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**Attorneys for Defendants, FIRE**  
**SPRINKLER SYSTEMS, INC.**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN DIEGO**

DOMINIC GUTIERREZ, an individual, on  
behalf of himself and all others similarly  
situated,

Plaintiff,

v.

FIRE SPRINKLER SYSTEMS, INC.; and  
DOES 1 to 50, inclusive,

Defendants.

Case No.: 37-2020-00015511-CU-OE-CTL

**JOINT STIPULATION OF SETTLEMENT**  
**AND RELEASE**

1                                    **JOINT STIPULATION OF SETTLEMENT AND RELEASE**

2                    This Joint Stipulation of Settlement and Release (hereinafter “Stipulation of Settlement” or  
3 “Settlement”) is made and entered into by and between Plaintiff Dominic Gutierrez, individually,  
4 and on behalf of other members of the general public similarly situated and on behalf of other  
5 aggrieved employees pursuant to the California Private Attorneys General Act (“Plaintiff”), and  
6 Defendant Fire Sprinkler Systems, Inc. (“Defendant”).

7                    This Settlement shall be binding on Plaintiff and the Settlement Classes he purports to  
8 represent, as defined below, and Defendant, subject to the terms and conditions hereof and the  
9 approval of the Court.

10                   **THE PARTIES STIPULATE AND AGREE AS FOLLOWS:**

11                   1.        Plaintiff and Defendant are collectively referred to herein as “the Parties.”

12                   2.        On March 23, 2020, Plaintiff sent a letter to the Labor Workforce Development  
13 Agency (“LWDA”) alleging that Defendant violated Labor Code §§ 203, 226(a), 226.7, 510, 512,  
14 1194, 1199, and 2802.

15                   3.        On or about March 30, 2020, the Defendant signed a certified mail return receipt  
16 verifying that it received Plaintiff’s letter.

17                   4.        On May 26, 2020, Plaintiff filed a class action lawsuit alleging (1) failure to pay  
18 wages and/or overtime under Labor Code §§ 510, 1194, and 1199; (2) failure to pay minimum  
19 wages; (3) failure to provide meal periods pursuant to Labor Code §§ 226.7 and 512; (4) failure to  
20 provide rest periods pursuant to Labor Code § 226.7; (5) failure to provide accurate itemized wage  
21 statements pursuant to Labor Code § 226(a); (6) failure to reimburse expenses pursuant to Labor  
22 Code § 2802; (7) penalties pursuant to Labor Code § 203; and (8) violations of Business &  
23 Professions Code § 17200.

24                   5.        On June 11, 2020, Plaintiff filed a First Amended Complaint to add a ninth cause of  
25 action for penalties pursuant to Labor Code § 2699, et seq.

26                   6.        On August 18, 2020, Defendant filed an Answer to Plaintiff’s First Amended  
27 Complaint.

28                   7.        After conducting discovery, law and motion, and litigation, the Parties agreed to

1 engage in settlement discussions and schedule a mediation.

2 8. On June 2, 2021, the Plaintiff and Defendant attended a mediation with Joel M.  
3 Grossman, Esq. At the end of the mediation, the Parties were unable to reach a resolution.

4 9. On July 9, 2021, the Plaintiff and Defendant attended a second mediation with Joel  
5 M. Grossman, Esq. At the end of the second mediation, the Parties were unable to reach a  
6 resolution.

7 10. After continued settlement discussion between the Parties with the assistance of the  
8 mediator, the mediator made a mediator's proposal. On July 13, 2021, the Parties accepted the  
9 mediator's proposal and reached a resolution of the matter.

10 11. For purposes of this Stipulation of Settlement, there shall be a class ("Settlement  
11 Class") defined as follows:

12 All persons who are or have been employed as hourly non-exempt employees of  
13 Fire Sprinkler Systems, Inc. within the State of California at any time during the  
period from May 26, 2016 to July 13, 2021. ("Class Members")

14 Further, for purposes of this Stipulation of Settlement, the "Class Period" shall be  
15 defined as the period from May 26, 2016 to July 13, 2021.

16 12. For purposes of this Stipulation of Settlement, there shall be a group of aggrieved  
17 employees pursuant to PAGA ("PAGA Group") defined as follows:

18 All persons who are or have been employed as hourly non-exempt employees of  
19 Fire Sprinkler Systems, Inc. within the State of California at any time during the  
period from March 23, 2019, to July 13, 2021. ("PAGA Group")

20 Further, for purposes of this Stipulation of Settlement, the "PAGA Period" shall  
21 be defined as the period from March 23, 2019 to July 13, 2021.

22 13. The Settlement Class shall not include any person who opts out of the Class Action,  
23 any person who previously settled or released the claims covered by this Settlement, any person who  
24 previously was paid or received awards through civil or administrative actions for the claims covered  
25 by this Settlement, and any persons who gave Defendant a general release for any and all claims  
26 related to their employment with Defendant.

27 14. Defendant has denied and continue to deny each of the claims asserted by Plaintiff in  
28

1 the Action. Defendant has asserted and continues to assert defenses to Plaintiff's claims and has  
2 expressly denied and continues to deny any wrongdoing whatsoever. Neither this Stipulation nor  
3 any action taken to carry out this settlement may be construed as an admission by Defendant of any  
4 fault, wrongdoing, or liability whatsoever.

5 15. Plaintiff has claimed and continues to claim that the allegations asserted in the Action  
6 have merit. Neither this Stipulation nor any action taken to carry out this Settlement may be  
7 construed as an admission by Plaintiff that his claims lack merit.

8 16. It is the desire of the Parties to fully, finally, and forever settle and compromise the  
9 *Gutierrez* Action.

10 17. This Settlement is the result of arm's length bargaining. As stated above, the Parties,  
11 after years of litigation, agreed to engage in settlement discussions with Joel M. Grossman, Esq. for  
12 the second time. Even then, this Settlement was not reached until the Parties participated in  
13 continued settlement discussions and accepted the mediator's proposal. Counsel for the Class has  
14 conducted a thorough and diligent investigation into the facts of these class action cases and Class  
15 Members' claims against Defendant. This Settlement was preceded by Class Counsel's vigorous,  
16 aggressive, and broad discovery. Class Counsel has conducted depositions and an extensive review  
17 of relevant documents, including a sampling of paystubs from anonymous members of the class.  
18 This investigation and discovery was sufficient to allow Class Counsel to act intelligently and make  
19 assessments as to the merits and deficiencies of the Class Members' claims. Class Counsel is  
20 experienced in similar wage and hour litigation and analyzed the strengths and weakness of this case,  
21 including the risk that a class would not be certified as a result of Defendant's intended motion to  
22 deny class certification and the likely continued duration of this litigation, which has already lasted  
23 over two years, with every aspect of this litigation hard-fought and the expected appellate issues  
24 concerning the scope of the class. Based on its own independent investigation and evaluation, Class  
25 Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms  
26 set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest  
27 of the Class in light of all known facts and circumstances, including the risk of significant delay, the  
28 risk the Class will not be certified by the Court, the defenses asserted by Defendant, and numerous

1 potential appellate issues, as discussed above. Defendant and Defendant's Counsel also agree that  
2 the Settlement is fair and in the best interest of the Class.

3 18. This Settlement provides for a non-reversionary settlement requiring Defendants to  
4 pay settlement awards according to the formula specified in Paragraph 19(g)(i) below. The  
5 maximum total payment under the Settlement, including all attorney's fees, attorney's costs, the  
6 enhancement fees to the Plaintiff, and any other payments provided by this Settlement, is TWO  
7 MILLION ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,175,000.00)  
8 ("Maximum Settlement Amount"). It is understood and agreed that Defendant's maximum total  
9 liability under this Settlement, including all administrator and administration fees and charges, shall  
10 not exceed the sum of TWO MILLION ONE HUNDRED SEVENTY-FIVE THOUSAND  
11 DOLLARS (\$2,175,000.00). In addition, Defendant shall also be responsible for paying only the  
12 employers' share of any appropriate and lawful payroll taxes it is required to pay as the employer of  
13 the Plaintiff and Class Members as set forth below.

