

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement”) of claims brought under the Private Attorneys General Act, Labor Code § 2698 *et seq.* (“PAGA”), is made and entered into between Plaintiffs Alex Gonzalez, Norma Reyes, and Ramon Mauricio Perez acting in their capacity as private attorney general, and Defendants Imperial Imports, Inc. and San Bernardino Motors, Inc.

I. DEFINITIONS

The following terms, when used in this Settlement, will have the following meanings:

1. “Actions” collectively refers to the following lawsuits: *Alex Gonzalez v. Imperial Imports, Inc., et al.*, San Bernardino County Superior Court, Case No. CIVSB2320530; *Reyes v. Imperial Imports, Inc.*, San Bernardino County Superior Court, Case No. CIVSB2304458; *Perez v. Imperial Imports, Inc.*, San Bernardino County Superior Court, Case No. CIVSB2302772.

2. “Aggrieved Employees” consist of all current and former non-exempt employees and current and former employees classified as exempt paid on a guaranteed draw or draw basis that worked for Defendants in California any time from November 18, 2021 through October 31, 2023.

3. “Defendants” means Imperial Imports, Inc. and San Bernardino Motors, Inc.

4. “Court” means the Superior Court of California for the County of San Bernardino.

5. “Effective Date” means the date upon which the Court signs an Order approving the Settlement.

6. “Individual Settlement Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

7. “LWDA” means the California Labor and Workforce Development Agency.

8. “Gross Settlement Amount” is the non-reversionary sum of \$325,000.00, which represents the total amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiffs’ attorneys’ fees and costs, payment of Plaintiffs’ enhancement awards, and payment to the Settlement Administrator for administration costs.

9. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (subject to Court approval) are subtracted from the Gross Settlement Amount: (a) Plaintiffs’ attorneys’ fees up to forty percent (40%) of the Gross Settlement Amount, currently estimated at \$130,000; (b) Plaintiffs’ reasonable verified litigation costs up to \$25,000.00; (c) Plaintiffs’ representative enhancement awards of \$15,000 with \$5,000.00 allocated to each named Plaintiff; and (d) reasonable third-party administration costs up to \$15,000.00.

10. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

11. “PAGA Period” means the time period between November 18, 2021 through October 31, 2023.

12. “PAGA Released Claims” means any and all claims asserted in the Actions under PAGA, or that could have been asserted in the Actions under PAGA based on the facts alleged, including but not limited to any and all claims for PAGA penalties for violations of the California Labor Code governing: Labor Code sections 96, 98.6, 201, 201.3, 202, 203, 204, 210, 212, 213, 218.5, 218.6, 221, 223, 224, 226, 226.2, 226.3, 226.7, 227.3, 232, 232.5, 233, 245 et seq., 246, 246.5, 247, 248.2, 248.5, 432, 432.3, 432.5, 432.6, 432.7, 432.8, 510, 512, 558, 1102.5, 1174, 1174(d), 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1197.14, 1198, 1198.5, 1199, 1527, 2699, 2751, 2802, 2804, 2810.5, 3366, 3457, 6409.6, and 8397.4, Cal. Code Regs, title 8, section 11040(5)(A), and all applicable IWC Wage Orders, Business and Professions Code sections 17200, 16600, and 16700, and Government Code section 12952. The PAGA Released Claims exclude any and all individual wage and hour claims, as well as any claims under the Fair Employment and Housing Act, the California Family Rights Act, discrimination, retaliation, harassment, wrongful termination in violation of public policy, intentional infliction of emotional distress, and related claims.

13. “Parties” means Plaintiffs and Defendants.

14. “Plaintiffs” means Alex Gonzalez, Norma Reyes, Ramon Mauricio Perez.

15. “Plaintiff’s Counsel” means Kring & Chung, LLP, JCL Law Firm, APC, Zakay Law Group, APLC, Bibiyan Law Group, P.C.

16. “Settlement Administrator” means ILYM Group, Inc. (“ILYM”).

