

PAGA SETTLEMENT AGREEMENT – CRESCI v. COX AUTOMOTIVE SERVICES, LLC

1. **Background.** This Settlement Agreement (“Agreement”) is entered into by the parties to the action entitled *Alfredo Cresci v. Cox Automotive Corporate Services, LLC*, U.S. District Court, Central Dist. Of California Case No. 2:20-cv-06832-VAP-SK (“Complaint”), for the purpose of memorializing their settlement of the Private Attorneys General Act (“PAGA”) claim, on behalf of Plaintiff Alfredo Cresci (“Plaintiff”) and others who fall within the PAGA Representative Group, defined below in Paragraph 3.

2. **Enforceability.** This Agreement shall become enforceable upon its execution by Plaintiff and a representative for Cox Automotive Corporate Services, LLC (“Cox”) (collectively, the “Parties”). The Parties intend this agreement to be admissible and binding under Code of Civil Procedure section 664.6.

3. **PAGA Representative Group.** The PAGA Representative Group is defined as follows:

“All California-based remote account managers of Cox Automotive Corporate Services, LLC who performed work in California between April 1, 2019 and January 31, 2021 and all California-based employees of Cox Automotive Corporate Services, LLC who worked in positions that were worked either at home or a remote location from a Cox facility between August 4, 2019 and January 31, 2021, excluding those who worked remotely solely in response to the COVID-19 epidemic.”

Cox estimates that there are approximately 446 individuals who fall within the PAGA Representative Group.

4. **Maximum Settlement Amount.** Cox shall pay a sum not to exceed ONE HUNDRED FOUR THOUSAND DOLLARS (\$ 104,000.00) (the “Maximum Settlement Amount” or “MSA”) to fund the settlement of PAGA claims and to pay reasonable attorney’s fees and costs.

5. **Fund to Pay PAGA Representative Group.** All of the MSA not awarded as attorney’s fees or costs pursuant to paragraph 7 below shall be allocated to pay the PAGA settlement to the PAGA Representative Group (“PAGA Settlement Sum”). 75% of this sum will be sent to the Labor & Workforce Development Agency and 25% will be allocated to the PAGA Representative Group. PAGA Representative Group members shall not be required to make claims but shall simply be delivered a check for their share of the PAGA settlement when settlement payments are delivered after approval of the settlement along with a memorandum jointly prepared by Plaintiff’s counsel and Defense counsel generally describing the payment. For the 25% share distributed to the PAGA Representative Group, the Parties agree that each individual within the Group will receive 1 point for every calendar month in which he worked at least part of a calendar month in a class position within the State of California during the class period.

6. **Release of Claims/Effect of Judgment on PAGA Representative Group and LWDA.** The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this settlement will bind all those who would be bound by a judgment if the action had been brought by the California Labor & Workforce Development Agency (“LWDA”), including Plaintiff, the LWDA, and the members of the PAGA Representative Group, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against Defendants and their past or present parents, subsidiaries, and affiliated corporations, officers, directors, employees, partners, agents, insurers, and/or any other individual or entity that could be liable for the acts or omissions of the Defendants (“Released Parties”). It is expressly understood and agreed that this settlement includes a full release of the PAGA claims arising from experiences of the PAGA Representative Group identified in the letters Plaintiff sent to the Labor Workforce Development Agency on April 1, 2020 and August 4, 2020 related to alleged failure to reimburse expenses and any derivative violations.

7. **PAGA Attorneys’ Fees.** The Parties agree that Plaintiff’s counsel shall be entitled to recover attorney’s fees and costs. Plaintiff may apply for up to one third (1/3) of the MSA as reasonable attorney’s fees. Plaintiff’s counsel may also apply to recover their actual litigation costs from the MSA.

8. **Payment for Settlement of Plaintiff’s Individual Claims.** Separate and apart from the PAGA settlement, the Parties will execute a separate settlement agreement to resolve Plaintiff’s individual claims in exchange for a general release.

