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Attorneys for Plaintiff ALEXANDER CASTELLANOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ALEXANDER CASTELLANOS, an
individual, on behalf of himself, and on behalf
of all persons similarly situated,

Plaintiff,

vs.

SOUTHWEST SECURITY PATROL, INC.,
d.b.a. SOUTHWEST PATROL, a California
corporation; and DOES 1 through 50, Inclusive;

Defendants.

Case No. 37-2020-00024905

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: April 8, 2022

Time: 8:30 a.m.

Judge: Hon. Keri Katz

Dept.: 74

I, Jean-Claude Lapuyade, Esq., declare as follows:

1. I am over eighteen years of age and if called as a witness, I could and would competently testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am counsel of record for Plaintiff ALEXANDER CASTELLANOS, (hereafter "Plaintiff") in this wage and hour class action

1 filed against SOUTHWEST SECURITY PATROL, INC. d.b.a. SOUTHWEST PATROL (hereinafter
2 collectively “Defendants”).

3 2. This declaration is being submitted in support of Plaintiffs’ Motion for Final Approval of
4 Class Action Settlement.

5 3. Attached hereto as **Exhibit “A”** are true and correct copy of the fully executed Stipulation
6 of Settlement of Class Action Claims and Release of Claims (hereinafter “Settlement Agreement”).

7 4. Attached hereto as **Exhibit “B”** is a true and correct copy of the fully executed Stipulation
8 and [Proposed] Order Modify the Timing Under the Settlement Agreement.

9 5. Attached hereto as **Exhibit “C”** is a true and correct copy of the conformed December 3,
10 2021, Preliminary Approval Order.

11 6. Attached hereto as **Exhibit “E”** is a true and correct copy of proof of filing the proposed
12 Settlement with the LWDA.

13 **I. INTRODUCTION**

14 7. An objective evaluation of the proposed settlement of \$600,000.00 (“Total Settlement
15 Amount”) confirms that the relief negotiated on behalf of the Settlement Class is fair, reasonable, and
16 valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations, between
17 experienced counsel, guided by the wisdom and experience of prominent wage and hour, class action
18 mediator Lynn Frank, Esq. After deducting any Court-approved attorneys’ fees and costs, class
19 representative incentive payments, administration costs, and payments to the Labor & Workforce
20 Development Agency (“LWDA”), the Net Settlement Amount shall be distributed to the Settlement
21 Class Members based on the number of Workweeks they worked while employed by Defendant during
22 the Class Period. ***The Settlement Class greeted news of the Settlement with overwhelming approval
23 as 99.79% of the Settlement Class choose to participate in the Settlement.*** There are only two (2) opt-
24 outs and zero objections to the Settlement. The near unanimous approval by the Settlement Class
25 evidences the clear fairness and reasonableness of the Settlement.

26 8. This Settlement provides substantial recovery for Defendant’s alleged wage and hour
27 violations. Plaintiffs estimate that the Settlement, if approved, would result in a Net Settlement Amount
28

of approximately \$276,585.40. This will result in an average Individual Settlement Payment of **\$296.77** and high payment of **\$1,009.75**.

9. The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, the Settlement Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation.

10. As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. Accordingly, Class Representatives and Class Counsel respectfully request this Court grant final approval of the Agreement and, entry of the proposed Final Approval Order and Judgment.

II. OVERVIEW OF THE LITIGATION

11. Defendant is a security guard company that provides security services to clients throughout Southern California. Plaintiffs Mauna, Gray, and Castellanos were employed by Defendant as non-exempt employees during the Class Period. At all times during their employment, Plaintiffs earned an hourly wage and were entitled to legally compliant meal and rest periods, and minimum, regular and overtime wages for all hours worked. Throughout their employment, Plaintiffs were subject to Defendant's written policies and procedures contained in, among other documents, the "Southwest Patrol Employee Policy and Procedure Handbook."

12. Generally, Plaintiffs claim that Defendant failed to pay for all hours worked, failed to provide compliant meal and rest periods, failed to reimburse mandatory business expenses and failed to timely pay wages upon separation. Defendant forcefully denies liability for each of Plaintiffs' claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiffs' claims, including but not limited to, facially compliant meal and rest period policies, written policies prohibiting the use of personal cell phones, and timely paid all wages due upon separation of employment.

13. On September 11, 2019, plaintiff Mauna served Defendant and the Labor and Workforce Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff Mauna’s PAGA Notice set forth the facts and theories supporting Defendant’s alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq (“PAGA”).

14. On November 1, 2019, plaintiff Gray also served Defendant and the LWDA with a separate PAGA Notice setting forth the facts and theories supporting Defendant's alleged violations of Labor Code and IWC Wage Order. Gray subsequently filed a representative action for PAGA penalties in the Los Angeles Superior Court, Case Number 20STCV02521 ("*Gray Action*").

15. On August 20, 2019, Mauna, filed an individual action in the Los Angeles Superior Court entitled *Mauna v. Southwest Patrol, Inc.* Case Number 19STCV28903 (“*Mauna Action*”) asserting numerous wage and hour violations against Defendant.

16. Subsequently, on July 15, 2020, plaintiff Castellanos also served Defendant and the LWDA with a PAGA Notice. Plaintiff Castellanos' PAGA Notice also set forth the facts and theories supporting Defendant's alleged violations of the Labor Code and IWC Wage Order and of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq ("PAGA").

17. On July 17, 2020, plaintiff *Castellanos* filed this class action complaint in the San Diego Superior Court for: (1) Unfair Competition in Violation of Bus. and Prof. Code §§ 17200; (2) failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (3) failure to pay overtime wages in violation of California Labor Code sections 510 *et seq.*; (4) failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512; (5) failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512; (6) failure to reimburse employees for required business expenses in violation of California Labor Code sections 2802; (7) failure to provide accurate itemized wage statements in violation of California Labor Code

section 226; and (8) failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203 (“*Castellanos Action*”).

18. Plaintiff Castellanos commenced written discovery in December 2020. Prior to answering Plaintiff’s written discovery, the Parties agreed to collectively mediate the *Mauna Action*, the *Gray Action* and the *Castellanos Action*. In anticipation of mediation, the Parties stipulated to stay formal discovery. To prepare for mediation, the Parties agreed to informally produce certain documents and data points subject to the mediation privilege, including but not limited to, a sample of the Class Members’ time and payroll data. As discussed *infra*, Plaintiffs’ counsel retained the forensic consultants at Econ One to analyze Defendant’s time and payroll data.

19. On June 8, 2021 the Parties participated in a full day mediation with highly regarded wage and hour mediator Lynn Frank, Esq. After arms-length negotiations and bargaining, the parties reached an agreement to settle and signed a Memorandum of Understanding. After reaching an agreement in principle, the parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion. As part of the Agreement, the Parties stipulated to the filing of a First Amended Complaint joining all Plaintiffs and causes of action into a single proceeding and seeking approval of the Agreement in the *Castellano Action*.

20. The Court preliminarily approved a Total Settlement Amount of \$600,000 based on a total of approximately 39,937 Workweeks worked by the Class during the Class Period. The Total Settlement Amount shall be used: (1) to satisfy Individual Settlement Payments; (2) to satisfy the Class Representative Service Awards; (3) to satisfy the Class Counsel Award; (4) to satisfy the PAGA Settlement; and (5) to satisfy the Settlement Administration Costs incurred in this action.

21. Defendant has already began funding the Total Settlement Amount. On January 5, 2022, Defendant deposited \$125,000.02 into the QSF. Defendant deposited another \$14,583.33 into the QSF on March 7, 2022 and another \$75,000 on March 16, 2022. Defendant will fund the remaining installments in accord with the Stipulation and Order to Modify the Timing of Payments Under the Settlement Agreement.

22. Further supporting final approval, the average Individual Settlement Payment of \$296.77 is comparable to settlement payments in similar wage and hour class actions. This result is particularly favorable considering that liability and certification were far from certain. Given the complexities of this case, the defenses asserted, the uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair, reasonable, and adequate, and should be granted final approval.

IV. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE

A. Adequate Investigation

23. As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the proposed Class Members' claims, applicable law, and potential defenses. Specifically, Class Counsel assessed the value of the class claims using data and documents provided by Defendant in formal and informal discovery, as well as interviews from several Class Members. Class Counsel obtained time, payroll, and policy records, as well as data regarding the number of Class Members, workweeks, and average rate of pay in order to assess damages before mediation. Class Counsel retained Berger Consulting Group to analyze Defendant's time and payroll data to formulate damage models estimating Defendant's liability exposure. Class Counsel's investigation, research, experience and damage models, informed and guided the mediated negotiations that resulted in this settlement. Accordingly, Plaintiff's Counsel fully understood the strengths and weaknesses of the class claims before the parties reached a settlement.

24. Months before filing any one of the Actions, Class Counsel began its pre-filing investigation into the Plaintiffs' complaints. Class Counsel's investigation started with several lengthy interviews with each Plaintiff. As part of the interview process, the Plaintiffs produced hundreds of pages of documents related to their employment, including portions of Defendant's handbooks, compensation policies and time and payroll records. At the conclusion of the interviews, Class Counsel determined that each Plaintiffs' complaints justified further inquiry.

25. Class Counsel subsequently requested Plaintiffs' employee files from Defendant. In response, Defendant produced hundreds of pages of documents, including but not limited, a copies of

1 Plaintiffs' hiring documents, payroll and time records, performance reviews and separation documents.
2 Class Counsel reviewed and analyzed the documents and determined the documents appeared to
3 substantiate Plaintiffs' claim that Defendant's failed to, among other things, pay for all time worked
4 and to provide compliant meal and rest periods. Shortly thereafter, Class Counsel initiated the Actions
5 which are before the Court now.

6 26. Additionally, during the meetings with Class Counsel, Plaintiffs provided the names and
7 contact information for several members of the Settlement Class. After filing this action, Class Counsel
8 interviewed those members of the Settlement Class to further investigate the allegations asserted in the
9 Actions.

10 27. In light of the many anticipated factual disputes, the Parties agreed early in the litigation
11 that it would be in the best interest of both parties to mediate the matter. To prepare for mediation,
12 Class Counsel requested documents and data points to further evaluate Plaintiffs' claims and
13 Defendant's liability exposure to the Settlement Class members. In response to Class Counsel's request,
14 Defendant produced the time and payroll records for the Settlement Class members, aggregate
15 workweek and pay period data for the Settlement Class, and copies of applicable handbooks, policies,
16 and agreements containing, *inter alia*, compensation, timekeeping and, meal and rest period policies.
17 In total, Defendant produced approximately 3,000 pages of pertinent policy documents and nearly
18 200,000 unique cells of time and payroll data for Class Counsel to analyze.