#### 14 **TERMS OF SETTLEMENT**

15 19. NOW THEREFORE, in consideration of the mutual covenants, promises and  
16 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

17 a. It is agreed by and among Plaintiff and Defendant that this case and any  
18 claims, damages, or causes of action arising out of the disputes which are the subject of this case  
19 (including all matters presented to the LWDA as well as all facts and claims pled in the litigation),  
20 be settled and compromised as between the Class and Defendant, subject to the terms and conditions  
21 set forth in this Stipulation of Settlement and the approval of the San Diego County Superior Court.

22 b. Conditional Certification of the Settlement Class: The Parties stipulate to the  
23 conditional certification of the Settlement Class as defined herein for settlement purposes only. As  
24 set forth in the provisions below, the certification for settlement purposes is void and all terms of this  
25 Settlement are void if this Settlement is not approved by the Court. The Parties further stipulate that,  
26 for settlement purposes only, that Darren M. Cohen of the law firm of Kingsley & Kingsley, APC  
27 may be appointed as Class Counsel, and that Plaintiff Dominic Gutierrez may be appointed Class  
28 Representative. Defendant's stipulation to the Settlement Class shall not be construed as an

1 admission or acknowledgement of wrongdoing of any kind or that any class should be certified or  
2 given collective action treatment.

3 c. Final Effective Date: The Settlement embodied in this Stipulation of  
4 Settlement shall become effective when all of the following events have occurred: (i) this Stipulation  
5 of Settlement has been executed by all Parties and by counsel for the Class and Defendant; (ii) the  
6 Court has given Preliminary Approval to the settlement; (iii) notice has been given to the putative  
7 members of the Class, providing them with an opportunity to opt out of the settlement; (iv) the Court  
8 has held a formal fairness hearing and entered a Final Order and Judgment certifying the Class and  
9 approving this Stipulation of Settlement ("Final Approval"); and (v) in the event there are written  
10 objections filed prior to the formal fairness hearing which are not later withdrawn, the later of the  
11 following events: when the period for filing any appeal, writ or other appellate proceeding opposing  
12 the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed;  
13 or any appeal, writ or other appellate proceeding opposing the Settlement has been voluntarily or  
14 involuntarily dismissed finally and conclusively with no right to pursue further remedies or relief; or  
15 any appeal, writ or other appellate proceeding has upheld the Court's final order with no right to  
16 pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement  
17 shall not become effective until the Court's order approving the Settlement is completely final, and  
18 there is no further recourse by an appellant or objector who seeks to contest the Settlement. If there  
19 are no objections filed, then the Parties agree that the later of the date of the Final Approval Order  
20 and Entry of Judgment thereon shall be the Final Effective Date. For purposes of determining the  
21 Final Effective Date, the Class Members and Defendant agree that only California Courts have  
22 jurisdiction over any such appeals, except for any appellate procedure over which the United States  
23 Supreme Court may exercise jurisdiction.

24 d. Establishment of Gross Fund Value: Defendant shall pay no more than a sum  
25 equal to Two Million One Hundred Seventy-Five Thousand Dollars (\$2,175,000.00) that shall be  
26 referred to herein as a Gross Fund Value ("GFV") to fund the Settlement of this Action. Defendant  
27 shall be responsible for paying, in addition to the GFV, only the employers' share of any appropriate  
28 and lawful payroll taxes it is required to pay as the employer of the Plaintiff and Class Members as

1 set forth below.

2 e. Calculation of Net Settlement Amount: The Net Settlement Amount (“NSA”) will constitute the total sum from which Class Members will be paid after Court-approved attorney’s fees and costs, administration costs, penalties, and enhancements awards described herein are subtracted from the GFV.

|                                        |        |               |
|----------------------------------------|--------|---------------|
| 6 Attorney’s fees                      | Up To  | \$ 761,250.00 |
| 7 Attorney’s costs                     | Up To: | \$ 25,000.00  |
| 8 Incentive Award to Dominic Gutierrez | Up To: | \$ 10,000.00  |
| 9 Settlement Administration            | Up To: | \$ 30,000.00  |
| 10 75% PAGA Penalty of \$100,000.00    | Up To: | \$ 75,000.00  |

11 Therefore, the NSA to be allocated to the Class is up to One Million Two Hundred Seventy-  
12 Three Thousand Seven Hundred Fifty Dollars (\$1,273,750.00).

13 f. Cost of Administration: The budget for settlement administration shall be  
14 Thirty Thousand Dollars (\$30,000.00), which shall be used to pay the cost of notice and  
15 administration of the settlement. Defendant shall provide the Settlement Administrator with the  
16 names, contact information, last known addresses, social security numbers for all Class Members,  
17 and workweeks worked for each Class Member.

18 g. Settlement Awards to Class Members and Discharge of Defendant’s  
19 Obligation to the Class: A Class Member who does not file a request for exclusion is considered a  
20 Settlement Class Member. All Class Members, unless they have filed a request for exclusion, shall  
21 be deemed to be within the Class for all purposes under this Stipulation of Settlement, shall be bound  
22 by the terms and conditions of this Stipulation of Settlement, including all orders issued pursuant  
23 thereto, and shall be deemed to have waived all unstated objections and opposition to the fairness,  
24 reasonableness, and adequacy of this Stipulation of Settlement, and any of its terms.

25 i. Calculation of Settlement Awards: Settlement awards will be  
26 calculated as follows: The NSA will be divided by the total number of weeks worked by all eligible  
27 Class Members during the Class Period. This calculation will result in an amount reflecting the  
28 settlement value to be assigned to each week worked by any eligible Class Member (“Weekly

Settlement Value”). Each Settlement Class Member will receive a Settlement Award calculated by multiplying the number of weeks he or she worked during the Class Period by the Weekly Settlement Value.

ii. Right of Class Member to file a Claim, Object, or Request Exclusion from the Settlement: Class Members have forty-five (45) calendar days from the original date of mailing the Notice and Notice of Settlement Payment within which to file an objection to or a request exclusion from the Settlement. In the case of a request for exclusion, the postmark date will be the exclusive means to determine whether a request for exclusion has been timely submitted. Only Class Members who have not requested exclusion may object to the Settlement. To object, a Class Member must mail a written objection and a notice of intention to appear at the Final Approval hearing to the Settlement Administrator as set forth in the Notice. The written objection must state all objections the Class Member wishes to assert and the complete factual basis therefore. Class Members who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, unless otherwise ordered by the Court. The postmark date of the mailing to the Settlement Administrator will be deemed the exclusive means for determining whether a written objection is timely. The Settlement Administrator shall deliver any Objection it receives to Class Counsel and Defendant’s Counsel within five (5) calendar days of receipt. Class Counsel and Defendant’s Counsel may, at least ten (10) days (or some other number of days as the Court shall specify) before the Final Approval Hearing, file responses to any written objections submitted to the Settlement Administrator. Any Class Member who does not file a written objection will still be afforded the opportunity to be heard at the Final Approval Hearing. Class Members may opt out of the Settlement established by this Agreement only by making an effective Opt-Out Request. An Opt-Out Request must be made in writing and signed by the Class Member seeking exclusion from the Settlement. The Opt-Out Request must additionally state in substance:

“I have read the Class Notice and I wish to opt out of the class action and the settlement of the case: *Gutierrez v. Fire Sprinkler Systems, Inc.*”

The Opt-Out Request must contain the full name, address, telephone number, and last four

1 digits of the Social Security Number of the person requesting exclusion. The Opt-Out Request must  
2 be completed and signed by the Class Member seeking exclusion from the Settlement. No other  
3 person may opt out for a Class Member. Any Class Member who properly opts out of the Class  
4 using this procedure will not be entitled to any payment hereunder and will not be bound by the  
5 Settlement or have any right to object, appeal or comment thereon. However, any Class Member  
6 that submits a valid Request for Exclusion from the Settlement that is also a PAGA Group individual  
7 will still receive their pro rata share of the PAGA Amount and will still be bound to the PAGA  
8 release as set forth in Paragraph 29 of the Agreement.

9                               iii.     Allocation of Settlement Awards: The Parties have agreed that  
10 individual payments payable to eligible Class Members will be allocated as follows: twenty five  
11 percent (25%) will be allocated to alleged unpaid “wages” for which IRS Forms W-2 will issue and  
12 seventy five percent (75%) will be allocated to alleged “interest and penalties” for which IRS Forms  
13 1099 will be issued.

14               Payments made to the PAGA Group as part of the PAGA payment will be allocated to  
15 alleged “interest and penalties” for which IRS Forms 1099 will be issued if required.