II. RECITALS

1. Plaintiffs allege that Defendants are liable for civil penalties under the PAGA as a result of their failure to: (i) pay all minimum wages, including minimum wage, overtime, and double time; (ii) pay overtime and double time at the proper rate; (iii) provide meal periods; (iv) authorize and permit all rest periods; (v) reimburse business expenses; (vi) issue accurate, itemized wage statements; (vii) pay wages timely during employment; (viii) pay all wages due upon separation; (ix) pay all vacation wages, including at the proper rate; (x) provide proper notice pursuant to Labor Code § 2810.5; (xi) provide compliant written commission agreements; (x) pay wages not subject to deduction and chargebacks; and (xi) maintain accurate records. Defendant denies these allegations and, in entering into this Settlement, Defendant does not admit the sufficiency of any claims, allegations, assertions, or contentions made against it in the Actions.

2. On September 19, 2023, the Parties participated in a full-day mediation with Marisa Ratnoff, Esq. and ultimately reached a tentative global settlement to fully resolve all PAGA claims asserted in the Actions as to Plaintiffs and the Aggrieved Employees.

3. As a material term of this Settlement, the Parties agree to consolidate the Actions and stipulate to the filing of a Second Amended Complaint (“SAC”) in the Actions by Plaintiff Gonzalez. Upon the filing of the SAC in the Actions and as soon as practicable thereafter, Plaintiff Gonzalez shall move the Court for approval of the Settlement.

III. OPERATIVE TERMS OF SETTLEMENT

The Parties agree as follows:

1. **Non-Admission of Liability.** Nothing in this Settlement will be construed to be an admission by Defendants of any liability or wrongdoing as to Plaintiffs, Aggrieved Employees, or any other person, and Defendants specifically disclaim any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This Settlement and any related court documents or orders are not, and may not be, cited or admitted as evidence of liability.

2. **Gross Settlement Amount.** Defendants will pay \$325,000.00 as the non-reversionary Gross Settlement Amount. The Gross Settlement Amount will be deposited with the Settlement Administrator no later than 30 days after the Effective Date.

3. **Escalator Clause.** Defendants estimate that as of September 19, 2023, the Aggrieved Employees worked 12,831 PAGA pay periods during the PAGA Period. However, if the number of pay periods actually worked during the PAGA Period (as determined by the updated data provided to the Settlement Administrator) is more than 10% greater than this figure (i.e., if there are more than 14,115 PAGA pay periods worked by the Aggrieved Employees), Defendants agrees to increase the Gross Settlement Amount proportionately over the 10% grace amount (i.e., should the PAGA pay periods increase by 11%, the Gross Settlement Amount shall increase by 1%). As an alternative to paying an increased Gross Settlement Amount, Defendants may elect to shorten the PAGA Period so that it ends at the time the number of pay periods exceeded 12,831 pay periods by more than 10%.

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

- a. **Plaintiffs' Attorneys' Fees and Costs.** Defendants will not oppose Plaintiffs' request for attorneys' fees in the amount of up to forty percent (40%) of the Gross Settlement Amount (\$130,000) and actual costs incurred in prosecuting this Action, up to \$25,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiffs' Counsel.
- b. **Plaintiffs' Enhancement Awards.** Defendants will not oppose Plaintiffs' request for enhancement awards totaling \$15,000.00 (\$5,000 to each Plaintiff) for their service to the State of California and the Aggrieved Employees and the risk Plaintiffs undertook by attaching their names to this Actions. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiffs.
- c. **Administration Costs.** Defendants will not oppose the Settlement Administrator's costs in the amount up to \$15,000.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added

to the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** The Net Settlement Amount will be distributed 75% to the LWDA and 25% to the Aggrieved Employees, pursuant to Labor Code § 2699(i). The 25% portion to be paid to Aggrieved Employees will be paid to all Aggrieved Employees based on the proportionate number of pay periods worked by each Aggrieved Employee during the PAGA Period as follows: Individual Settlement Payments will be calculated based on the proportionate number of pay periods worked by each Aggrieved Employee during the PAGA Period, by multiplying the Net Settlement Amount by a fraction, the numerator of which is each Aggrieved Employee's total pay periods worked during the PAGA Period, and the denominator of which is the total aggregate number of pay periods worked by all Aggrieved Employees during the PAGA Period.