19 28. Class Counsel then retained the statisticians and economists at Econ One to evaluate the
20 Settlement Class Members' payroll and time data. Econ One provides data analysis and damage
21 modeling consulting services specializing in wage and hour class actions. Econ One's team of financial
22 and data analysts are credentialed and experienced experts in their fields and have provided their
23 expertise on thousands of cases. Stated differently, the Econ One is uniquely qualified to analyze
24 Defendant's time and payroll data.

25 29. Econ One analyzed Defendant's time and payroll data to assist in the development of
26 various damage models. Among other things, Econ One determined the approximate number of work
27 shifts, workweeks, pay periods, average rate of pay, average length of shift and average number of hours
28

1 worked per week and pay period during the Class Period. Econ One also estimated the number of
2 missed, late or truncated meal and rest periods, the amount of paid missed meal period premiums paid
3 during the Class Period, and the amount of off-the-clock work performed by the Settlement Class during
4 the Class Period.

5 30. In advance of mediation, Class Counsel created several damage models predicated on the
6 Econ One analysis. Class Counsel's models calculated Defendant's potential liability exposure while
7 accounting for the uncertainties of continued litigation. These damage models informed and guided
8 Class Counsel during the mediated settlement discussions.

9 31. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
10 determining Plaintiff's suitability as a putative class representative through interviews, background
11 investigations, and analysis of his employment files; (2) evaluating all of Plaintiff's potential claims;
12 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
13 and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing
14 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as
15 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
16 estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief and (9)
17 participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and
18 magnitude of the claims being settled, as well as the impediments to recovery, such as to make an
19 independent assessment of the reasonableness of the terms to which the parties have agreed.

20 **B. The Parties Settled at Mediation**

21 32. The Settlement is the product of a mediation session with a respected mediator and
22 negotiations over the terms of the Settlement. The negotiations were adversarial, conducted at arm's
23 length and tempered by the efforts of both sides to serve the interests of their clients. The amount of
24 the service award was not negotiated until after the parties agreed to the Total Settlement Amount and
25 many other terms.

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C. Class Counsel is Experienced in Similar Litigation

33. Class Counsel in this matter has extensive class action experience in multiple fields and has represented tens-of-thousands of persons in class actions. Counsel has previously litigated similar wage and hour class actions involving similar meal and rest period violations. Class Counsel has been approved as class counsel in similar wage and hour class actions throughout the State of California, including in the Superior Court for the County of San Bernardino. As such, courts throughout the California have deemed Class Counsel experienced and knowledgeable in this area of law. Class Counsel has participated in every aspect of the settlement discussions and has concluded the settlement is fair, adequate and reasonable and in the best interests of the Class.

34. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented by competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq. (Partner/Owner), Eduardo Garcia (Associate), Tesla Stone (Paralegal), and Leilani Edmunds (Legal Secretary).

35. I am qualified to represent the Plaintiff, the State of California and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff, the State of California and the Aggrieved Employees throughout this action.

36. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 14 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

37. I have significant class counsel and collective action counsel experience. I served as class and/or collective (PAGA) counsel in, among other cases, the following matters:

- a. *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- b. *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- c. *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq, as Class Counsel.)
- d. *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq, as Class Counsel in a wage and hour class action settlement.)
- e. *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- f. *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).

- g. *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- h. *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- i. *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- j. *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- k. *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- l. *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- m. *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class

- counsel and granted final approval of wage and hour class action for meal period violations.)
- n. *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
 - o. *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL LAW Firm, APC, acted as lead counsel.)
 - p. *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)
 - q. *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)
 - r. *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
 - s. *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case No. 37-2018-00043601 (May 31, 2019 – Hon, Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
 - t. *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC,

- as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)
- u. *Moschetto v. Pillow Global, Inc. San Diego Superior Court*, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
 - v. *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
 - w. *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);
 - x. *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
 - y. *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
 - z. *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
 - aa. *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
 - bb. *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);

cc. *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
dd. *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);

38. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a favorable verdict for the firm's clients.

39. Finally, I have published appellate experience in *William Blanchette et al., v. The Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

40. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising Star list recognizes the top 2.5% of eligible attorneys. (see https://www.superlawyers.com/about/selection_process.html.)

D. Strength of Plaintiff's Case

41. Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement provides a sizeable recovery to the Settlement Class Members and need not necessarily obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*, 91 Cal. App. 4th at 250. While the Total Settlement Amount of \$600,000.00 represents a discount on Defendant's potential exposure if Plaintiffs established liability on all claims and was awarded the full amount of the estimated damages at trial, this compromise is reasonable because the formidable defenses raised by Defendant presented a risk that could award significantly less in damages than Plaintiffs' estimate and (2) any theoretical post-trial recovery may require many more years of litigation, resulting in added fees and costs without any guarantee of recovery for the Class. JCL

42. Although Class Counsel believe strongly in Plaintiff's claims, it would be misguided to ignore the asserted defenses. If successful on any one its defenses, Defendant could defense the action or, at least, drastically undercut Plaintiffs' claims.

///

E. Risks of Continued Litigation

43. With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues). Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement.

44. Although Plaintiffs are confident about the strength of their claims, Plaintiffs nevertheless recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically affect the value of Plaintiffs’ claims and, in fact, already has. Recently, the California Court of Appeal, Second District, held that meal and rest period violations do not entitle employees to pursue the derivative waiting time and itemized wage statement penalties. *Naranjo v. Spectrum Security Services, Inc.*, 40 Cal.App.5th 444 (2019) (*review granted*). The *Naranjo* decision gutted Plaintiffs’

claims for Labor Code Section 226 penalties and Labor Code Section 203 waiting time penalties predicated on meal and rest period violations.

45. As demonstrated by the decisions in *Magadia*, *supra*, 999 F.3d 668 and *O’Conner v. Uber Technologies*, 82 F. Supp. 3d 1133 (N.D. Cal. 2018) and *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), the complexities and duration of further litigation cannot be overstated. There is little doubt that if Defendant faced a large adverse judgement, Defendant undoubtedly has the resources to post a bond and appeal. A post-judgment appeal by Defendant would have required many more years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh an uncertain result three or more years in the future

46. Class Representatives and Class Counsel recognize the expense and length of a trial against Defendant through possible appeals which could take another three years. In arriving at their informed belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted, and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Class Representatives and Class Counsel believe that the Settlement confers substantial monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representatives and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair, reasonable and adequate, and should be granted final approval.

F. The Total Settlement Amount is Fair and Reasonable

47. The Total Settlement Amount of \$600,000.00 in this case is fair and well within the range of recognized reasonableness. As detailed at the time of preliminary approval, the Total Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendant’s liability exposure while accounting for the uncertainties of continued litigation.

1 The various models were informed by Class Counsel's investigation, including the analysis of a
2 significant sample of time and payroll data. As detailed in greater depth during the preliminary approval
3 process, Class Counsel projected a range of Defendant's liability exposure for the claims asserted on
4 behalf of the Settlement Class. The Total Settlement Amount represents approximately between 9%
5 and 33% of Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of
6 mediation.

7 48. Clearly the goal of this litigation to obtain redress for the class has been met by this
8 Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations
9 between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final
10 approval.

11 IV. THE PENALTIES UNDER PAGA ARE REASONABLE

12 49. Here, Plaintiffs and Defendant negotiated a good faith PAGA Settlement in the amount
13 of \$50,000 which is 8.3% of the Total Settlement Amount. This amount falls well within the range of
14 approved PAGA Settlements. Seventy-Five percent (75%) of the PAGA Settlement (\$60,000) will be
15 paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) to be distributed
16 to the Aggrieved Employees, which is within the range of PAGA penalties approved by courts and
17 should be approved.

18 50. Further, on October 6, 2021, Class Counsel gave the LWDA notice of this Settlement and
19 proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with
20 the LWDA. On March 16, 2022, Plaintiffs gave the LWDA notice of this motion seeking final approval
21 of this settlement.

22 I declare under the penalty of perjury under the laws of the State of California that the foregoing
23 is true and correct. Executed this 16th day of March 2022, at San Diego, California.

24 JCL LAW FIRM, APC

25 By: 
26 Jean-Claude Lapuyade
27 Attorneys for Plaintiff

EXHIBIT A

1 JEAN-CLAUDE LAPUYADE, ESQ. (SBN 248676)

2 **JCL LAW FIRM, APC**

3 3990 OLD TOWN AVENUE, SUITE C204

4 SAN DIEGO, CA 92110

5 TEL: 619-599-8292

6 FAX: 619-599-8291

7 **ZAKAY LAW GROUP, APLC**

8 SHANI O. ZAKAY (STATE BAR #277924)

9 5850 OBERLIN DRIVE, SUITE 230A

10 SAN DIEGO, CA 92121

11 TEL: (619) 255-9047

12 FAX: (858) 404-9203

13
14 ADDITIONAL PLAINTIFFS' COUNSEL ON FOLLOWING PAGE

15
16 **SUPERIOR COURT OF CALIFORNIA**

17 **COUNTY OF SAN DIEGO**

18 ALEXANDER CASTELLANOS,
19 individually, on behalf of all those similarly
20 situated and in his representative capacity on
21 behalf of the State of California

22 PLAINTIFFS,

23 vs.

24 SOUTHWEST SECURITY PATROL, INC.,
25 d.b.a. SOUTHWEST PATROL a California
26 corporation; and DOES 1 through 50;

27 DEFENDANTS.

Case No. 37-2020-00024905

[Action Filed 07/17/2020]

**STIPULATION OF SETTLEMENT OF
CLASS ACTION CLAIMS AND
RELEASE OF CLAIMS**

Judge: Hon. Keri Katz
Dept.: 74

1 ADAM M. ROSE (210880)
2 MANNY M. STARR (319778)
3 **FRONTIER LAW CENTER**
4 23901 CALABASAS ROAD, #2074
5 CALABASAS, CA 91302
6 TEL: 818-914-3433
7 FAX: 818-914-3433

8 SAM A. DONABEDIAN (304196)
9 **DONABEDIAN LAW, APC**
10 21550 OXNARD ST., THIRD FLOOR
11 WOODLAND HILLS, CA 91367
12 TEL: 213-761-7268
13 FAX: 213-799-3000
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1 This Stipulation of Class Action Settlement and Release of Claims is entered into by and
2 between Plaintiffs ALEXANDER CASTELLANOS, ROBERT MAUNA and DOUGLAS
3 ALONZO ALLEN GRAY (hereinafter "Plaintiffs"), individually and on behalf of the Settlement
4 Class, and Defendant SOUTHWEST SECURITY PATROL, INC., d.b.a. SOUTHWEST PATROL
5 (hereinafter "Defendant"):

6 **I. DEFINITIONS**

7 A. "Actions" shall mean the following collectively, *Castellanos v. Southwest Security*
8 *Patrol, Inc., dba Southwest Patrol* San Diego Superior Court, Case No. 37-2020-
9 00024905 (hereinafter "*Castellanos Action*"); *Mauna v. Southwest Patrol, Inc.*, Los
10 Angeles Superior Court, Case No. 19STCV28903 (hereinafter "*Mauna Action*");
11 *Gray v. Southwest Patrol Inc.*, Los Angeles Superior Court, Case No.
12 20STCV02521(hereinafter "*Gray Action*").