16               Each Class Member will be responsible for correctly characterizing this compensation for tax  
17 purposes and for payment of any taxes owing on said amount. In the event of an audit of Defendant  
18 by any state or federal government agency, or if any tax authority should dispute the characterization  
19 of this compensation, Defendant reserves all rights to indemnification permitted by law from any  
20 Class Member.

21                               iv.     Penalties Pursuant to California Labor Code § 2699 (the “Private  
22 Attorney General’s Act”, or “PAGA”): The Parties agree to use One Hundred Thousand Dollars  
23 (\$100,000.00) of the Maximum Settlement Amount to settle and resolve Defendant’s alleged  
24 liability based upon Plaintiff’s First Amended Complaint for penalties pursuant to PAGA. Such a  
25 payment is merely for purposes of settling this disputed claim. It is without any admission, fault, or  
26 liability that Defendant violated any section(s) of the Labor Code. Seventy-five percent (75%) of the  
27 One Hundred Thousand Dollars (\$100,000.00) payment (i.e., \$75,000.00) will be paid by the  
28 Settlement Administrator from the GFV to the Labor and Workforce Development Agency

1 (“LWDA”) pursuant to Labor Code § 2699(i) (“the LWDA Payment”). The remaining twenty-five  
2 percent (25%) will be distributed from the NSA to the PAGA Group. Class Counsel will request  
3 that the Court approve the LWDA Payment. The Court’s adjustment, if any, of the amount allocated  
4 to Plaintiff’s PAGA claim(s) will not invalidate this Settlement. In accordance with Labor Code  
5 § 2699(1)(2), Class Counsel will provide a copy of this Settlement to the LWDA on the same day  
6 that Plaintiff files his motion for preliminary approval of this Settlement with the Court. Individual  
7 payments to the PAGA Group will be calculated and apportioned based on the number of PAGA  
8 Workweeks as follows: The Settlement Administrator will divide the PAGA Employee Amount,  
9 i.e., 25% of the PAGA Allocation, by the total number of PAGA Workweeks of all PAGA Group  
10 individuals to yield the “PAGA Workweek Value,” and multiply each PAGA Group’s individual  
11 PAGA Workweeks by the PAGA Workweek Value to yield his or her individual Payment.

12 v. Settlement Awards Do Not Trigger Additional Benefits: All settlement  
13 awards to Settlement Class Members shall be deemed to be income to such Settlement Class  
14 Members solely in the year in which such awards actually are received by the Settlement Class  
15 Members. It is expressly understood and agreed that the receipt of such settlement awards will not  
16 entitle any Settlement Class Member to additional compensation or benefits under any company  
17 bonus, contest or other compensation or benefit plan or agreement in place during the period covered  
18 by the Settlement, nor will it entitle any Settlement Class Member to any increased retirement,  
19 401(k) benefits or matching benefits, or deferred compensation benefits. It is the intent of this  
20 Settlement that the Settlement Awards provided for in this Agreement are the sole payments to be  
21 made by Defendant to the Settlement Class Members, and that the Settlement Class Members are not  
22 entitled to any new or additional compensation or benefits as a result of having received the  
23 settlement payments (notwithstanding any contrary language or agreement in any benefit or  
24 compensation plan document that might have been in effect during the period covered by this  
25 Settlement).

26 vi. Mailing of Settlement Awards and Related Settlement Payments:  
27 Defendant shall make a one-time deposit of the GFV into a qualified settlement account established  
28 by the Settlement Administrator no later than twenty-one (21) calendar days after notice to

Defendant of the Court's Final Approval Order. The Settlement Administrator shall cause the settlement awards to be mailed in the form of a check to the Settlement Class Members within seven (7) calendar days from the receipt of the funds from the Defendant. In addition, the Settlement Administrator shall pay attorney's fees, attorney's costs, the incentive payment to the Class Representative, the payment to the LWDA, and the payment to the Settlement Administrator within seven (7) calendar days from the receipt of the funds from the Defendant.

h. Attorney's Fees and Attorney's Costs: Defendant agrees not to oppose or impede any application or motion for Class Counsel attorney's fees and costs set forth in Paragraph 24 below. The Parties agree that the Court's approval of an award of fees in an amount less than \$761,250.00, or an award of costs in an amount less than \$25,000.00 shall not permit or be grounds for Plaintiff or Class Counsel to cancel, void, back out, or otherwise revoke their acceptance of this Settlement and the Parties shall proceed with the Settlement notwithstanding.

i. Payment to Class Representative: Subject to Court approval, Defendant further agrees to pay the Plaintiff an enhancement fee of not more than the following amounts for his services as Class Representative:

|                   |             |
|-------------------|-------------|
| DOMINIC GUTIERREZ | \$10,000.00 |
|-------------------|-------------|

Should the Court approve an enhancement fee to the Named Plaintiff in an amount less than listed above, the difference between the amount allocated and the amount awarded shall be added to the NSA available to Class Members.

i. As a condition to and in consideration of receiving an enhancement fee, the Class Representative must execute a General Release, which includes a waiver under Civil Code § 1542, in a form acceptable to Defendant, of all claims against Defendant and Released Parties (defined below). Defendant will not object to Class Counsel's application for Court Approval of the enhancement fee to the Class Representative as defined herein. It is understood that the enhancement fee is in addition to Plaintiff's claim share to which he is entitled along with other Settlement Class Members.

ii. The Settlement Administrator will issue Forms 1099 for the enhancement fee to Plaintiff for his services as Class Representative, and the Class Representative

1 will be responsible for correctly characterizing this compensation for tax purposes and for paying  
2 any taxes on the amounts received. The Class Representative agrees to indemnify Defendant for any  
3 liability it incurs to any tax authority on account of the Class Representative's failure to pay all taxes  
4 due on the enhancement fee.

5 j. Right to Rescission: If more than ten percent (10%) of the Settlement Class  
6 Members timely opt out of the class settlement, Defendant shall have the sole and absolute discretion  
7 to rescind/void the Settlement Agreement within twenty (20) days after receiving from the  
8 Settlement Administrator the final list of opt-outs. Defendant agrees to meet and confer in good  
9 faith with Class Counsel before rescinding or voiding the Settlement Agreement. In the event that  
10 Defendant elects to rescind/void the Settlement Agreement, Defendant shall provide written notice  
11 of such rescission to Class Counsel. Such rescission shall have the same effect as a termination of  
12 the Settlement Agreement for failure to satisfy a condition of settlement, and the Settlement  
13 Agreement shall become null and void and have no further force or effect, and the Settlement Class  
14 certified pursuant to the Settlement Agreement will be decertified for all purposes, except where the  
15 approving Court has approved the PAGA settlement set forth in the Settlement Agreement and  
16 Defendant had issued the payment of the PAGA amount, the release of the PAGA claims shall be  
17 binding. If Defendant chooses to terminate the Settlement Agreement under this provision, they  
18 shall be responsible to pay the Settlement Administrator's fees and costs incurred to that point.

19 Further, at time of mediator's proposal it was estimated that during the statutory period there  
20 were approximately 25,500 workweeks worked for hourly non-exempt employees during the  
21 liability period. As such, in addition to the reservations provided for in Paragraph 19(b), Plaintiff  
22 reserves the right to void this Settlement and all terms of this Settlement in the event that there is any  
23 excess of workweeks above 10% of the 25,500 workweeks worked for hourly non-exempt  
24 employees.

25 k. Returned or Uncashed Checks: Defendant shall fully discharge their  
26 obligations to those Class Members to whom they will pay a Settlement Payment through the  
27 mailing of a Check as set forth in Paragraph 19(g)(vi) above, regardless of whether such checks are  
28 actually received and/or negotiated by Class Members. Any check that is not negotiated within One

1 Hundred Eighty (180) days of mailing to a Class Member, or that is undeliverable, shall be sent to  
2 the California State Controller's Office Unclaimed Property Fund in the name of the individual.

3 1. Termination of Settlement Agreement: If the conditions of the Settlement set  
4 forth in this Settlement Agreement are not satisfied, or if either Party terminates and withdraws from  
5 the Settlement, or if the Court does not enter judgment consistent with this Stipulation, or if appellate  
6 review is sought and on such review the Court's decision is materially modified or reversed, or, if  
7 one or more of the terms of the Settlement is not approved or the Settlement with respect to one or  
8 more such terms is materially modified or reversed, then this Settlement shall be canceled,  
9 terminated, and shall have no force or effect. If Final Approval does not occur, or if this Settlement  
10 is terminated, revoked, or canceled pursuant to its terms, the Parties to this Settlement shall be  
11 deemed to have reverted to their respective status as of the date and time immediately prior to the  
12 execution of this Settlement.