6. **PAGA Released Claims.** In consideration for the payments awarded pursuant to the terms of this Settlement, Plaintiffs, in their capacities as private attorney general and "aggrieved employees" acting on behalf of themselves, the State of California, and the Aggrieved Employees, agree that upon entry of an Order approving the Settlement, Plaintiffs and the Aggrieved Employees shall release Defendants from any and all PAGA Released Claims against Defendants that arose during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, Plaintiff and the Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against Defendants.

7. **Covenants and Representations by Plaintiffs.** Plaintiffs represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiffs acknowledge that they have read this Settlement, that they fully understand their rights, privileges and duties under the Settlement, and enter into this Settlement freely and voluntarily. Plaintiffs further acknowledge that they had the opportunity to consult with their attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

8. **Judgment.** As part of the Motion to approve the Settlement, Plaintiffs will submit a proposed order and judgment which enters judgment in the Actions in accordance with the terms of the Settlement and which retains jurisdiction of the Court over the Actions for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering an order as set forth herein. The order will not release or bar any claims other than the PAGA Released Claims as to Plaintiffs and the Aggrieved Employees. The Parties agree to reasonably cooperate in preparing any other filings required by the Court for the approval of this Settlement. Should the Court not grant approval upon first attempt, counsel for Plaintiff Gonzalez will work with Defendants to attempt to resolve any perceived deficiencies identified by the Court prior to further seeking approval of the Settlement.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use ILYM to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) business days after the Effective Date, Defendants will provide the Settlement Administrator with information for the Aggrieved Employees. Defendants will, in good faith, compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and will include each Aggrieved Employee's full name, last known mailing address, last known telephone number, pay period information, and Social Security numbers. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access will be limited to those with a need to use the list as part of the administration of the Settlement.

Within ten (10) business days of receiving the Aggrieved Employees' information from Defendants, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual Settlement Payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator will also determine whether the Escalator Clause in Paragraph III.3 has been triggered. The Settlement Administrator will obtain approval from all counsel for the Parties of the calculations before mailing Individual Settlement Payments.

3. **Explanatory Letter and Individual Settlement Payments.** Within five (5) business days of receiving approval from all counsel for the Parties, pursuant to Paragraph IV.2, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within five (5) business days of receiving approval from all counsel for the Parties, pursuant to Paragraph IV.2, Defendants will fund the Gross Settlement Amount by wire or check to the Settlement Administrator.

Within ten (10) business days of receiving approval from all counsel for the Parties, pursuant to Paragraph IV.2, the Settlement Administrator will mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in English and Spanish, along with the Individual Settlement Payments to all Aggrieved Employees via First-Class U.S. Mail.

Each Individual Settlement Payment will be deemed penalties and reported using IRS Form 1099. Checks will remain negotiable for one hundred eighty (180) days from the date they are mailed by the Settlement Administrator. Any check that is not negotiated within one hundred eighty (180) days of mailing to an Aggrieved Employee will be transferred to State Controller's Office, Unclaimed Property Fund, to be held in trust in the name of the Aggrieved Employee.

4. **Undeliverable Letters.** The Settlement Administrator will exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address will be presumed to be the best mailing address for each Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via First-Class U.S. Mail to the

forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a Skip-Trace or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will perform a single re-mailing.

Defendants fully discharge their obligations to those Aggrieved Employees to whom they will pay an Individual Settlement Payment through the Settlement Administrator's initial mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees.

Plaintiffs and their counsel, as well as Defendants and their counsel shall not bear any responsibility for errors or omissions in the calculation or distribution of the settlement payments or the development of the list of recipients of settlement payments.

5. **Payment of Remainder.** Within ten (10) business days of receiving approval from all counsel for the Parties, pursuant to Paragraph IV.2, the Settlement Administrator will mail the following payments: (1) the 75% share of the Net Settlement Fund to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement awards to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** The Settlement Administrator will provide an accounting declaration under oath to the Parties of the amounts paid from the Settlement as soon as practicable after the check cashing deadline described in Paragraph IV.3.