9. **Settlement Agreement Procedure.** The Parties to this Agreement pledge their good faith and fair dealing in supporting the approval of this settlement by the Court.

10. **Funding of Settlement.** Within ten (10) business days of approval of this settlement by the Court, Cox will deliver the MSA to an administrator mutually acceptable to the Parties. Cox will be responsible for paying the costs of the administration, including preparing and delivering checks and performing any necessary tax reporting duties separate and apart from the MSA. The MSA will be used to pay all claims, all required payroll taxes (if any), and all attorney’s fees and costs described in Paragraph 7. The Parties do not anticipate any payroll taxes arising from this Settlement. Any checks to the PAGA Representative Group that remain uncashed within 90 days from the date of disbursement shall become null and void. The administrator shall forward the balance from such uncashed checks, plus any accrued interest, to the California State Controller for the benefit of the recipients.

11. **Dismissal of Entire Cresci Action.** Upon approval of the settlement of PAGA claims asserted herein and payment of such claims, Plaintiff will also file a stipulation for an order of dismissal of the entire action with prejudice with retention of jurisdiction. Plaintiff will have until five (5) business days after the administrator has confirmed that all settlement checks have been mailed to file this stipulation for an order of dismissal with the Court.

12. **No Comments to Press or Media Before Settlement Approval.** The parties and their counsel agree that they shall not disclose or discuss with any member or representative of the press or media the fact of settlement or the conditions or terms of this Settlement Agreement prior to court approval of the settlement. This includes foregoing from issuing press releases, commenting to the media, and including statements about the case on a firm website or any other website prior to court approval of the settlement.

13. **No Admission.** Neither this Agreement, nor final form of settlement, shall constitute an admission on behalf of Cox of any form of liability or the accuracy of any fact or allegation against it. Cox specifically denies any liability.

14. **Advice of Counsel.** The Parties to this Agreement are represented by competent counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement agree that it reflects their good faith compromise of the claims raised in this action, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.

15. **Counterparts.** This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.

Dated: February 5, 2021

By: 
Plaintiff Alfredo Cresci

Dated: February 5, 2021

By: _____
Sarah Stephens
Senior Counsel
For Defendant Cox Automotive
Corporate Services, LLC

13. **No Admission.** Neither this Agreement, nor final form of settlement, shall constitute an admission on behalf of Cox of any form of liability or the accuracy of any fact or allegation against it. Cox specifically denies any liability.

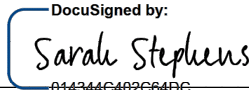
14. **Advice of Counsel.** The Parties to this Agreement are represented by competent counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement agree that it reflects their good faith compromise of the claims raised in this action, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.

15. **Counterparts.** This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.

Dated: February 5, 2021

By: _____
Plaintiff Alfredo Cresci

Dated: February 5, 2021

By:  _____
Sarah Stephens
Senior Counsel
For Defendant Cox Automotive
Corporate Services, LLC

TITLE	Cresci - PAGA Settlement Agreement
FILE NAME	Cresci%20-%20PAGA...t%20to%20sign.pdf
DOCUMENT ID	e8ba91bc2f2f557e596ead298f93589d6a1a87c5
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

This document was requested from app.clio.com

Document History



SENT

02 / 06 / 2021

01:09:00 UTC

Sent for signature to Alfredo Cresci (fred.cresci@gmail.com)
from mg@gutierrezderham.com
IP: 70.169.224.35



VIEWED

02 / 06 / 2021

01:10:01 UTC

Viewed by Alfredo Cresci (fred.cresci@gmail.com)
IP: 47.152.224.124



SIGNED

02 / 06 / 2021

01:10:24 UTC

Signed by Alfredo Cresci (fred.cresci@gmail.com)
IP: 47.152.224.124



COMPLETED

02 / 06 / 2021

01:10:24 UTC

The document has been completed.