### 13 SETTLEMENT ADMINISTRATION

14 20. The Parties have agreed to the appointment of Simpluris, Inc. to perform the  
15 customary duties of Settlement Administrator; provided, however, the Parties shall have the right to  
16 select or substitute a different Settlement Administrator by mutual agreement. The Settlement  
17 Administrator will send out to the Class Members the Class Notice. Upon receipt of the GFV, the  
18 Settlement Administrator will issue and send out Settlement Payment checks to Settlement Class  
19 Members and will issue Forms W-2 and 1099 in accordance with this Stipulation of Settlement. All  
20 disputes relating to the Settlement Administrator's performance of its duties shall be referred to the  
21 Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this  
22 Stipulation of Settlement until all payments and obligations contemplated by this Stipulation of  
23 Settlement have been fully carried out.

24 21. In the event of any disagreement between an actual or potential Settlement Class  
25 Member and Defendants regarding the right to receive a Settlement Payment or the amount of the  
26 Settlement Payment, the following dispute resolution procedure shall be used: Settlement Class  
27 Members have forty-five (45) calendar days from the original date of mailing the Notice and Notice  
28 of Settlement Payment within which to file a dispute. The actual or potential Class Member shall

1 send a written statement signed under penalty of perjury setting forth all facts supporting the  
2 person's claim, any written statements from witnesses supporting the person's claim, and any other  
3 supporting evidence to the Settlement Administrator. The Settlement Administrator shall provide  
4 this information to Defendant's Counsel and Class Counsel for review. If the Parties cannot  
5 thereafter resolve the disagreement, Defendant shall also provide its records to the Settlement  
6 Administrator. Disputes shall be resolved by the Class Administrator, based on a review of  
7 Defendant's records and the Class Member's records. The decision of the Settlement Administrator  
8 with regard to the amount of the Settlement Payment, if any, that the Person is entitled to receive  
9 shall be final, non-appealable, and binding on the Person and Defendant.

10 22. Defendant will comply with any and all federal, state, and local tax reporting  
11 obligations in connection with the payments made to the Class Representative, Settlement Class  
12 Members, and Class Counsel pursuant to this Stipulation of Settlement, but Defendant is not and will  
13 not be obligated to compute, estimate, or pay any taxes on behalf of the Class Representative, any  
14 Class Member, or Class Counsel. The Settlement Administrator is and will be responsible for  
15 computing, estimating, withholding, and paying all appropriate amounts of federal, state, and local  
16 taxes, including income taxes, due with respect to any amounts received by them pursuant to this  
17 Stipulation of Settlement. The Settlement Administrator shall indemnify and hold Defendant  
18 harmless for any obligation, liability, or claim that may accrue to the Internal Revenue Service,  
19 Franchise Tax Board or other state or federal government agency on account of any miscomputation  
20 of taxes as to any payment to Class Members, Class Representative, or Class Counsel.

21 23. Defendant makes no representation as to the tax treatment or legal effect of the  
22 payments called for hereunder, and Plaintiff, Class Members, and Class Counsel are not relying on  
23 any statement, representation, or calculation by Defendant or by the Settlement Administrator in this  
24 regard. Plaintiff, Class Members, and Class Counsel understand and agree that they will be solely  
25 responsible for payment of any taxes and penalties assessed on the payments described therein.

26 **ATTORNEY'S FEES AND COSTS**

27 24. In consideration for settling this matter and in exchange for the release of all claims  
28 by the Class, and subject to final approval and/or modification by the Court, Defendant agrees to pay

1 Class Counsel attorney's fees up to the total sum of Seven Hundred Sixty-One Thousand Two  
2 Hundred Fifty Dollars (\$761,250.00) and attorney's costs up to the total sum of Twenty-Five  
3 Thousand Dollars (\$25,000.00). These amounts are part of the GFV and do not constitute a separate  
4 amount or obligation. Defendant will not object to Class Counsel's application for attorney's fees  
5 and costs up to these amounts. The amounts set forth above will cover all work performed and all  
6 fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in  
7 connection with the approval by the Court of this Stipulation of Settlement and the administration of  
8 the Settlement.

9 25. Should the Court approve an attorney's fee and/or cost award in an amount less than  
10 listed above, the difference between the amount allocated and the amount awarded shall be added to  
11 the NSA available to Class Members.

12 **NOTICE TO THE PLAINTIFF CLASS**

13 26. A Notice of Class Action and Hearing Date for Court Approval ("Class Notice") in  
14 substantially the form attached hereto as Exhibit "1," and as approved by the Court, shall be sent by  
15 the Settlement Administrator to the Class Members, by first class U.S. mail. Any returned envelopes  
16 from this mailing with forwarding addresses will be utilized by the Settlement Administrator to  
17 forward the Notice and Notice of Settlement Payment to the Class Members. If no forwarding  
18 address is provided, then the Settlement Administrator shall promptly attempt to determine a correct  
19 address using a skip-trace, computer, or other search using the name, address, and/or social security  
20 number of the Class Member involved, and then shall perform a re-mailing.

21 a. No later than twenty-one (21) calendar days after preliminary approval of this  
22 Settlement by the Court, Defendant shall provide to the Settlement Administrator a database, which  
23 will list for each Class Member the Class Member's name, last known address, social security  
24 number, the dates of employment during the Class Period, and the number of workweeks worked  
25 ("Class Data"). This database shall be based on Defendant's payroll and other business records and  
26 be in a format acceptable to the Settlement Administrator. Defendant agrees to consult with the  
27 Settlement Administrator prior to the production date to ensure that the format will be acceptable to  
28 the Settlement Administrator. Class Data shall be used by the Settlement Administrator solely for

1 the purpose of calculating workweeks and settlement shares, notifying the Class Members of the  
2 Settlement, and tax reporting. Prior to the mailing of the Class Notice, the Settlement Administrator  
3 shall run the Class Data list through the National Change of Address database and will use the most  
4 recent address for each Class Member, either from Defendant's records or the National Change of  
5 Address database, when mailing the Class Notice. Within seven (7) days of receipt of the database  
6 from Defendant, the Settlement Administrator will mail the Class Notice to the Class Members.

7 b. Class Notices returned to the Settlement Administrator as non-delivered shall  
8 be resent to the forwarding address, if any, on the returned envelope. A returned Class Notice will  
9 be forwarded only once per Class Member by the Settlement Administrator. With respect to Class  
10 Notice returned to the Settlement Administrator as undeliverable without a forwarding address, the  
11 Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a  
12 skip trace search and, if another address is identified, shall mail the Class Notice to the newly  
13 identified address. Those Class Members who receive a re-mailed Notice Packet, whether by skip-  
14 trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b)  
15 the Response Deadline to fax or postmark a Request for Exclusion, or file and serve an objection to  
16 the Settlement. Upon completion of these steps by the Settlement Administrator, Defendant shall be  
17 deemed to have satisfied its obligation to provide the Class Notice to the affected member of the  
18 Class. The affected Class Member shall remain a member of the Class and shall be bound by all the  
19 terms of the Stipulation of Settlement and the Court's Order and Final Judgment.

20 c. Class Counsel shall provide to the Court, at least five (5) days prior to the  
21 final fairness hearing, a declaration by the Settlement Administrator of due diligence and proof of  
22 mailing with regard to the mailing of the Class Notice.

23 d. Pursuant to California Rule of Court 3.771(b), the Settlement Administrator  
24 shall provide Notice of the Final Judgment by posting on the Settlement Administrator's website.  
25 No individualized notice of the Final Judgment will be required.