13
14
15 B. "Aggrieved Employees" shall mean all of Defendant's current and former non-
16 exempt employees employed in California during the PAGA Period.

17
18 C. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of
19 Class Action and Release of Claims.

20
21 D. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC,
22 Shani Zakay of Zakay Law Group, APLC, Manny M. Starr, Esq. of Frontier Law
23 Center, and Sam A. Donabedian of Donabedian Law, APC

24
25 E. "Class Counsel Award" means the award of fees and expenses that the Court
26 authorizes to be paid to Class Counsel for the services they have rendered to
27 Plaintiffs and the Class in the Actions, consisting of attorneys' fees not to exceed
28 one-third of the Total Settlement Amount currently estimated to be \$200,000 out of

1 \$600,000 plus costs and expenses not to exceed \$20,000.00. Class Counsel's award
2 for attorneys' fees will be divided between Class Counsel as follows: 25% to JCL
3 Law Firm, APC; 25% to Zakay Law Group, APLC; 30% to Frontier Law Center;
4 and 20% to Donabedian Law, APC.
5

6 F. "Class Data" means information regarding Settlement Class Members that Defendant
7 will in good faith compile from its records and provide to the Settlement
8 Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall
9 include: each Settlement Class Member's full name; last known address; Social
10 Security Number; start dates and end dates of employment, and number of
11 Workweeks as a Settlement Class Member during the Class Period and PAGA Period
12 and email address, if known.
13

14
15 G. "Class Period" means the period from November 1, 2018, to September 21, 2021.

16 H. "Class Representative Service Award" means the amount that the Court authorizes to
17 be paid to the Class Representatives, in addition to their Individual Settlement
18 Payments and their pro-rata share of the PAGA Settlement, in recognition of their
19 efforts and risks in assisting with the prosecution of the Actions and in exchange for
20 executing a General Release of Defendant.
21

22 I. "Class Representatives" shall mean plaintiffs ALEXANDER CASTELLANOS,
23 ROBERT MAUNA and DOUGLAS ALONZO ALLEN GRAY.
24

25 J. "Court" means the Superior Court for the State of California, County of Santa Diego
26 presiding over the *Castellanos* Action.
27
28

1 K. "Defendant" shall mean SOUTHWEST SECURITY PATROL, INC. d.b.a.
2 SOUTHWEST PATROL, a California corporation.
3

4 L. "Effective Date" means the earliest date, following entry by the Court of an order
5 and judgment finally approving this Settlement, upon which one of the following have
6 occurred: (i) if no objection is filed to the settlement and no objector appears at the
7 hearing on final approval, the date of the Court's entry of the order granting final
8 approval, (ii) if an objection is filed to the settlement and/or an objector appears at the
9 hearing on final approval, then the earlier of the following: (a) the expiration of all
10 potential appeal periods without a filing of a notice of appeal of the final approval
11 order or judgment; (b) final affirmance of the final approval order and judgment by
12 an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all
13 such appeals (including any petition for review, rehearing, certiorari, etc.) such that
14 the final approval order and judgment is no longer subject to further judicial review.
15
16

17 M. "Funding Date" shall mean the date the date the Total Settlement Amount is funded
18 by Defendant into the QSF in accord with the terms of this Agreement.
19

20 N. "Individual Settlement Payment" means the amount payable from the Net Settlement
21 Amount to each Settlement Class Member and excludes any amounts distributed to
22 Settlement Class Members pursuant to PAGA
23

24 O. "Net Settlement Amount" or "NSA" means the Total Settlement Amount, less Class
25 Counsel Award, Class Representative Service Awards, PAGA Settlement, and
26 Settlement Administration Costs.
27
28

- 1 P. "Notice Packet" means the Class Notice to be provided to the Settlement Class
2 Members by the Settlement Administrator in the form set forth as Exhibit A to this
3 Agreement (other than formatting changes to facilitate printing by the Settlement
4 Administrator).
- 5 Q. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
6 Labor Code § 2698 *et seq.*
- 7 R. "PAGA Payment Ratio" means the respective Workweeks during the PAGA Period
8 for each Aggrieved Employee divided by the sum total of the Workweeks for all
9 Aggrieved Employees during the PAGA Period.
- 10 S. "PAGA Period" means the period between November 1, 2018 and September 21,
11 2021.
- 12 T. "PAGA Settlement" shall mean Fifty Thousand Dollars (\$50,000.00) to be allocated
13 from the Total Settlement Amount.
- 14 U. "Parties" means Plaintiffs and Defendant, collectively, and "Party" shall mean either
15 Plaintiff or Defendant, individually.
- 16 V. "Payment Ratio" means the respective Workweeks for each Settlement Class Member
17 divided by the sum total Workweeks for all Settlement Class Members.
- 18 W. "Plaintiff" or "Plaintiffs" shall mean either ALEXANDER CASTELLANOS,
19 ROBERT MUANA or DOUGLAS ALONZO ALLEN GRAY individually or
20 collectively.
- 21
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- 1 X. "QSF" means the Qualified Settlement Fund established, designated and maintained
2 by the Settlement Administrator to fund the Total Settlement Amount.
3
- 4 Y. "Released Class Claims" means all class claims alleged in all operative complaints in
5 the *Gray* Action, *Mauna* Action, and the *Castellanos* Action, which occurred during
6 the Class Period, including all claims for violations of the California Labor Code
7 related to meal period, rest period, unpaid wages, minimum wage, unpaid overtime
8 wages, inaccurate wage statements, waiting time penalties, failure to reimburse
9 business expenses, and claims under the UCL arising from such violations.
10
- 11 Z. "Released PAGA Claims" mean any and all PAGA claims alleged in all operative
12 complaints and Plaintiffs' PAGA notices to the LWDA in the *Gray* Action, *Mauna*
13 Action, and the *Castellanos* Action, which occurred during the PAGA Period,
14 including all claims for PAGA penalties arising from violations of the California
15 Labor Code related to meal period, rest period, unpaid wages, minimum wage, unpaid
16 overtime wages, inaccurate wage statements, waiting time penalties and failure to
17 reimburse business expenses.
18
- 19
20 AA. "Released Parties" shall mean Defendant and their respective present and former
21 parents, owners, successors, subsidiaries and any affiliated or related persons or
22 entities and each of their respective officers, directors, employees, partners,
23 shareholders, attorneys and agents and any other successors, assigns or legal
24 representatives from the factual allegations pleaded or claims that could have been
25 brought based on the same facts in Plaintiffs' respective Complaints and PAGA
26 notices.
27
28

1 BB. "Response Deadline" means the date forty-five (45) days after the Settlement
2 Administrator mails Notice Packets to Settlement Class Members and the last date on
3 which Settlement Class Members may submit requests for exclusion or objections to
4 the Settlement.

5
6 CC. "Settlement" means the disposition of the Action pursuant to this Agreement.

7
8 DD. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
9 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
10 Administrator establishes, designates and maintains, as a QSF under Internal Revenue
11 Code section 468B and Treasury Regulation section 1.468B-1, into which the amount
12 of the Total Settlement Amount is deposited for the purpose of resolving the claims
13 of Settlement Class Members. The Settlement Administrator shall maintain the funds
14 until distribution in an account(s) segregated from the assets of Defendant and any
15 person related to Defendant. *All accrued interest shall be paid and distributed to the*
16 *Settlement Class Members as part of their respective Individual Settlement*
17 *Payment.*

18
19
20 EE. "Settlement Class Members" or "Settlement Class" means all of Defendant's current
21 and former non-exempt employees employed in California during the Class Period.
22 The "Settlement Class Members" shall not include any person who submits a timely
23 and valid request for exclusion as provided in this Agreement.

24
25 FF. "Total Settlement Amount" means Six Hundred Thousand Dollars (\$600,000.00) that
26 Defendant must pay into the QSF in connection with this Settlement, inclusive of the
27 sum of the Individual Settlement Payments, the Class Representative Service Awards,
28

1 the Class Counsel Award, PAGA Settlement and the Settlement Administration Costs
2 and *exclusive* of the employer's share of payroll tax, if any, triggered by any payment
3 under this Settlement.
4

5 GG. "Workweeks", for purposes of calculating the distribution of the Net Settlement
6 Amount, means the number of weeks of employment during the Class Period that
7 each Settlement Class Member worked in California. The Settlement Administrator
8 will calculate the number of Workweeks by calculating the number of days each
9 Settlement Class Member was employed during the Class Period, dividing by seven
10 (7), and rounding up to the nearest whole number. For purpose of determining the
11 Individual Settlement Payments and Payment Ratio, each Settlement Class Member
12 who is a former employee no longer working for Defendant will be assigned four (4)
13 additional Workweeks. For purposes of distributing the PAGA Settlement to the
14 Settlement Class, Workweeks means the number of weeks of employment for each
15 Settlement Class Member during the PAGA Period.
16
17

18 **II. RECITALS**

19 A. On July 17, 2020, plaintiff Castellanos filed a Notice of Labor Code Violations with
20 the Labor and Workforce Development Agency (LWDA) and served the same on
21 Defendant alleging Defendant violated California Labor Code Sections 201, 201.3,
22 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5,
23 1194, 1197, 1197.1, 1198, 1199, 2802 and 2804, and the applicable Industrial Welfare
24 Commission Wage Order.
25

26
27 B. On July 17, 2020, plaintiff Castellanos filed the *Castellanos* Action for:
28

1. Unfair Competition in Violation of Bus. and Prof. Code §§ 17200;
2. failure to pay overtime wages in violation of California Labor Code sections 510 *et seq.*;
3. failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1;
4. failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512;
5. failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512;
6. failure to provide accurate itemized wage statements in violation of California Labor Code section 226;
7. failure to reimburse employees required expenses in violation of California Labor Code section 2802; and
8. failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203.

C. On September 12, 2019, plaintiff Mauna filed a Notice of Labor Code Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant alleging Defendant violated California Labor Code Sections 203, 204, 226, 226.7, 510, 512, 1194, 1197.1, and 2802.

D. On August 15, 2019, plaintiff Mauna filed the *Mauna* Action for:

1 Meal Period Violation, Rest Period Violations, Wage and Hour Violations, Wage
2 Statement Penalties, Violation of Labor Code 2802, and Violation of the Unfair
3 Competition Law.

4
5 E. On November 1, 2019, plaintiff Gray filed a Notice of Labor Code Violations with
6 the Labor and Workforce Development Agency (LWDA) and served the same on
7 Defendant alleging Defendant violated California Labor Code Sections 226, 226.7,
8 510, 512, 1194, 1194.2, 1197.1, and 2802.

