1/2024 to 12/31/2024 or the Final Approval

1 Date (whichever is sooner), he or she shall only be entitled to payment for one pay period based on a
2 violation of §2810.5.

3 16. Upon the Funding Date, Plaintiff, as the representative for the State of California, and on
4 behalf of PAGA Employees, will forever completely release and discharge the Released Parties from any
5 and all known and unknown claims for the recovery of civil penalties under the California Private
6 Attorneys General Act, California Labor Code § 2698, *et. seq.*, that were or could have been pleaded
7 based on the factual allegations of the operative complaint on file in this Action, for the PAGA Release
8 Period. This Settlement shall not impact any PAGA Employee's ability to assert California Labor Code
9 claims other than PAGA claims (i.e., a claim brought under California Labor Code § 2698, *et. seq.*) or
10 any other individual claims that may belong to PAGA Employees.

11 17. The terms of the Settlement Agreement, and this Order, are binding on the Plaintiff and
12 PAGA Employees, and those terms shall have res judicata and other preclusive effect in all pending and
13 future claims, lawsuits or other proceedings maintained by or on behalf of PAGA Employees, to the
14 extent those claims, lawsuits or other proceedings constitute Released Claims as set forth in the
15 Settlement Agreement.

16 18. Neither this Order nor the Settlement Agreement (nor any other document referred to
17 herein, nor any action taken to carry out this Order) is, may be construed as, or may be used as, an
18 admission or concession by or against Defendant or the Released Parties of the validity of any claim or
19 actual or potential fault, wrongdoing, or liability. Entering into or carrying out the Settlement Agreement,
20 and any negotiations or proceedings related to it, shall not be considered as, or deemed evidence of, an
21 admission or concession as to Defendant's denials or defenses and shall not be offered or received in
22 evidence in any action or proceeding against any party hereto in any court, administrative agency or other
23 tribunal for any purpose whatsoever, except as evidence of the Settlement or to enforce the provisions of
24 this Order and the Settlement Agreement; provided, however, that this Order and the Settlement
25 Agreement may be filed in any action against or by Defendant or the Released Parties to support a
26 defense of res judicata, collateral estoppel, release, waiver, good-faith settlement, judgment bar or
27 reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or similar
28 defense or counterclaim.

1 19. Judgment in this matter is entered in accordance with the terms of the Settlement
2 Agreement and Approval Order. This judgment is intended to be a final disposition of the above
3 captioned action in its entirety, and it is intended to be immediately appealable.

4 20. Plaintiff has complied with the provisions of Labor Code §2699(1)((2) by submission of a
5 copy of the Settlement Agreement and this Proposed Order to LWDA and this Court has received no
6 objection to the settlement.

7 21. The Court reserves exclusive and continuing jurisdiction over the lawsuit for the purposes
8 of supervising the implementation, enforcement, construction, administration, and interpretation of the
9 Settlement Agreement and this Order.

10
11 **IT IS SO ORDERED.**

12
13 DATED: _____

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15 _____
16 Honorable Lon F. Hurwitz
17 Judge of the Superior Court
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Exhibit 2

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment From PAGA Settlement

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

Enclosed is your payment from the settlement of the case entitled, *Barrios v. 2640 W Woodland, LLC*, Orange Superior Court, Case No. 30-2024-01377367-CU-OE-CXC (the “Lawsuit”). You are receiving this payment as your share of the Settlement. You have 120 days to cash or deposit the settlement check. If you do not negotiate your settlement check by on or before [REDACTED], those funds will be paid to State of California Controller’s Unclaimed Property division.

The Lawsuit was filed against 2640 W Woodland, LLC (“Defendant”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698, *et seq.* (called “PAGA”). The claim was brought on behalf of the State of California and all other employees of Defendant. You have been identified as one of the employees on whose behalf the case was brought.

The Plaintiff in the case claimed that Defendant owed penalties under PAGA for certain California Labor Code violations. Defendant denies that it did anything wrong or that it owes any penalties but nonetheless has agreed to resolve the claims raised in the Lawsuit without further court action. The parties agreed to resolve the case for payment of a sum of \$125,000.

The Court approved the Settlement on [REDACTED]. Under California law, any settlement of a PAGA case results in 75 percent of the awarded PAGA penalty being paid to the State of California and 25 percent of the penalty being paid to the employees who worked during the applicable periods.

In exchange for this payment, the settlement releases any and all known and unknown claims you may have for the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et seq.*, that were or could have been pleaded based on the factual allegations in the operative complaint on file in the Lawsuit. The settlement does not release any individual claims belonging to you.

This Notice summarizes the Action and the basic terms of the Settlement. For more complete information, the pleadings and other records in this litigation may be examined during regular court hours at the Orange Superior Court, Civil Complex Center, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

If you have any questions about this payment, contact the Settlement Administrator at [CONTACT]. Please note that the Settlement Administrator cannot provide tax advice.