26 **RELEASE BY THE CLASS**

27 27. Upon the date on which Defendant fully funds the Settlement, and except as to such  
28 rights or claims as may be created by this Stipulation of Settlement, each Class Member who has not

submitted a valid Request for Exclusion (“Releasing Party”), fully releases and discharges Defendant, their present and former parent companies, affiliated companies, and subsidiaries, respective present or former owners, shareholders, officers, directors, managers, partners, members, employees, agents, attorneys, insurers, successors, assigns, and any individual or entity which could be jointly liable with Defendant (hereinafter, collectively referred to as the “Released Parties”) of and from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney’s fees, damages, actions or causes of actions stated in the Complaint and/or First Amended Complaint, including those which arise from or relate to the purported failure of Defendant to provide Class Members wages and/or overtime, minimum wages, meal periods, rest periods, accurate itemized wage statements, reimbursement of expenses, and wages upon termination or resignation, including but not limited to those under Labor Code §§ 203, 226(a), 226.7, 510, 512, 1185, 1194, 1194.2, 1197, 1199, 2802, violation of California Business and Professions Code § 17200, *et seq.*, and the Wage Orders, from May 26, 2016 through July 13, 2021 (collectively, “Released Claims”). This release excludes the release of claims not permitted by law.

28. The Settlement Stipulation shall be in full settlement, compromise, release and discharge of the Released Claims, as defined herein, and each of them, and the Released Parties shall have no further or other liability or obligation to any Class Member or any other Releasing Party with respect to the Released Claims, except as expressly provided herein.

**RELEASE BY THE LWDA AND THE PAGA GROUP**

29. Upon the date on which Defendant fully funds the Settlement, the LWDA and the PAGA Group will release the Released Parties from any and all claims and causes of action stated in (i) the LWDA letter, and/or (ii) the Complaint and/or First Amended Complaint, including those for civil penalties under the Private Attorneys General Act of 2004 Cal. Labor Code § 2698 *et seq.* which arise from or relate to the purported failure of Defendants to provide PAGA Group members wages and/or overtime, minimum wages, meal periods, rest periods, accurate itemized wage statements, reimbursement of expenses, and wages upon termination or resignation, including but not limited to those under Labor Code §§ 203, 226(a), 226.7, 510, 512, 1185, 1194, 1194.2, 1197, 1199, and 2802 from March 23, 2019 to July 13, 2021 (collectively, “Released PAGA Claims”).

**RELEASED CLAIMS BY THE CLASS REPRESENTATIVE**

30. Plaintiff hereby fully release and forever discharge the Released Parties from any and all claims, causes of action, damages, wages, benefits, expenses, penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any other form of relief or remedy in law, equity, or whatever kind or nature, whether known or unknown, suspected or unsuspected, that they presently have against Defendant, including but not limited to (1) the Action and any claims arising out of or related to the Action or that could have been alleged in the Action, (2) any claims for wrongful termination, discrimination, harassment, and/or retaliation, (3) any act, omission, or occurrence in the Action and any claims arising out of or related to the Action taking place on or before the Effective Date of the Settlement, and (4) and any other form of relief or remedy of any kind, nature, or description whatsoever, whether premised on statute, contract, tort or other theory of liability under state, federal or local law encompassed in the Action and any claims arising out of or related to the Action.

31. Plaintiff hereby agrees that, notwithstanding § 1542 of the California Civil Code, all claims that Plaintiff may have, known or unknown, suspected or unsuspected, in the Action and any claims arising out of or related to the Action are hereby released. § 1542 provides:

**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.**

32. Plaintiff expressly waives the provisions of § 1542 with full knowledge and with the specific intent to release all known or unknown, suspected or unsuspected claims arising on or before the Effective Date of the Settlement, and therefore specifically waives the provisions of any statute, rule, decision or other source of law of the United States or of any state of the United States or any subdivision of a state which prevents release of unknown claims.

33. In consideration of the enhancement payment to Plaintiff, Plaintiff agrees that he will not disparage Released Parties in any manner. Nothing herein shall preclude Plaintiff from providing truthful information or testimony to any government or law enforcement agency, or if compelled by operation of law or legal process.

**DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

34. Class Counsel shall promptly submit this Stipulation of Settlement to the San Diego County Superior Court in support of Plaintiff's Motion for Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Stipulation of Settlement, Class Counsel shall apply to the Court for the entry of an order substantially in the following form:

- a. Scheduling a fairness hearing on the question of whether the proposed settlement, including payment of attorney's fees and costs, and the Class Representative's enhancement fee, should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class;
- b. Certifying a Settlement Class;
- c. Approving as to form and content the proposed Class Notice;
- d. Approving as to form and content the proposed Notice of Settlement Payment;
- e. Directing the mailing of the Class Notice, by first class U.S. mail to the Class Members; and
- f. Preliminarily approving the settlement subject only to the objections of Class Members and final review by the Court.

**DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

35. Following final approval by the Court of the settlement provided for in this Stipulation of Settlement, Counsel for the Class will submit a proposed final order and judgment, which contains, among other things, provisions:

- a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- b. Approving Class Counsel's application for an award of attorney's fees and costs; and
- c. Approving the enhancement fee to the Class Representative.

**PARTIES' AUTHORITY**

36. The signatories hereto hereby represent that they are fully authorized to enter into this

1 Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

2 **MUTUAL FULL COOPERATION**

3 37. The Parties agree to fully cooperate with each other to accomplish the terms of this  
4 Stipulation of Settlement, including but not limited to, execution of such documents and taking such  
5 other action as reasonably may be necessary to implement the terms of this Stipulation of Settlement.  
6 The Parties to this Stipulation of Settlement shall use their best efforts, including all efforts  
7 contemplated by this Stipulation of Settlement and any other efforts that may become necessary by  
8 order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth  
9 herein. As soon as practicable after execution of this Stipulation of Settlement, Class Counsel shall,  
10 with the assistance and cooperation of Defendant and their Counsel, take all necessary steps to  
11 secure the Court's Final Approval of this Stipulation of Settlement.

12 38. Defendant and their Counsel agree that they will not attempt to encourage or  
13 discourage Class Members from participating in the settlement. Plaintiff and their Counsel agree  
14 they will not attempt to encourage or discourage Class Members from participating in the settlement.

15 **NO PRIOR ASSIGNMENTS**

16 39. The Parties and their Counsel represent, covenant, and warrant that they have not  
17 directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or  
18 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action  
19 or rights herein released and discharged except as set forth herein.

20 **NO ADMISSION**

21 40. Nothing in this Stipulation of Settlement shall be construed to be or deemed an  
22 admission by Defendant of any liability, culpability, negligence, or wrongdoing toward the Class  
23 Representative, the Class Members, or any other person, and Defendant specifically disclaims any  
24 liability, culpability, negligence, or wrongdoing toward the Class Representative, the Class  
25 Members, or any other person, and further denies that class certification or representative action  
26 treatment is appropriate. Each of the Parties has entered into this Stipulation of Settlement with the  
27 intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and  
28 contingencies. This Stipulation of Settlement and any related court documents or orders, may not be

1 cited or otherwise admitted as evidence of liability or that class certification or representative action  
 2 treatment is appropriate. There has been no final determination by any Court as to the merits of the  
 3 claims asserted by Plaintiff against Defendant or as to whether a class should be certified, other than  
 4 for settlement purposes only.

### 5 **ENFORCEMENT ACTIONS**

6 41. In the event that one or more of the Parties to this Stipulation of Settlement institutes  
 7 any legal action or other proceeding against any other Party or Parties to enforce the provisions of  
 8 this Stipulation of Settlement or to declare rights and/or obligations under this Stipulation of  
 9 Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or  
 10 Parties reasonable attorney's fees and costs, including expert witness fees incurred in connection  
 11 with any enforcement actions.

### 12 **NOTICES**

13 42. Unless otherwise specifically provided herein, all notices, demands or other  
 14 communications given hereunder shall be in writing and shall be deemed to have been duly given as  
 15 of the fifth calendar day after mailing by United States mail, addressed as follows:

16 **TO PLAINTIFFS AND THE**  
 17 **SETTLEMENT CLASS:**  
 18 Darren M. Cohen, Esq.  
 19 Kingsley & Kingsley, APC  
 16133 Ventura Blvd., Suite 1200  
 Encino, CA 91436  
 Telephone: (818) 990-8300  
 Fax: (818) 990-2903

**TO DEFENDANTS:**  
 Matthew J. Knez, Esq.  
 Knez Law Group, LLP  
 6780 Indiana Ave., Suite 150  
 Riverside, CA 92506  
 Telephone: 951-742-7681  
 Facsimile: 951-742-7685

### 21 **CONSTRUCTION**

22 43. The Parties hereto agree that the terms and conditions of this Stipulation of  
 23 Settlement are the result of lengthy, intensive arm's-length negotiations between the Parties, and this  
 24 Stipulation of Settlement shall not be construed in favor of or against any Party by reason of the  
 25 extent to which any party or his, her or its counsel participated in the drafting of this Stipulation of  
 26 Settlement.