9
10 F. On January 21, 2020, plaintiff Gray filed the *Gray* Action for:
11
12 PAGA penalties.

13
14 G. On June 8, 2021, the Parties participated in mediation presided over by Lynn Frank,
15 Esq., a well-respected wage and hour class action mediator. The mediation concluded
16 with a settlement after both sides agreed to a Mediator's proposal which was
17 subsequently memorialized in the form of a Memorandum of Understanding.

18
19 H. This Agreement replaces and supersedes the Memorandum of Understanding and any
20 other agreements, understandings, or representations between the Parties. This
21 Agreement represents a compromise and settlement of highly disputed claims.
22 Nothing in this Agreement is intended or will be construed as an admission by
23 Defendant that the claims in the Actions of Plaintiffs or the Settlement Class Members
24 have merit or that Defendant bears any liability to Plaintiff or the Class on those
25 claims or any other claims, or as an admission by Plaintiffs that Defendant's defenses
26 in the Actions have merit. The Parties agree to certification of the Class for purposes
27 of this Settlement only. If for any reason the settlement does not become effective,
28

1 Defendant reserves the right to contest certification of any class for any reason and
2 reserves all available defenses to the claims in the Action.
3

4 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

5
6 **III. TERMS OF AGREEMENT**

7 A. Settlement Consideration and Settlement Payments by Defendant.

8 1. Settlement Consideration. In full and complete settlement of the Actions, and
9 in exchange for the releases set forth below, Defendant and the Released
10 Parties will pay the sum of the Individual Settlement Payments, the Class
11 Representative Service Award, the Class Counsel Award, PAGA Settlement,
12 and the Settlement Administration Costs, as specified in this Agreement, equal
13 to the Total Settlement Amount of Six Hundred Thousand Dollars
14 (\$600,000.00). The Parties agree that this is a non-reversionary Settlement and
15 that no portion of the Total Settlement Amount shall revert to Defendant.
16 Other than the Defendant's share of employer payroll taxes, or as otherwise
17 specified in the Agreement, Defendant shall not be required to pay more or
18 less than the Total Settlement Amount, except as provided for hereinbelow.
19

20
21 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
22 Class was comprised of 864 individuals that collectively worked
23 approximately 39,937 Workweeks ("Projected Workweeks") during the Class
24 Period. In regard hereto, Defendant will provide a declaration under penalty
25 of perjury confirming the number of Class Members and Workweeks they
26 worked during the Class Period prior to the filing of the motion for preliminary
27
28

1 approval. If, at the time of Defendant's declaration, the actual number of
2 Workweeks exceeds the Projected Workweeks by more than 10% (i.e., greater
3 than 49,931), the Gross Settlement Amount shall increase proportionally with
4 each added workweek at a rate of \$15.02 per Workweek.

5
6 3. Settlement Payments. Defendant and the Released Parties, and each of them,
7 are jointly and severally liable for payment of the Total Settlement Amount.
8 Defendant shall pay \$250,000.08 within fourteen (14) calendar days of the
9 Court's preliminary approval of the settlement, plus twenty-four (24) equal
10 monthly payments, each via wire transfer to the QSF, in the amount of
11 \$14,583.33, with the initial monthly payment commencing 60 days after the
12 initial deposit and continuing every 30 days thereafter.

13
14
15 4. Early Payment Discount. The Total Settlement Amount shall be discounted
16 and reduced to \$575,000.00 should Defendant agree to pay the Gross
17 Settlement Amount early, as follows: \$250,000.04, via wire transfer to the
18 QSF, within fourteen (14) calendar days of the Court's preliminary approval
19 of the settlement, plus twelve (12) equal monthly payments in the amount of
20 \$27,083.33, with the initial monthly payment commencing 60 days after the
21 initial deposit and continuing every 30 days thereafter. Defendant shall advise
22 Class Counsel of its decision to trigger the Early Payment Discount by August
23 8, 2021 or waive the Early Payment Discount.

24
25
26 5. Defendant's Share of Payroll Taxes. Defendant's share of employer side
27 payroll taxes is in addition to the Total Settlement Amount and shall be paid
28

1 by Defendant within fourteen (14) calendar days of request by the Settlement
2 Administrator.
3

4 B. Right to File Amended Complaint in the *Castellanos* Action. Prior to filing the Motion
5 for Preliminary Approval of this Settlement, Defendant shall stipulate for leave for
6 Plaintiffs to file a First Amended Complaint in the *Castellanos* Action. The First
7 Amended Complaint will join plaintiffs Mauna and Gray and add all claims and causes
8 of action causes of action asserted in the *Mauna* Action and *Gray* Action into the
9 *Castellanos* Action.
10

11 C. Release by Settlement Class Members. As of the Funding Date, in exchange for the
12 consideration set forth in this Agreement, Plaintiffs and the Settlement Class Members
13 release the Released Parties from the Released Class Claims for the Class Period.
14

15 D. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
16 consideration set forth in this Agreement, the Plaintiff, the Aggrieved Employees, the
17 LWDA and the State of California release the Released Parties from the PAGA
18 Released Claims for the PAGA Period.
19

20 E. General Release by Plaintiffs. As of the Funding Date, for the consideration set forth
21 in this Agreement, Plaintiffs, for themselves and each of them individually, waive,
22 release, acquit and forever discharge the Released Parties from any and all claims,
23 actions, charges, complaints, grievances and causes of action, of whatever nature,
24 whether known or unknown, which exist or may exist on their behalf as of the date of
25 this Agreement, including but not limited to any and all tort claims, contract claims,
26 wage claims, wrongful termination claims, disability claims, benefit claims, public
27 policy claims, retaliation claims, statutory claims, personal injury claims, emotional
28 distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum

meruit claims, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance, including, but not limited to claims for violation of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of California's Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California Business & Professions Code Section 17200 et seq., and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance. Plaintiffs also waive and relinquish any and all claims, rights or benefits that they may have under California Civil Code § 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs are creditors and/or a "releasing party" within the meaning of Civil Code § 1542. Plaintiffs may discover claims or facts in addition to, or different from, those which they now know or believe to exist, but Plaintiffs expressly agree to fully, finally and forever settle and release any and all claims against the Released Parties,

1 known or unknown, suspected or unsuspected, which exist or may exist on behalf of
2 or against the other at the time of execution of this Agreement, including, but not
3 limited to, any and all claims relating to or arising from Plaintiffs' employment with
4 Defendant. The Parties further acknowledge, understand, and agree that this
5 representation and commitment is essential to the Agreement and that this
6 Agreement would not have been entered into were it not for this representation and
7 commitment.
8

9
10 F. Dismissal of the *Mauna* Action and *Gray* Action: Upon the Funding Date, Class
11 Counsel will take all steps necessary to dismiss the *Mauna* Action and *Gray* Action
12 with prejudice.

13
14 G. Conditions Precedent: This Settlement will become final and effective only upon the
15 occurrence of all of the following events:

- 16 1. The Court enters an order granting preliminary approval of the Settlement;
- 17 2. The Court enters an order granting final approval of the Settlement and a Final
18 Judgment;
- 19 3. If an objector appears at the final approval hearing, the time for appeal of the
20 Final Judgment and Order Granting Final Approval of Class Action
21 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
22 any appeal from the Judgment and Order Granting Final Approval of Class
23 Action Settlement; and
24 4. Defendant fully funds the Total Settlement Amount.
25
26
27
28

1 H. Nullification of Settlement Agreement. If this Settlement Agreement is not
2 preliminarily or finally approved by the Court, fails to become effective, or is reversed,
3 withdrawn, or modified by the Court, or in any way prevents or prohibits Defendant
4 from obtaining a complete resolution of the Released Claims, or if Defendant fails to
5 fully fund the Total Settlement Amount:
6

7 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
8 and shall not be admissible in any judicial, administrative or arbitral
9 proceeding for any purpose or with respect to any issue, substantive or
10 procedural;
11

12 2. The conditional class certification (obtained for any purpose) shall be void *ab*
13 *initio* and of no force or effect, and shall not be admissible in any judicial,
14 administrative, or arbitral proceeding for any purpose or with respect to any
15 issue, substantive or procedural; and
16

17 3. The First Amended Complaint in the *Castellanos* Action shall be void *ab*
18 *initio* and of no force or effect, and the initial complaint filed in the
19 *Castellanos* Action shall thereafter become the operative complaint.
20

21 4. None of the Parties to this Settlement will be deemed to have waived any
22 claims, objections, defenses, or arguments in the Action, including with
23 respect to the issue of class certification.
24

25 5. Defendant shall bear the sole responsibility for any cost to issue or reissue any
26 curative notice to the Settlement Class Members and all Settlement
27 Administration Costs incurred to the date of nullification.
28

1 I. Certification of the Settlement Class. The Parties stipulate to conditional class
2 certification of the Settlement Class for the Class Period for purposes of settlement
3 only. In the event that this Settlement is not approved by the Court, fails to become
4 effective, or is reversed, withdrawn or modified by the Court, or in any way prevents
5 or prohibits Defendant from obtaining a complete resolution of the Released Claims,
6 the conditional class certification (obtained for any purpose) shall be void *ab initio* and
7 of no force or effect, and shall not be admissible in any judicial, administrative or
8 arbitral proceeding for any purpose or with respect to any issue, substantive or
9 procedural.
10

11
12 J. Tax Liability. The Parties make no representations as to the tax treatment or legal
13 effect of the payments called for, and Settlement Class Members are not relying on
14 any statement or representation by the Parties in this regard. Settlement Class
15 Members understand and agree that they will be responsible for the payment of any
16 taxes and penalties assessed on the Individual Settlement Payments described and will
17 be solely responsible for any penalties or other obligations resulting from their
18 personal tax reporting of Individual Settlement Payments.
19

20 K. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
21 the “acknowledging party” and each Party to this Agreement other than the
22 acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision
23 of this Agreement, and no written communication or disclosure between or among the
24 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
25 such communication or disclosure constitute or be construed or be relied upon as, tax
26 advice within the meaning of United States Treasury Department circular 230 (31 CFR
27
28

1 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
2 her or its own, independent legal and tax counsel for advice (including tax advice) in
3 connection with this Agreement, (b) has not entered into this Agreement based upon
4 the recommendation of any other Party or any attorney or advisor to any other Party,
5 and (c) is not entitled to rely upon any communication or disclosure by any attorney
6 or adviser to any other party to avoid any tax penalty that may be imposed on the
7 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
8 any limitation that protects the confidentiality of any such attorney's or adviser's tax
9 strategies (regardless of whether such limitation is legally binding) upon disclosure by
10 the acknowledging party of the tax treatment or tax structure of any transaction,
11 including any transaction contemplated by this Agreement.
12
13

14 L. Preliminary Approval Motion. At the earliest practicable time, Plaintiffs shall file with
15 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
16 which shall include this Settlement Agreement.
17

18 M. Settlement Administrator. The Settlement Administrator shall be responsible for:
19 establishing and administering the QSF; calculating, processing and mailing payments
20 to the Class Representatives, Class Counsel, LWDA and Settlement Class Members;
21 printing, mailing and emailing the Notice Packets to the Settlement Class Members as
22 directed by the Court; establishing and maintaining the a landing page hosted on its
23 website to containing information about the Settlement; receiving and reporting the
24 objections and requests for exclusion; calculating, deducting and remitting all legally
25 required taxes from Individual Settlement Payments and distributing tax forms for the
26 Wage Portion and Non-Wage Portion of the Individual Settlement Payments;
27
28

1 processing and mailing tax payments to the appropriate state and federal taxing
2 authorities; providing declaration(s) as necessary in support of preliminary and/or final
3 approval of this Settlement; posting notice of entry of judgment on its website; and
4 other tasks as the Parties mutually agree or the Court orders the Settlement
5 Administrator to perform. The Settlement Administrator shall keep the Parties timely
6 apprised of the performance of all Settlement Administrator responsibilities by among
7 other things, sending a weekly status report to the Parties' counsel stating the date of
8 the mailing, the of number of Elections Not to Participate in Settlement it receives
9 (including the numbers of valid and deficient), and number of objections received.
10

11
12 N. Notice Procedure.