7. **Tax Consequences.** Individual Settlement Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendants, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

1. **Successors.** This Settlement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

2. **Governing Law.** This Settlement will be construed under and governed by the laws of the State of California, without regard to choice of law principles. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement will be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it will be brought in the State of California, County of San Bernardino.

3. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

4. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

5. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction per California Code of Civil Procedure § 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement; (ii) settlement administration matters; and (iii) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement.

6. **Amendment or Modification.** This Settlement may be amended or modified only by a written instrument, signed by the Parties or their successors-in-interest or counsel for the Parties.

7. **Authorization to Enter into Settlement.** Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If they are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

8. **Execution and Counterparts.** This Settlement is subject only to the execution of the Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

9. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

11. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the

Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

12. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

13. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

14. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

15. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

16. **Cooperation and Execution of Necessary Documents.** The Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement. The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to seek the Court's approval of this Agreement are timely filed.

17. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

IN WITNESS THEREOF, the Parties to this Settlement each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

ALEX GONZALEZ

Dated: 1/23/2024

~~Alex~~ Gonzalez
Alex Gonzalez, Plaintiff

NORMA REYES

Dated: 01/19/2024


Norma Reyes (Jan 19, 2024 14:27 PST)

Norma Reyes, Plaintiff

RAMON MAURICIO PEREZ

Dated: _____

Ramon Mauricio Perez, Plaintiff

IMPERIAL IMPORTS, INC.

Dated: _____

By: 
Title: General Manager

SAN BERNARDINO MOTORS, INC.

Dated: _____

By: 
Title: GENERAL MANAGER

APPROVED AS TO FORM AND CONTENT:

Dated: January 23, 2024

KRING & CHUNG, LLP

By: 
Tyler D. Kring, Esq.
Attorneys for Plaintiff, Alex Gonzalez

Dated: January 22, 2024

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuvade, Esq.
Attorneys for Plaintiff, Norma Reyes

Dated: January 22, 2024

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay, Esq.
Attorneys for Plaintiff, Norma Reyes

Dated: _____

BIBIYAN LAW GROUP, P.C.

By: _____
David Bibiyan, Esq.
Attorneys for Plaintiff, Ramon Mauricio Perez

Dated: January 24, 2024

FISHER & PHILLIPS LLP

By: 
John A. Mavros
Ashton M. Riley
Attorneys for Defendants

NORMA REYES

Dated: _____

Norma Reyes, Plaintiff

RAMON MAURICIO PEREZ

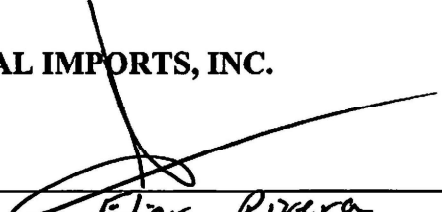
Dated: 01/19/2024


Ramon M. Perez (Jan 19, 2024 19:05 PST)

Ramon Mauricio Perez, Plaintiff

IMPERIAL IMPORTS, INC.

Dated: _____

By: 
Title: General Manager

SAN BERNARDINO MOTORS, INC.

Dated: _____

By: 
Title: GENERAL MANAGER

APPROVED AS TO FORM AND CONTENT:

Dated: _____

KRING & CHUNG, LLP

By: _____
Tyler D. Kring, Esq.
Attorneys for Plaintiff, Alex Gonzalez

Dated: _____

JCL LAW FIRM, APC

By: _____
Jean-Claude Lapuyade, Esq.
Attorneys for Plaintiff, Norma Reyes

Dated: _____

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay, Esq.
Attorneys for Plaintiff, Norma Reyes

Dated: 1/23/24

BIBIYAN LAW GROUP, P.C.

By: Vedang J. Patel
David Bibiyan, Esq. ; Vedang J. Patel
Attorneys for Plaintiff, Ramon Mauricio Perez

Dated: _____

FISHER & PHILLIPS LLP

By: _____
John A. Mavros
Ashton M. Riley
Attorneys for Defendants