27 ///

1                                   **CAPTIONS AND INTERPRETATIONS**

2           44.     Paragraph titles or captions contained herein are inserted as a matter of convenience  
3 and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation of  
4 Settlement or any provision hereof. Each term of this Stipulation of Settlement is contractual and  
5 not merely a recital.

6                                   **MODIFICATION**

7           45.     This Stipulation of Settlement may not be changed, altered, or modified, except in  
8 writing and signed by the Parties hereto, and approved by the Court. This Stipulation of Settlement  
9 may not be discharged except by performance in accordance with its terms or by a writing signed by  
10 the Parties hereto. Without further order of the Court, the Settling Parties hereto may agree in  
11 writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

12                                  **INTEGRATION CLAUSE**

13           46.     This Stipulation of Settlement contains the entire agreement between the Parties  
14 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous  
15 agreements, understandings, representations, and statements, whether oral or written and whether by  
16 a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except  
17 in writing.

18                                  **BINDING ON ASSIGNS**

19           47.     This Stipulation of Settlement shall be binding upon and inure to the benefit of the  
20 Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

21                                  **CLASS COUNSEL SIGNATORIES**

22           48.     It is agreed that because the members of the Class are so numerous, it is impossible or  
23 impractical to have each member of the Class execute this Stipulation of Settlement. The Class  
24 Notice, Exhibit "1" hereto, will advise all Class Members of the binding nature of the release, and  
25 the release shall have the same force and effect as if this Stipulation of Settlement were executed by  
26 each member of the Class.

27                                  **COUNTERPARTS**

28           49.     This Stipulation of Settlement may be executed in counterparts, and when each party

1 has signed and delivered at least one such counterpart, each counterpart shall be deemed an original,  
2 and, when taken together with other signed counterparts, shall constitute one Stipulation of  
3 Settlement, which shall be binding upon and effective as to all Parties.

4 **DEADLINES FALLING ON WEEKENDS OR HOLIDAYS**

5 50. To the extent that any deadline set forth in this Settlement Agreement falls on a  
6 Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

7 **CONFIDENTIALITY**

8 51. The Parties and their Counsel agree that they will not issue any press releases, initiate  
9 any contact with the press, respond to any press inquiry or have any communication with the press  
10 about the fact, amount or terms of the settlement other than as needed to effectuate Preliminary and  
11 Final Approval of this Settlement. In addition, the Parties and their Counsel agree that they will not  
12 engage in any advertising or distribute any marketing materials relating to the settlement of this case,  
13 including but not limited to any postings on any websites maintained by Class Counsel.

14 **CALIFORNIA LAW APPLIES**

15 52. The rights and obligations of the Parties hereunder shall be construed and enforced in  
16 accordance with, and shall be governed by, the laws of the State of California, without regard to  
17 principles of conflict of laws.

18 **CURING PROVISION HELD INVALID**

19 53. If any provision of this Settlement or the application thereof is held invalid, the  
20 Parties shall, consistent with the Mutual Full Cooperation paragraph, meet and confer in an attempt  
21 to modify the Settlement so that such invalidation shall not affect other provisions or applications of  
22 this Settlement.

23 **COURT JURISDICTION**

24 54. This Agreement shall be enforceable by the Court and the Court shall retain  
25 jurisdiction over the Parties and the Class Members to enforce the terms, conditions and obligations  
26 of this Agreement.

27 **EFFECT OF NON-APPROVAL**

28 55. In the event that this Settlement does not gain approval of the Court, for any reason,

all matters covered by this Settlement shall be null and void. In such event, nothing in this Stipulation or any draft thereof, or of any of the other related documents or draft thereof, or of the discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions leading to the execution of this Stipulation shall have any effect, nor shall any such matter be admissible in evidence for any purpose in the Action or in any other proceeding or forum, nor shall any such matter be used or construed by or against any Party as a determination, admission, or concession of any issue of law or fact in this, or any other litigation or proceeding, and the Parties do not waive, and instead expressly reserve, their respective rights with respect to the prosecution and defense of the Action as if this Stipulation never existed.

**NO LIENS**

56. All Parties warrant that they are not aware of any attorney's liens or other liens of any kind placed on this matter.

**NAMED PLAINTIFF:**

Date: July 13, 2022

DocuSigned by:



DOMINIC GUTIERREZ

**CLASS COUNSEL:**

Date: July 14, 2022

KINGSLEY & KINGSLEY, APC

By:



DARREN M. COHEN

Attorney for Plaintiff

**DEFENDANT:**

Date: 3/8/2022

FIRE SPRINKLER SYSTEMS, INC.

DocuSigned by:



By:

A868414A1FED478...

Its: President

**DEFENDANT'S COUNSEL:**

Date: 03/09/2022

KNEZ LAW GROUP, LLP

By: Matthew Knez  
MATTHEW J. KNEZ  
Attorney for Defendant

# EXHIBIT 1

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT  
AND HEARING DATE FOR COURT APPROVAL**  
*Gutierrez v. Fire Sprinkler Systems, Inc.*  
San Diego Sup. Ct. Case No. 37-2020-00015511-CU-OE-CTL

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ  
THIS CLASS NOTICE CAREFULLY.**

| <b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Do Nothing and Receive a Payment</b>                             | <p>If you are a member of the Settlement Class, you will automatically receive a payment if you do not exclude yourself.</p> <p><b>Your estimated Individual Settlement Share is: \$&lt;&lt; _ &gt;&gt;.</b></p> <p><b>Your estimated share of the PAGA Amount is: \$&lt;&lt; _ &gt;&gt;.</b></p> <p>After final approval by the Court, the payment will be mailed to you at the same address as this Class Notice. If your address has changed, please notify the Settlement Administrator as explained below.</p> |
| <b>Exclude Yourself</b>                                             | <p>To exclude yourself, you must send a letter to the Settlement Administrator as provided below on or before &lt;&lt; _ &gt;&gt;. If you request exclusion, you will receive <b>no money from the Settlement, but you <u>will</u></b> still receive your pro-rata share of the PAGA Amount. Instructions are set forth below.</p>                                                                                                                                                                                  |
| <b>Object</b>                                                       | <p>Write to the Court about why you do not like the settlement. Directions are provided below. Written objections must be submitted by &lt;&lt; _ &gt;&gt;.</p>                                                                                                                                                                                                                                                                                                                                                     |

**1. Why did I get this Class Notice?**

A proposed class action settlement (the “Settlement”) of the above-captioned lawsuit filed in the Superior Court of the State of California, in and for the County of San Diego (the “Court”), has been reached by the parties and has been granted preliminary approval by the Court supervising the Action.

**You have received this Class Notice because you have been identified as a member of the Settlement Class and/or Aggrieved Employee which are defined as:**

**Settlement Class.**

All persons who are or have been employed as hourly non-exempt employees of Fire Sprinkler Systems, Inc. within the State of California at any time during the period from May 26, 2016 to July 13, 2021 (the “Settlement Class Period”).

**Aggrieved Employees.**

All persons who are or have been employed as hourly non-exempt employees of Fire Sprinkler Systems, Inc. within the State of California at any time during the period from March 23, 2019, to July 13, 2021 (the “PAGA Period”).

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

## 2. What is this class action lawsuit about?

On March 23, 2020, Plaintiff Dominic Gutierrez (“Plaintiff”) sent a letter to the Labor Workforce Development Agency (“LWDA”) alleging that Defendant Fire Sprinkler Systems, Inc. (“Defendant”) violated Labor Code §§ 203, 226(a), 226.7, 510, 512, 1194, 1199, and 2802.

On May 26, 2020, Plaintiff filed a class action lawsuit alleging (1) failure to pay wages and/or overtime under Labor Code §§ 510, 1194, and 1199; (2) failure to pay minimum wages; (3) failure to provide meal periods pursuant to Labor Code §§ 226.7 and 512; (4) failure to provide rest periods pursuant to Labor Code § 226.7; (5) failure to provide accurate itemized wage statements pursuant to Labor Code § 226(a); (6) failure to reimburse expenses pursuant to Labor Code § 2802; (7) penalties pursuant to Labor Code § 203; and (8) violations of Business & Professions Code § 17200.