13
14 1. Class Data. No later than fourteen (14) calendar days after the Preliminary
15 Approval Date, Defendant shall provide the Settlement Administrator with the
16 Class Data for purposes of preparing and mailing Notice Packets to Settlement
17 Class Members. Defendant shall verify the total number of Workweeks at the
18 time Class Data is provided to the Settlement Administer.
19

20 2. Notice Packets.

21 a) The Notice Packet shall contain the Notice of Class Action Settlement
22 in a form substantially similar to the form attached as Exhibit A. The
23 Notice of Class Action Settlement shall inform Settlement Class
24 Members that they need not do anything in order to receive an
25 Individual Settlement Payment and to keep the Settlement
26 Administrator apprised of their current mailing address, to which the
27
28

1 Individual Settlement Payments will be mailed following the Funding
2 Date. The Notice of Class Action Settlement shall set forth the release
3 to be given by all members of the Settlement Class who do not request
4 to be excluded from the Settlement Class in exchange for an Individual
5 Settlement Payment, the number of Workweeks worked by each
6 Settlement Class Member during the Class Period, and the estimated
7 amount of their Individual Settlement Payment if they do not request
8 to be excluded from the Settlement. The Settlement Administrator
9 shall use the Class Data to determine Class Members' Workweeks.
10

11
12 b) The Notice Packet's mailing envelope shall include the following
13 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
14 ENTITLED TO PARTICIPATE IN A CLASS ACTION
15 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
16 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
17 NOTICE."
18

19 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
20 the Settlement Administrator will perform a search based on the National
21 Change of Address Database to update and correct any known or identifiable
22 address changes. No later than fourteen (14) calendar days after receiving the
23 Class Data from Defendant, the Settlement Administrator shall mail and email
24 copies of the Notice Packet to all Settlement Class Members via regular First-
25 Class U.S. Mail and electronic mail. The Settlement Administrator shall
26 exercise its best judgment to determine the current mailing address for each
27
28

1 Settlement Class Member. The address identified by the Settlement
2 Administrator as the current mailing address shall be presumed to be the best
3 mailing address for each Settlement Class Member.
4

- 5 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
6 Administrator as non-delivered on or before the Response Deadline shall be
7 re-mailed to any forwarding address provided. If no forwarding address is
8 provided, the Settlement Administrator shall promptly attempt to determine a
9 correct address by lawful use of skip-tracing, or other search using the name,
10 address and/or Social Security number of the Settlement Class Member
11 involved, and shall then perform a re-mailing, if another mailing address is
12 identified by the Settlement Administrator. In addition, if any Notice Packets,
13 which are addressed to Settlement Class Members who are currently
14 employed by Defendant, are returned to the Settlement Administrator as non-
15 delivered and no forwarding address is provided, the Settlement Administrator
16 shall notify Defendant. Defendant will request that the currently employed
17 Settlement Class Member provide a corrected address, and transmit to the
18 Administrator any corrected address provided by the Settlement Class
19 Member. Settlement Class Members who received a re-mailed Notice Packet
20 shall have their Response Deadline extended fifteen (15) days from the
21 original Response Deadline.
22
23
24

- 25 5. Disputes Regarding Individual Settlement Payments. Settlement Class
26 Members will have the opportunity, should they disagree with Defendant's
27 records regarding the start and end dates of employment while paid on a draw,
28

1 as stated on their Employment Information Sheet, to provide documentation
2 and/or an explanation to show contrary dates. If there is a dispute, the
3 Settlement Administrator will consult with the Parties to determine whether
4 an adjustment is warranted. The Settlement Administrator shall determine the
5 eligibility for, and the amounts of, any Individual Settlement Payments under
6 the terms of this Agreement. The Settlement Administrator's determination
7 of the eligibility for and amount of any Individual Settlement Payment shall
8 be binding upon the Settlement Class Member and the Parties.
9

10
11 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
12 by the Settlement Administrator concerning the administration of the
13 Settlement will be resolved by the Court under the laws of the State of
14 California. Before any such involvement of the Court, counsel for the Parties
15 will confer in good faith to resolve the disputes without the necessity of
16 involving the Court.
17

18 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
19 Packet shall state that Settlement Class Members who wish to exclude
20 themselves from the Settlement must submit a written request for exclusion
21 by the Response Deadline. The written request for exclusion must state that
22 the Settlement Class Member wishes to exclude himself or herself from the
23 Settlement and (1) must contain the name, address, and the last four digits of
24 the Social Security number of the person requesting exclusion; (2) must be
25 signed by the Settlement Class Member; (3) must be postmarked or fax
26 stamped by the Response Deadline and returned to the Settlement
27
28

1 Administrator at the specified address or fax telephone number; and (4)
2 contain a typewritten or handwritten notice stating in substance: "I wish to
3 opt out of the settlement of the class action lawsuit entitled *Castellanos v.*
4 *Southwest Security Patrol Inc., d.b.a Southwest Patrol*, currently pending in
5 the Superior Court for the County of Santa Diego, Case No. 37-2020-
6 00024905-CU-OE-CTL. I understand that by requesting to be excluded from
7 the settlement, I will receive no money from the Settlement described in this
8 Notice." The request for exclusion will not be valid if it is not timely
9 submitted, if it is not signed by the Settlement Class Member, or if it does not
10 contain the name and address and last four digits of the Social Security number
11 of the Settlement Class Member. The date of the postmark on the mailing
12 envelope or fax stamp on the request for exclusion shall be the exclusive
13 means used to determine whether the request for exclusion was timely
14 submitted. Any Settlement Class Member who requests to be excluded from
15 the Settlement Class will not be entitled to an Individual Settlement Payment
16 and will not be otherwise bound by the terms of the Settlement or have any
17 right to object, appeal or comment thereon. However, any Settlement Class
18 Member that submits a timely request for exclusion that is also a member of
19 the Aggrieved Employees will still receive their pro rata share of the PAGA
20 Settlement, as specified below, and in consideration, will be bound by the
21 Release by the Aggrieved Employees as set forth herein. Settlement Class
22 Members who fail to submit a valid and timely written request for exclusion
23 on or before the Response Deadline shall be bound by all terms of the
24 Settlement and any final judgment entered in this Action if the Settlement is
25
26
27
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1 approved by the Court. No later than fourteen (14) calendar days after the
2 Response Deadline, the Settlement Administrator shall provide counsel for
3 the Parties with a final list of the Settlement Class Members who have timely
4 submitted written requests for exclusion. At no time shall any of the Parties
5 or their counsel seek to solicit or otherwise encourage members of the
6 Settlement Class to submit requests for exclusion from the Settlement.

- 8 8. Objections. The Notice of Class Action Settlement contained in the Notice
9 Packet shall state that Settlement Class Members who wish to object to the
10 Settlement must submit to the Settlement Administrator a written statement of
11 objection ("Notice of Objection") by the Response Deadline. The postmark
12 date of mailing shall be deemed the exclusive means for determining that a
13 Notice of Objection was served timely. The Notice of Objection must be
14 signed by the Settlement Class Member and state: (1) the case name and
15 number; (2) the name of the Settlement Class Member; (3) the address of the
16 Settlement Class Member; (4) the last four digits of the Settlement Class
17 Member's Social Security number; (4) the basis for the objection; and (5) if
18 the Settlement Class Member intends to appear at the Final
19 Approval/Settlement Fairness Hearing. Settlement Class Members who fail
20 to make objections in writing in the manner specified above may still make
21 their objections orally at the Final Approval/Settlement Fairness Hearing with
22 the Court's permission. Settlement Class Members will have a right to appear
23 at the Final Approval/Settlement Fairness Hearing to have their objections
24 heard by the Court. At no time shall any of the Parties or their counsel seek
25 to solicit or otherwise encourage Settlement Class Members to file or serve
26
27
28

1 written objections to the Settlement or appeal from the Order and Final
2 Judgment. Settlement Class Members who submit a written request for
3 exclusion may not object to the Settlement.
4

5 O. Funding and Allocation of the Total Settlement Amount. Defendant is required to pay
6 the Total Settlement Amount on or before the Funding Date, plus any employer's share
7 of payroll taxes as mandated by law within the time specified herein.
8

9 1. Individual Settlement Payments. Individual Settlement Payments shall be
10 paid from the Net Settlement Amount and shall be paid pursuant to the
11 formula set forth below.
12

13 a) Calculation of Individual Settlement Payments. Using the Class Data,
14 the Settlement Administrator shall add up the total number of
15 Workweeks for all Settlement Class Members. The respective
16 Workweeks for each Settlement Class Member will be divided by the
17 total Workweeks for all Settlement Class Members, resulting in the
18 Payment Ratio for each Settlement Class Member. Each Settlement
19 Class Member's Payment Ratio will then be multiplied by the Net
20 Settlement Amount to calculate each Settlement Class Member's
21 estimated Individual Settlement Payments. Each Individual
22 Settlement Payment will be reduced by any legally mandated
23 employee tax withholdings (e.g., employee payroll taxes, etc.).
24 Individual Settlement Payments for Class Members who submit valid
25 and timely requests for exclusion will be redistributed to Settlement
26
27
28

1 Class Members who do not submit valid and timely requests for
2 exclusion on a pro rata basis based on their respective Payment Ratios.

3
4 b) Calculation of Individual Payments to the Aggrieved Employees.