On June 11, 2020, Plaintiff filed a First Amended Complaint to add a ninth cause of action for penalties pursuant to Labor Code § 2699, *et seq.*, also known as the California Labor Code Private Attorney General Act (“PAGA”).

On August 18, 2020, Defendant filed an Answer to Plaintiff’s First Amended Complaint.

After conducting discovery, law and motion, and litigation, the Parties agreed to engage in settlement discussions and schedule a mediation.

On June 2, 2021, the Plaintiff and Defendant attended a mediation with Joel M. Grossman, Esq. At the end of the mediation, the Parties were unable to reach a resolution.

On July 9, 2021, the Plaintiff and Defendant attended a second mediation with Joel M. Grossman, Esq. At the end of the second mediation, the Parties were unable to reach a resolution.

After continued settlement discussion between the Plaintiff and Defendant (collectively, the “Parties”) with the assistance of the mediator, the mediator made a mediator’s proposal. On July 13, 2021, the Parties accepted the mediator’s proposal and reached a resolution of the matter.

Generally, in the Action, Plaintiff seeks to represent the Settlement Class and Aggrieved Employees for claims that Defendant failed to pay the Class Members for all wages due, including, overtime wages, minimum wages, failed to provide compliant meal and rest periods or premium wages in lieu thereof, failed to provide complete and accurate wage statements, failed to reimburse necessary business expenses, and failed to timely pay wages owed during employment and/or at the time of separation of employment. The Action seeks to recover wages, statutory penalties, damages, restitution and interest on the foregoing claims. It also seeks civil penalties for violations of the PAGA with respect to the alleged violations of the California Labor Code.

Defendant denies all liability and further deny that the Action is appropriate for class or representative treatment for any purpose other than this settlement. Nothing in this Class Notice, or the Settlement itself, or any actions to carry out the terms of the Settlement mean that the Defendant admits any fault, guilt, negligence, wrongdoing or liability whatsoever. Neither the state court nor the federal court has made any findings regarding the above claims in the Action.

The Court granted preliminary approval of the Settlement on << [REDACTED] >>. At that time, the Court also preliminarily approved Plaintiff to serve as the Class Representative and Darren M. Cohen, Esq. of Kingsley & Kingsley, APC to serve as Class Counsel.

## 3. What are the terms of the Settlement?

**Settlement Payment.** Defendant has agreed to pay Two Million One Hundred Seventy-Five Thousand Dollars (\$2,175,000.00) (“Gross Settlement Fund”) to fully resolve the Action. The Gross Settlement Fund includes all payments to Settlement Class Members and government taxing authorities, plus (a) the costs of administration of the settlement, (b) all claimed and/or awarded attorney’s fees and costs, (c) all claimed and/or awarded enhancement awards to the Class Representative, and (d) the payment to the LWDA pursuant to the PAGA. No amount of the Total Settlement Amount will revert to Defendant for any reason.

Defendant will fund the Gross Settlement Fund by depositing the money in a Qualified Settlement Fund maintained by the Settlement Administrator within twenty-one (21) calendar days of the Effective Date ("Funding Date"). Within seven (7) calendar days after Defendant funds the Gross Settlement Fund, the Settlement Administrator will mail checks for the Individual Settlement Payments to each Settlement Class Member that has not submitted a timely request for exclusion.

Settlement Administration and Other Payments. The Court has tentatively approved certain payments to be made from the Total Settlement Amount as follows, which will be subject to final Court approval:

- Settlement Administration. Payment to the Settlement Administrator, estimated to be \$30,000.00, for the expense of notifying the Class Members of the Settlement, processing requests to be excluded from the settlement submitted by Class Members, and distributing settlement payments.
- Attorneys' Fees, Expenses, and Costs. Payment to Court-approved Class Counsel of reasonable attorney's fees not to exceed \$761,250.00 (35% of the Gross Settlement Fund) as Class Counsel's Attorney's Fees and an amount not to exceed \$25,000.00 for all costs and expenses incurred litigating the Actions as documented in Class Counsel's billing records as the Attorney's Fees and Costs Award. Class Counsel has been prosecuting the Action on behalf of Plaintiff and Settlement Class and the Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.
- Class Representative Service Payment. A service award not to exceed a total of \$10,000.00, representing an award to Plaintiff for his services on behalf of the Settlement Class Members and Aggrieved Employees in initiating and prosecuting the Action and for granting Defendant a broad release of all claims including claims not alleged in the Action. This payment is in addition to whatever payment the Plaintiff is otherwise entitled to as a Settlement Class Member.
- PAGA Settlement. One Hundred Thousand Dollars (\$100,000.00) shall be allocated from the Gross Settlement Fund for settlement of claims for civil penalties under the PAGA ("PAGA Amount"). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Amount (\$75,000.00) to the California Labor and Workforce Development Agency no later than seven (7) calendar days after the Funding Date (hereinafter "LWDA Payment"). Twenty-five (25%) of the PAGA Amount (\$25,000.00) will be distributed to the Aggrieved Employees (hereinafter "Employee Payment").

Calculation of Individual Settlement Shares. After the above payments are subtracted from the Total Settlement Amount, the remaining amount (the "Net Settlement Fund" or "NSF") will be used to pay Individual Settlement Shares to each Settlement Class Member that does not submit a timely request for exclusion. The Net Settlement Amount is estimated to be <<\$ >>.

The Settlement Administrator shall calculate from Defendant's records the number of Workweeks worked by a Class Member for Defendant during the Settlement Class Period, with a Workweek defined as any week in which a Settlement Class Member worked any hours for Defendant in the Settlement Class Period. Each Class Member's share of the NSF ("Individual Settlement Share(s)") will be calculated initially for purposes of mailing the Notice by multiplying the NSF by a fraction, the numerator of which is the Class Member's total number of Workweeks, and the denominator of which is the total number of Workweeks of all Class Members. Each Settlement Class Member's final Individual Settlement Share for purposes of payment will be calculated by multiplying the NSF by a fraction, the numerator of which is the Settlement Class Member's total number of Workweeks, and the denominator of which is the total number of Workweeks of all Settlement Class Members.

Each Individual Settlement Share will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Shares for the Settlement Class Members who submit valid and timely requests for exclusion will be redistributed to the participating Settlement Class Members on a pro rata basis based on their respective payment ratios.

Settlement Class Members who do not submit a request for exclusion from the Settlement as provided for below will be entitled to receive an Individual Settlement Share. **If you do nothing, you will be deemed a participating Settlement Class Member, a settlement check will automatically be mailed to you, and you will release all claims you may have related to the allegations in the Action,** as described below.

Calculation of the Employee Payment of PAGA Amount. For purposes of distributing the Employee Payment to the Aggrieved Employees, the Settlement Administrator shall calculate from Defendant's records the number of pay periods worked by all Aggrieved Employees during the PAGA Period. A pay period for purposes of the Employee Payment of the PAGA amount shall mean any Defendant pay period during the PAGA Period in which an Aggrieved Employee was paid wages for hours worked. The Settlement Administrator shall calculate each Aggrieved Employee's share of the Employee Payment by multiplying the Employee Payment by a fraction, the numerator of which is the Aggrieved Employee's total number of pay periods, and the denominator of which is the total number of pay periods of all Aggrieved Employees in the PAGA Period.

Tax Matters. For the purpose of calculating applicable taxes, Individual Settlement Payments shall be allocated and treated as follows: twenty-five percent (25%) as wages subject to wage withholdings which shall be reported on IRS Form W-2, twenty-five percent (25%) for penalties, twenty-five percent (25%) statutory and other non-wage damages, and twenty-five percent (25%) for interest allegedly due to employees which is not subject to wage withholdings and shall be reported on IRS Form 1099. Participating Settlement Class Members shall be exclusively liable for any employee's share of tax liability, if any. Settlement Class Members may wish to consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

A. Class Action Release. Upon the date on which Defendant fully funds the Settlement, and except as to such rights or claims as may be created by this Stipulation of Settlement, each Class Member who has not submitted a valid Request for Exclusion ("Releasing Party"), fully releases and discharges Defendant, their present and former parent companies, affiliated companies, and subsidiaries, respective present or former owners, shareholders, officers, directors, managers, partners, members, employees, agents, attorneys, insurers, successors, assigns, and any individual or entity which could be jointly liable with Defendant (hereinafter, collectively referred to as the "Released Parties") of and from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney's fees, damages, actions or causes of actions stated in the Complaint and/or First Amended Complaint, including those which arise from or relate to the purported failure of Defendant to provide Class Members wages and/or overtime, minimum wages, meal periods, rest periods, accurate itemized wage statements, reimbursement of expenses, and wages upon termination or resignation, including but not limited to those under Labor Code §§ 203, 226(a), 226.7, 510, 512, 1185, 1194, 1194.2, 1197, 1199, 2802, violation of California Business and Professions Code § 17200, *et seq.*, and the Wage Orders, from May 26, 2016 through July 13, 2021 (collectively, "Released Claims"). This release excludes the release of claims not permitted by law.

B. PAGA Release. Upon the date on which Defendant fully funds the Settlement, the LWDA and the PAGA Group will release the Released Parties from any and all claims and causes of action stated in (i) the LWDA letter, and/or (ii) the Complaint and/or First Amended Complaint, including those for civil penalties under the Private Attorneys General Act of 2004 Cal. Labor Code § 2698 *et seq.* which arise from or relate to the purported failure of Defendants to provide PAGA Group members wages and/or overtime, minimum wages, meal periods, rest periods, accurate itemized wage statements, reimbursement of expenses, and wages upon termination or resignation, including but not limited to those under Labor Code §§ 203, 226(a), 226.7, 510, 512, 1185, 1194, 1194.2, 1197, 1199, and 2802 from March 23, 2019 to July 13, 2021 (collectively, "Released PAGA Claims").

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order and judgment at or following a final approval hearing on the Settlement and Defendant funding the Gross Settlement Fund.

#### 4. How much will my payment be?

A. Individual Settlement Share

Defendant's records reflect that you have <<\_\_\_\_>> Workweeks during the Settlement Class Period. Consequently, your estimated Individual Settlement Share is <<\$\_\_\_\_>>.

B. Share of PAGA Group Payment

Defendant's records reflect that you have <<\_\_\_\_>> Pay Periods during the PAGA Period. Consequently, your estimated Employee Payment as a share of the PAGA Payment is <<\$\_\_\_\_>>.

If you wish to challenge the information stated immediately above, then you must submit a written, signed challenge including: (a) your full name, current mailing address, telephone number, signature, and last four digits of the Social Security number; (b) a statement indicating that you seek to dispute the number of Workweeks credited to you during the Settlement Class Period, and the number of Workweeks that you contend should be credited to you; and (c) documentation and/or other facts supporting your position. You must submit any dispute to the Settlement Administrator at the address provided in this Class Notice no later than forty-five (45) calendar days after the postmark date of this Class Notice.

#### 5. How can I get a payment?

To receive a payment under this Settlement, you **do not have to do anything**. A check for your Settlement Share will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: [REDACTED], (800) [REDACTED].

The Court will hold a hearing on (date) to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, settlement payments will be mailed to you within twenty-eight (28) calendar days after the Court approves the Settlement. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

#### 6. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt-out." **Any Settlement Class Member who timely and properly requests to be excluded or opt-out as a Settlement Class Member will not be entitled to an Individual Settlement Payment and will not be otherwise bound by the terms of the Settlement including the Class Action Release or have any right to object, appeal or comment thereon.**

**However, any Settlement Class Member that submits a timely request for exclusion that is also an Aggrieved Employee will still receive their pro rata share of the PAGA Payment, and in consideration, will be bound by the PAGA Release as set forth herein.**

To opt-out, you must submit a written request to the Settlement Administrator that states in the same or substantially similar language: "I do not want to be part of the settlement class in the *Gutierrez v. Fire Sprinkler Systems, Inc.* class action." This request for exclusion or opt-out must be (a) signed and dated; (b) state the Settlement Class Member's name, address, Social Security Number, and telephone number; (c) include the case name and number of the Action; and (d) be postmarked no later than <<45 days after mailing>>. Written requests for exclusion that are postmarked after <<45 days after mailing>>, or otherwise fail to meet the requirements set forth in this paragraph, will be rejected, and those Settlement Class Members will remain bound by the Settlement and the release described above. A Settlement Class Member who properly and timely submits a request for exclusion or opt-out will not be bound by the Class Action Release and will not receive an Individual Settlement Share but will, however, receive their share of the Employee Payment and be bound by the PAGA Release.

#### 7. How do I tell the Court that I don't like the Settlement?

Any Settlement Class Member, who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing, and any written objection must be signed and must include: (a) the Settlement Class Member's full name, current mailing address, signature, and last four digits of the Social Security number; (b) a statement indicating the legal and factual grounds for the objection; (c) a statement indicating whether the objecting Class Member is represented by counsel and identifying any such counsel; and (d) a statement indicating whether the objecting Class Member intends to appear for and wishes to be heard at the Final Approval Hearing. The objections must be submitted to the Settlement Administrator at the below addresses on or before [REDACTED]. All written objections or other correspondence must also state the name and number of the case, which is *Gutierrez v. Fires Sprinkler Systems, Inc.*, San Diego Superior Court, Case Number 37-2020-00015511-CU-OE-CTL. To object to the Settlement, you must remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement. Any Settlement Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Objections may also be made orally, with or without submitting a written objection, by appearing at the Final Approval

Hearing on the date and time, and at the location, described in Section 8 below. Settlement Class Members may appear, either in person or through their own attorney at their expense, at the final approval hearing and have their objections heard by the Court.

The address for the Settlement Administrator is

*Fire Sprinkler Systems, Inc.* - Settlement Administrator

c/o \_\_\_\_\_

Phone: \_\_\_\_\_

The addresses for Parties' counsel are as follows:

**Class Counsel:**

Darren M. Cohen, Esq.  
Kingsley & Kingsley, APC  
16133 Ventura Blvd., Suite 1200  
Encino, CA 91436  
Tel: 818-990-8300 / Fax: 818-990-2903  
Email: [dcohen@kingsleykingsley.com](mailto:dcohen@kingsleykingsley.com)

**Counsel for Defendant**

Matthew J. Knez, Esq.  
Knez Law Group, LLP  
6780 Indiana Ave., Suite 150  
Riverside, CA 92506  
Telephone: 951-742-7681  
Facsimile: 951-742-7685

**8. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at **00:00 AM/PM on** \_\_\_\_\_, at the San Diego County Superior Court in Department C-69 located at 330 West Broadway, San Diego, California 92101. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who wish to make an objection. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing. Please visit [www.sdcourts.ca.gov](http://www.sdcourts.ca.gov) regarding *Coronavirus (COVID-19) and Court Operations* for additional information for appearing by phone, from home, the office or coming to the courthouse.

**9. How do I get more information?**

You may call the Settlement Administrator at **(800)** \_\_\_\_\_ or write to *Fires Sprinkler Systems, Inc.* - Settlement Administrator, c/o \_\_\_\_\_.

You may receive a copy of the Settlement, the Final Judgment or other settlement documents by writing to the Settlement Administrator. You may also get more details by examining the documents in the court's file at the Clerk's Office located at 330 West Broadway, San Diego, California 92101 or visiting the Court's Register of Actions. Please visit [www.sdcourts.ca.gov](http://www.sdcourts.ca.gov) regarding *Coronavirus (COVID-19) and Court Operations* for additional information for coming to the courthouse.

**PLEASE DO NOT CALL THE COURT ABOUT THIS CLASS NOTICE.**

**IMPORTANT:**

- You must keep the Settlement Administrator aware of any change of address to ensure receipt of any settlement payment(s).
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall direct such unclaimed funds to the California State Controller's Office Unclaimed Property Fund in the name of the Participating Class Member who failed to cash the check. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

**(PROOF OF SERVICE)**  
**[CCP 1013(a)(3)]**  
**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On July 18, 2022, I served all interested parties in this action the following documents described as **JOINT STIPULATION OF SETTLEMENT AND RELEASE** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

**FRED J. KNEZ**  
**KNEZ LAW GROUP, LLP**  
6780 Indiana Avenue, Suite 150  
Riverside, CA 92506  
[fredknez@knezlaw.com](mailto:fredknez@knezlaw.com)

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **BY ELECTRONIC MAIL TRANSMISSION:** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

☒ **BY ELECTRONIC SERVICE:** I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 18, 2022, at Encino, California.



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**Michelle A. Tanzer**