5 Using the Class Data, the Settlement Administrator shall add up the
6 total number of Workweeks for all Aggrieved Employees during the
7 PAGA Period. The respective Workweeks for each Aggrieved
8 Employee will be divided by the total Workweeks for all Aggrieved
9 Employees, resulting in the "PAGA Payment Ratio" for each
10 Aggrieved Employee. Each Aggrieved Employee's PAGA Payment
11 Ratio will then be multiplied by the Aggrieved Employee Payment to
12 calculate each Aggrieved Employee's estimated Individual PAGA
13 Settlement.
14

15
16 c) Allocation of Individual Settlement Payments. For tax purposes,
17 Individual Settlement Payments shall be allocated and treated as
18 follows: 15% as wages ("Wage Portion"); 85% as penalties and
19 interest ("Non-Wage Portion"). The Wage Portion is subject to wage
20 withholdings and shall be reported on IRS Form W-2. The Non-Wage
21 Portion shall not be subject to wage withholdings and shall be reported
22 on IRS Form 1099.
23

24 d) Allocation of Aggrieved Employee Payments. For tax purposes,
25 Aggrieved Employee Settlement Payments shall be allocated and
26 treated as 100% penalties and shall be reported on IRS Form 1099.
27
28

1 e) Mailing. Individual Settlement Payments and Aggrieved Employee
2 Payments shall be mailed by regular First-Class U.S. Mail to
3 Settlement Class Members' last known mailing address no later than
4 fifteen (15) calendar days after the Funding Date.

5
6 f) Expiration. Any checks issued to Settlement Class Members shall
7 remain valid and negotiable for one hundred and eighty (180) days
8 from the date of their issuance. If a Settlement Class Member does not
9 cash his or her settlement check within 90 days, the Settlement
10 Administrator will send a letter to such persons, advising that the
11 check will expire after the 180th day, and invite that Settlement Class
12 Member to request reissuance in the event the check was destroyed,
13 lost or misplaced. In the event an Individual Settlement Payment
14 check has not been cashed within one hundred and eighty (180) days,
15 all funds represented by such uncashed checks, plus any interest
16 accrued thereon, shall be distributed consistent with California Code
17 of Civil Procedure Section 384 as follows: to The Children's
18 Advocacy Institute (CAI), founded at the nonprofit University of San
19 Diego School of Law in 1989. Neither Class Counsel nor Defendant's
20 counsel has any interest, pecuniary or otherwise, in CAI. Similarly,
21 neither Defendant nor Plaintiffs has any interest, pecuniary or
22 otherwise, in CAI.
23
24
25

26 2. Class Representative Service Award. In addition to the Individual Settlement
27 Payment to be paid to Plaintiffs, Plaintiffs will apply to the Court for an award
28

1 of not more than \$10,000, each, as the Class Representative Service Awards.
2 Defendant does not presently intend to oppose a Class Representative Service
3 Awards of no more than \$10,000 for each Plaintiff. The Settlement
4 Administrator shall pay the Class Representative Service Awards, either in the
5 amount stated herein if approved by the Court or some other amount as
6 approved by the Court, to Plaintiffs from the Total Settlement Amount no later
7 than ten (10) calendar days after the Funding Date. Any portion of the
8 requested Class Representative Service Awards that are not awarded to the
9 Class Representatives shall be part of the Net Settlement Amount and shall be
10 distributed to Settlement Class Members as provided in this Agreement. The
11 Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiffs
12 for their Class Representative Service Award. Plaintiffs shall be solely and
13 legally responsible to pay any and all applicable taxes on their Class
14 Representative Service Award and shall hold harmless the Released Parties
15 from any claim or liability for taxes, penalties, or interest arising as a result of
16 the Class Representative Service Awards. The Class Representative Service
17 Awards shall be in addition to Plaintiffs' Individual Settlement Payment as a
18 Settlement Class Member. Approval of this Settlement shall not be
19 conditioned on Court approval of the requested amount of the Class
20 Representative Service Awards. In the event that the Court reduces or does
21 not approve the requested Class Representative Service Awards, Plaintiffs
22 shall not have the right to revoke the Settlement, and it will remain binding.

- 23
24
25
26
27 3. Class Counsel Award. Defendant understands a motion by Class Counsel for
28 attorneys' fees not to exceed one-third of the Total Settlement Amount

1 currently estimated to be \$200,000.00 plus costs and expenses supported by
2 declaration not to exceed Twenty-Five Thousand Dollars (\$20,000.00), from
3 the Total Settlement Amount will be filed. Any portion of the requested Class
4 Counsel Award that is not awarded to Class Counsel shall be part of the Net
5 Settlement Amount and shall be distributed to Settlement Class Members as
6 provided in this Agreement. The Settlement Administrator shall allocate and
7 pay the Class Counsel Award to Class Counsel from the Total Settlement
8 Amount no later than five (5) calendar days after the Funding Date. Class
9 Counsel shall be solely and legally responsible to pay all applicable taxes on
10 the payment made pursuant to this paragraph. The Settlement Administrator
11 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments
12 made pursuant to this paragraph. In the event that the Court reduces or does
13 not approve the requested Class Counsel Award, Plaintiffs and Class Counsel
14 shall not have the right to revoke the Settlement, or to appeal such order, and
15 the Settlement will remain binding.
16
17
18

- 19 4. PAGA Settlement. Fifty Thousand Dollars (\$50,000) shall be allocated from
20 the Total Settlement Amount for settlement of claims for civil penalties under
21 the Private Attorneys General Act of 2004 ("PAGA Settlement"). The
22 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
23 Settlement (\$37,500) to the California Labor and Workforce Development
24 Agency no later than twenty-five (25) calendar days after the Funding Date
25 (hereinafter "LWDA Payment"). Twenty-five (25%) of the PAGA Settlement
26 (\$12,500) will be distributed to the Aggrieved Employees as described in this
27 Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of
28

1 distributing the PAGA Settlement to the Aggrieved Employees, each
2 Aggrieved Employee shall receive their pro-rata share of the Aggrieved
3 Employee Payment using the PAGA Payment Ratio as defined above.
4

- 5 5. Settlement Administration Costs. The Settlement Administrator shall be paid
6 for the costs of administration of the Settlement from the Total Settlement
7 Amount. . The Settlement Administrator shall be paid the Settlement
8 Administration Costs no later than twenty-five (25) calendar days after the
9 Funding Date.
10

11 P. Final Approval Motion. Class Counsel and Plaintiffs shall use best efforts to file with
12 the Court a Motion for Order Granting Final Approval and Entering Judgment, within
13 twenty-eight (28) days following the expiration of the Response Deadline, which
14 motion shall request final approval of the Settlement and a determination of the
15 amounts payable for the Class Representative Service Award, the Class Counsel
16 Award, the PAGA Settlement, and the Settlement Administration Costs.
17

- 18
19 1. Declaration by Settlement Administrator. No later than fourteen (14) days
20 after the Response Deadline, the Settlement Administrator shall submit a
21 declaration in support of Plaintiffs' motion for final approval of this
22 Settlement detailing the number of Notice Packets mailed and re-mailed to
23 Settlement Class Members, the number of undeliverable Notice Packets, the
24 number of timely requests for exclusion, the number of objections received,
25 the amount of the average Individual Settlement Payment and highest
26 Individual Settlement Payment, the Settlement Administration Costs, and any
27
28

1 other information as the Parties mutually agree or the Court orders the
2 Settlement Administrator to provide.

3
4 2. Final Approval Order and Judgment. Class Counsel shall present an Order
5 Granting Final Approval of Class Action Settlement to the Court for its
6 approval, and Judgment thereon, at the time Class Counsel files the Motion
7 for Final Approval.
8

9 N. Defendant's Option to Revoke Settlement. Defendant has the unilateral right to
10 revoke the Settlement and Defendant shall have, in its sole discretion, the option to
11 terminate this Settlement if, after the Response Deadline, the number of Settlement
12 Class Members who submitted timely and valid written requests for exclusion from
13 the Settlement is at least ten percent (10%) of all Settlement Class Members. If
14 Defendant exercises the option to terminate this Settlement, Defendant shall: (a)
15 provide written notice to Class Counsel within five (5) calendar days after (i)
16 providing the Class Data to the Settlement Administrator or (ii) the Settlement
17 Administrator provides information regarding opt outs (which is to occur no later than
18 fourteen (14) calendar days after the Response Deadline, and (b) pay all Settlement
19 Administration Costs incurred up to the date or as a result of the termination; and the
20 Parties shall proceed in all respects as if this Agreement had not been executed.
21
22

23 O. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
24 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
25 Final Approval, including the Order Granting Final Approval of Class Action
26 Settlement, and Judgment before filing with the Court. The Parties and their counsel
27 will cooperate with each other and use their best efforts to affect the Court's approval
28

1 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
2 Judgment.

3
4 P. Cooperation. The Parties and their counsel will cooperate with each other and use
5 their best efforts to implement the Settlement.

6
7 Q. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
8 except such proceedings necessary to implement and complete the Settlement,
9 including the filing of an amended complaint as contemplated herein, pending the Final
10 Approval/Settlement Fairness Hearing to be conducted by the Court

11
12 R. Amendment or Modification. This Agreement may be amended or modified only by
13 a written instrument signed by counsel for all Parties or their successors-in-interest.

14
15 S. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
16 Agreement among these Parties, and no oral or written representations, warranties or
17 inducements have been made to any Party concerning this Agreement or its Exhibit
18 other than the representations, warranties and covenants contained and memorialized
19 in this Agreement and its Exhibit.

20
21 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
22 represent they are expressly authorized by the Parties whom they represent to negotiate
23 this Agreement and to take all appropriate Action required or permitted to be taken by
24 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
25 documents required to effectuate the terms of this Agreement. The persons signing
26 this Agreement on behalf of Defendant represents and warrants that he/she is
27 authorized to sign this Agreement on behalf of Defendant. Plaintiffs represent and
28

warrant that they are authorized to sign this Agreement and that he/she has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

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

V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes shall be governed by and interpreted according to the laws of the State of California.

W. Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts.

X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, taking into account all relevant factors, present and potential.

Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement and all orders and judgments entered in connection with this Agreement.

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

5
6 AA. No Unalleged Claims. Plaintiffs and Class Counsel represent that they do not currently
7 intend to pursue any claims against the Released Parties, including, but not limited to,
8 any and all claims relating to or arising from Plaintiffs' employment with Defendant,
9 regardless of whether Class Counsel is currently aware of any facts or legal theories
10 upon which any claims or causes of action could be brought against Released Parties,
11 including those facts or legal theories alleged in the operative complaint in this Action.
12 The Parties further acknowledge, understand and agree that this representation is
13 essential to the Agreement and that this Agreement would not have been entered into
14 were it not for this representation.
15

16
17 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
18 certification for purposes of this settlement only.

19
20 CC. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that the
21 Released Claims have merit and give rise to liability on the part of Defendant.
22 Defendant claims that the Released Claims have no merit and do not give rise to
23 liability. This Agreement is a compromise of disputed claims. Nothing contained in
24 this Agreement and no documents referred to and no action taken to carry out this
25 Agreement may be construed or used as an admission by or against the Defendant or
26 Plaintiffs or Class Counsel as to the merits or lack thereof of the claims asserted. Other
27
28

than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 7/22/2021

DocuSigned by:
A.C.
AC6C26B30950485

ALEX CASTELLANOS

DATED: _____

ROBERT MAUNA

DATED: _____

DOUGLAS ALONZO ALLEN GRAY

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: _____

SOUTHWEST SECURITY PATROL, INC., d.b.a.
SOUTHWEST PATROL

Printed Name

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: 7/22/2021

JCL LAW FIRM, A.P.C.

By: _____

DocuSigned by:
Jean-Claude Lapuyade
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1 than as may be specifically set forth herein, each Party shall be responsible for and
2 shall bear its/his own attorney's fees and costs.
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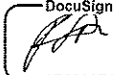
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6 DATED: _____
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ALEX CASTELLANOS

8 07/22/21 | 10:42 PDT

9 DATED: _____
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DocuSigned by:

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ROBERT MAUNA

11 DATED: _____
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DOUGLAS ALONZO ALLEN GRAY

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15 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:
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17 DATED: _____
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SOUTHWEST SECURITY PATROL, INC., d.b.a.
SOUTHWEST PATROL

19
20
21 Printed Name

22 Title
23

24 IT IS SO AGREED AS TO FORM BY COUNSEL:
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26 DATED: _____

JCL LAW FIRM, A.P.C.

27 By: _____
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than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: _____

ALEX CASTELLANOS

DATED: _____

ROBERT MAUNA

07/28/21 | 7:15 PDT

DATED: _____

DocuSigned by:

DOUGLAS GRAY

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DOUGLAS ALONZO ALLEN GRAY

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: _____

SOUTHWEST SECURITY PATROL, INC., d.b.a.
SOUTHWEST PATROL

Printed Name

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: _____

JCL LAW FIRM, A.P.C.

By: _____

than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: _____

ALEX CASTELLANOS

DATED: _____

ROBERT MAUNA

DATED: _____

DOUGLAS ALONZO ALLEN GRAY

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: 7/22/2021

DocuSigned by:



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SOUTHWEST SECURITY PATROL, INC., d.b.a.
SOUTHWEST PATROL

John Stirn

Printed Name

President

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: _____

JCL LAW FIRM, A.P.C.

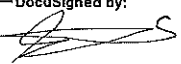
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Attorneys for the Plaintiffs and the Settlement Class
Members

DATED: 7/22/2021 _____

ZAKAY LAW GROUP, APLC

DocuSigned by:

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By: _____

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: _____

FRONTIER LAW CENTER

By: _____

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: _____

DONABEDIAN LAW, APC

By: _____

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: _____

BRADLEY & GMELICH, LLP

By: _____

Attorneys for Defendant

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Attorneys for the Plaintiffs and the Settlement Class Members

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiffs and the Settlement Class Members

DATED: July 29, 2021

FRONTIER LAW CENTER

By: Adam Thre

Attorneys for Plaintiffs and the Settlement Class Members

DATED: 07/29/21 | 12:13 PDT

DONABEDIAN LAW, APC

By: Sam Donabedian
64091DB92C34449...

Attorneys for Plaintiffs and the Settlement Class Members

DATED: _____

BRADLEY & GMELICH, LLP

By: _____

Attorneys for Defendant

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Attorneys for the Plaintiffs and the Settlement Class Members

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiffs and the Settlement Class Members

DATED: _____

FRONTIER LAW CENTER

By: _____

Attorneys for Plaintiffs and the Settlement Class Members

DATED: _____

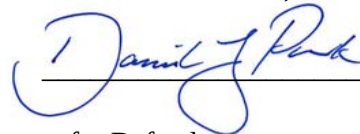
DONABEDIAN LAW, APC

By: _____

Attorneys for Plaintiffs and the Settlement Class Members

DATED: August 2, 2021

BRADLEY & GMELICH, LLP

By:  _____

Attorneys for Defendant

EXHIBIT B

1 Barry A. Bradley, Esq., State Bar No. 125353
bbradley@bgwlawyers.com
2 Jaimee K. Wellerstein, Esq., State Bar No. 210600
jwellerstein@bgwlawyers.com
3 Daniel J. Park, Esq., State Bar No. 274973
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4 BRADLEY, GMELICH & WELLERSTEIN LLP
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5 Glendale, California 91203-1202
Telephone: (818) 243-5200
6 Facsimile: (818) 243-5266
7 Attorneys for Defendant, SOUTHWEST PATROL, INC.
(erroneously sued and served as Southwest Security
8 Patrol, Inc. dba Southwest Patrol)

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, HALL OF JUSTICE COURTHOUSE**

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13 ALEXANDER CASTELLANOS, ROBERT
14 MAUNA, and DOUGLAS ALONZO ALLEN
GRAY, on behalf of themselves and all
15 persons similarly situated and all aggrieved
employees,

16 Plaintiffs,

17 vs.

18 SOUTHWEST PATROL, INC., and DOES 1
19 through 50,

20 Defendants.

Case No. 37-2020-00024905-CU-OE-CTL

**STIPULATION AND [PROPOSED]
ORDER TO MODIFY THE TIMING OF
PAYMENTS UNDER THE SETTLEMENT
AGREEMENT**

*(Assigned to the Hon. Keri Katz,
Department C74)*

Complaint Filed: 7/17/2020
Trial Date: None Set

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1 IT IS HEREBY STIPULATED by and between counsel for Plaintiff Alexander
2 Castellanos, Douglas Alonzo Allen Gray, and Robert Mauna (collectively “Plaintiffs”) and
3 Defendant Southwest Security Patrol, Inc. d.b.a. Southwest Patrol (“Defendant” and, collectively
4 “the Parties”) as follows:

5 WHEREAS, the Parties entered into the Stipulation of Settlement of Class Action Claims
6 and Release of Claims (“Settlement Agreement”) on or about August 2, 2021;

7 WHEREAS, the Parties hereto currently have a pending action before Honorable Keri
8 Katz, in the Superior Court of the State of California for the County of San Diego (the “Court”),
9 entitled *Alexander Castellanos v. Southwest Security Patrol, Inc. et al.*, Case No. 37-2020-
10 00024905-CU-OE-CTL;

11 WHEREAS, on December 3, 2021, the Court entered its Order Granting Preliminary
12 Approval of Class Action Settlement (“Preliminary Approval Order”);

13 WHEREAS, if there is a conflict between the terms of the Settlement Agreement and the
14 terms of this Stipulation, the terms herein shall control. Any capitalized terms not otherwise
15 defined herein shall have the meanings set forth in the Settlement Agreement. Except as
16 specifically modified and amended herein, all of the terms, provisions, requirements and
17 specification contained in the Settlement Agreement remain in full force and effect;

18 WHEREAS, Section III(A)(3) of the Settlement Agreement states:

19 3. Settlement Payments. Defendant and the Released Parties, and each of
20 them, are jointly and severally liable for payment of the Total Settlement Amount.
21 Defendant shall pay \$250,000.08 within fourteen (14) calendar days of the Court’s
22 preliminary approval of the settlement, plus twenty-four (24) equal monthly
23 payments, each via wire transfer to the QSF, in the amount of \$14,583.33, with the
24 initial monthly payment commencing 60 days after the initial deposit and
25 continuing every 30 days thereafter

26 WHEREAS, Defendant made an initial payment of \$125,000.02 towards the settlement
27 fund on or about January 5, 2022;

28 WHEREAS, Defendant made a payment of \$14,583.33 towards the settlement fund on or
about March 7, 2022;

1 NOW, THEREFORE, the Parties hereto now desire to stipulate to a modified payment
2 plan towards the settlement fund, thereby amending the terms of the Settlement Agreement, as set
3 forth below:

4 Defendant proposed and the Parties agreed to the modified payment plan towards the
5 settlement fund as listed below to become current on the payments towards the settlement fund
6 under the Settlement Agreement:

- 7 • March 16, 2022: \$75,000.00;
- 8 • April 7, 2022: \$14,583.33;
- 9 • May 7, 2022: \$14,583.33;
- 10 • May 16, 2022: \$50,000.00; and
- 11 • Monthly payments of \$14,583.33 continuing every 30 days until the settlement
12 fund is fully funded.

13 IT IS HEREBY AGREED TO by all parties that the facsimile and email signatures may be
14 used in filing this Stipulation and that the Stipulation may be executed in subparts which, when
15 taken together, will constitute the completed Stipulation.

16 **IT IS SO STIPULATED.**

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1 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

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3 DATED: 3/16/22

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DocuSigned by:
SOUTHWEST SECURITY PATROL, INC., d.b.a.
SOUTHWEST PATROL

5

John stirn

6

Printed Name

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President

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Title

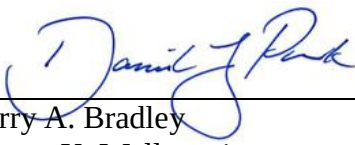
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10 Dated: March 16, 2022

BRADLEY, GMELICH & WELLERSTEIN LLP

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12

By: 
Barry A. Bradley
Jaimee K. Wellerstein
Daniel J. Park
Attorneys for Defendant, SOUTHWEST
PATROL, INC.

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Dated: March __, 2022

JCL LAW FIRM, APC

By: _____
Jean-Claude Lapuyade, Esq.
Eduardo Garcia, Esq.

Attorneys for Plaintiff, ALEXANDER
CASTELLANOS

1 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

2
3 DATED: _____

SOUTHWEST SECURITY PATROL, INC., d.b.a.
SOUTHWEST PATROL

Printed Name

Title

9 Dated: March ___, 2022

BRADLEY, GMELICH & WELLERSTEIN LLP

12 By: _____

Barry A. Bradley

Jaimee K. Wellerstein

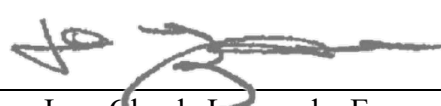
Daniel J. Park

Attorneys for Defendant, SOUTHWEST
PATROL, INC.

16 Dated: March 16, 2022

JCL LAW FIRM, APC

18 By: _____


Jean-Claude Lapuyade, Esq.

Eduardo Garcia, Esq.

Attorneys for Plaintiff, ALEXANDER
CASTELLANOS

1 Dated: March 16, 2022

ZAKAY LAW GROUP, APLC

2
3 By:



4 Shani O. Zakay, Esq.

5 Jackland K. Hom, Esq.

6 Attorneys for Plaintiff, ALEXANDER
7 CASTELLANOS

8 DATED: _____

FRONTIER LAW CENTER

9 By: _____

10 Attorneys for Plaintiffs DOUGLAS ALONSO
11 ALLEN GRAY AND ROBERT MAUNA

12 DATED: _____

DONABEDIAN LAW, APC

14 By: _____

15 Attorneys for Plaintiffs DOUGLAS ALONSO
16 ALLEN GRAY AND ROBERT MAUNA

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Dated: March __, 2022

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay, Esq.
Jackland K. Hom, Esq.
Attorneys for Plaintiff, ALEXANDER
CASTELLANOS

Dated: March 16, 2022

FRONTIER LAW FIRM

By: /s/Adam M. Rose
Adam M. Rose, Esq.
Manny M. Starr, Esq.
Attorneys for Plaintiff, DOUGLAS ALONSO
ALLEN GRAY AND ROBERT MAUNA

Dated: March 16, 2022

DONABEDIA LAW, APC

By: /s/Sam A. Donabedian
Sam A. Donabedian, Esq.
Attorneys for Plaintiff, DOUGLAS ALONSO
ALLEN GRAY AND ROBERT MAUNA

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[PROPOSED] ORDER

The Court, having considered the terms of the Stipulation by the Parties to Modify the Timing of the Payments Under the Settlement Agreement (“Stipulation”), and good cause appearing, approves of the terms of the Stipulation and the modification of the terms of the payment plan towards the Settlement Agreement.

IT IS THEREFORE ORDERED that:

Dated: _____

THE HONORABLE JUDGE
OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 **Alexander Castellanos vs. Southwest Security Patrol, Inc., et al.**
3 **Case No. 37-2020-00024905-CU-OE-CTL**

4 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am
6 employed in the County of Los Angeles, State of California. My business address is 700 North
7 Brand Boulevard, 10th Floor, Glendale, CA 91203-1202.

8 On March 16, 2022, I served true copies of the following document(s) described as
9 **STIPULATION AND [PROPOSED] ORDER TO MODIFY THE TIMING OF**
10 **PAYMENTS UNDER THE SETTLEMENT AGREEMENT** on the interested parties in this
11 action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **ONLY BY ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be
14 sent from e-mail address dkeshishyan@bgwlawyers.com to the persons at the e-mail addresses
15 listed in the Service List. This electronic service is sent to the email addresses obtained in
16 compliance with Code of Civil Procedure sections 1010.6(2)(A)(ii) and 1010.6(e)(1) and/or our
17 notice provided on or about March 16, 2020. During the Coronavirus (COVID-19) pandemic, this
18 office will be working remotely, not able to send physical mail as usual, and is therefore using
19 only electronic mail. No electronic message or other indication that the transmission was
20 unsuccessful was received within a reasonable time after the transmission.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct.

23 Executed on March 16, 2022, at Glendale, California.

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25 _____
26 Diana Keshishyan

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SERVICE LIST
Alexander Castellanos vs. Southwest Security Patrol, Inc., et al.
Case No. 37-2020-00024905-CU-OE-CTL

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Attorneys for Plaintiff, Alexander Castellanos

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Attorneys for Plaintiff, Douglas Alonso, Allen Gray and Robert Mauna

EXHIBIT C

JCL LAW FIRM, APC

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Eduardo Garcia (State Bar #290572)
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ZAKAY LAW GROUP, APLC

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shani@zakaylaw.com
jackland@zakaylaw.com

Attorneys for Plaintiff ALEXANDER CASTELLANOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ALEXANDER CASTELLANOS, an
individual, on behalf of himself, and on behalf
of all persons similarly situated,

Plaintiff,

vs.

SOUTHWEST SECURITY PATROL, INC.,
d.b.a. SOUTHWEST PATROL, a California
corporation; and DOES 1 through 50,
Inclusive;

Defendants.

Case No. 37-2020-00024905-CU-OE-CTL

**~~[PROPOSED]~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: November 9, 2021

Time: 8:30 a.m.

Judge: Hon. Keri Katz

Dept.: 74

1 This matter having come before the Honorable Judge Keri Katz of the Superior Court of the
2 State of California, in and for the County of San Diego, November 9, 2021, with Jean-Claude
3 Lapuyade, Esq., of the JCL Law Firm, APC, Shani Zakay, Esq. of the Zakay Law Group, APC,
4 Manny Starr, Esq. of the Frontier Law Center and Sam Donabedian, Esq., of Donabedian Law, APC.,
5 as counsel for plaintiffs ALEXANDER CASTELLANOS, ROBERT MAUNA, DOUGLAS
6 ALONZO ALLEN GRAY ("Plaintiffs"), and Jaimee K. Wellerstein Esq. and Dan Park Esq., of
7 Bradley & Gmelich, LLP appearing for Defendant SOUTHWEST SECURITY PATROL, INC.,
8 d.b.a. SOUTHWEST PATROL (hereinafter collectively "Defendant"). The Court, having carefully
9 considered the briefs, argument of counsel and all the matters presented to the Court, and good cause
10 appearing, hereby GRANTS Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

11 **IT IS HEREBY ORDERED:**

12 1. The Court preliminarily approves the Stipulation of Settlement of Class Action Claims
13 and Release of Claims ("Settlement Agreement" or "Agreement") a true and correct copy of which is
14 attached hereto as **Exhibit "1"**. This is based on the Court's determination that the Settlement
15 Agreement is within the range of possible final approval, pursuant to the provisions of Section 382 of
16 the California Code of Civil Procedure and California Rules of Court, rule 3.769.

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

19 3. Subject to the terms of the Settlement Agreement, the Total Settlement Amount that
20 Defendant shall pay is Six Hundred Thousand Dollars (\$600,000). It appears to the Court on a
21 preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to the
22 entire Settlement Class when balanced against the probable outcome of further litigation relating to
23 certification, liability, and damages issues. It further appears that investigation and research have been
24 conducted such that counsel for the Parties were able to reasonably evaluate their respective
25 positions. It further appears to the Court that settlement at this time will avoid substantial additional
26 costs by all Parties, as well as avoid the delay and risks that would be presented by the further
27 prosecution of the litigation. It further appears that the Settlement has been reached as the result of

intensive, serious, and non-collusive arms-length negotiations.

4. The Court preliminarily finds that the Settlement appears to be within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that the monetary settlement awards made available to the Settlement Class are fair, adequate, and reasonable when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues.

5. The Agreement specifies for an award of Attorneys' Fees and Costs in the amount of up-to one-third of the Total Settlement Amount for attorneys' fees, currently estimated at Two Hundred Thousand Dollars (\$200,000) **and** an award of litigation expenses incurred not to exceed Twenty-Five Thousand Dollars (\$25,000.00), and proposed Class Representative Service Award to the Class Representatives, Alexander Castellanos, Robert Mauna and Douglas Alonzo Allen Gray in an amount not to exceed Ten Thousand Dollars (\$10,000.00) each. While these awards appear to be within the range of reasonableness, the Court will not approve the Class Counsel Award or Class Representative Service Awards until the Final Approval Hearing.

6. The Court recognizes that Plaintiffs and Defendant stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Settlement Class:

“All of defendant SOUTHWEST SECURITY PATROL, INC. d.b.a. SOUTHWEST PATROL's current and former non-exempt employees employed in California between November 1, 2018 and September 21, 2021. The Settlement Class excludes any person who submits a timely and valid request for exclusion.”

7. The Court concludes that, for settlement purposes only, the Settlement Class meets the requirements for certification under section 382 of the Code of Civil Procedure in that: (a) the Settlement Class is ascertainable and so numerous that joinder of all members of the Settlement Class

1 is impracticable; (b) common questions of law and fact predominate, and there is a well-defined
2 community of interest amongst the Settlement Class with respect to the subject matter of the
3 litigation; (c) the claims of the Class Representative are typical of the claims of the Settlement Class;
4 (d) the Class Representatives will fairly and adequately protect the interests of the Settlement Class;
5 (e) a class action is superior to other available methods for the efficient adjudication of this
6 controversy; and (f) Class Counsel are qualified to act as counsel for the Settlement Class Members.

7 8. The Court provisionally appoints plaintiffs ALEXANDER CASTELLANOS,
8 ROBERT MAUNA, DOUGLAS ALONZO ALLEN GRAY as the representatives of the Settlement
9 Class.

10 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,
11 APC, Shani Zakay, Esq. of the Zakay Law Group, APC, Manny Starr, Esq. and Adam Rose of
12 Frontier Law Center and Sam Donabedian, Esq., of Donabedian Law as Class Counsel.

13 10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency
14 of Class and Representative Action Settlement (“Class Notice”) attached to the Agreement as **Exhibit**
15 **“A”**. The Court finds the notice appears to fully and accurately inform the Settlement Class and
16 Aggrieved Employees of all material elements of the proposed Settlement, including right of any
17 Settlement Class member to be excluded from the Settlement Class by submitting a written request
18 for exclusion, and of each Settlement Class member’s right and opportunity to object to the
19 Settlement. The Court further finds that the distribution of the notice meet the requirements of due
20 process, is the most reasonable notice under the circumstances, and shall constitute due and sufficient
21 notice to all persons entitled thereto. The Court orders the mailing of the notices by first class mail,
22 pursuant to the terms set forth in the Agreement.

23 11. The Court hereby appoints ILYM Group, Inc., as Settlement Administrator. Within
24 fourteen (14) calendar days of this order, Defendant shall provide to the Settlement Administrator the
25 Class List, including information regarding Settlement Class Members that Defendant will in good
26 faith compile from their records, including each Settlement Class Member’s full name; last known
27 address; Social Security Number; dates of employment, and number of Workweeks accrued by each
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1 Settlement Class member during the Class Period and the PAGA Period. Within fourteen (14)
2 calendar days after receiving the Class List from Defendant, the Settlement Administrator shall mail
3 the Class Notice to all identified members of the Settlement Class via first class U.S. Mail using the
4 most current mailing address information available.

5 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
6 Settlement. Any Class Member may individually choose to opt out of and be excluded from the
7 Settlement by following the instructions for requesting exclusion from the Settlement that are set
8 forth in the Notice. All requests for exclusion must be postmarked or received by the Response
9 Deadline which is forty-five (45) calendar days after the date the Class Notice is mailed to the
10 Settlement Class Members or, in the case of a re-mailed Notice, not more than fifteen (15) calendar
11 days after the original Response Deadline. Any person who chooses to opt out of and be excluded
12 from the Settlement will not be entitled to an Individual Settlement Payment under the Settlement and
13 will not be bound by the Settlement, or have any right to object, appeal or comment thereon.
14 Settlement Class members who have not requested exclusion shall be bound by all determinations of
15 the Court, the Agreement and Judgment. A request for exclusion may only opt out that particular
16 individual, and any attempt to affect an opt-out of a group, class, or subclass of individuals is not
17 permitted and will be deemed invalid.

18 13. Any Settlement Class member who has not opted out may appear at the final approval
19 hearing and may object or express the Member's views regarding the Settlement and may present
20 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard and
21 determined by the Court as provided in the Notice. Settlement Class Members will have forty-five
22 (45) days from the date the Settlement Administrator mails the Class Notice to postmark their written
23 objections to the Settlement Administrator.

24 14. A final approval hearing shall be held on **April 8, 2022 at 11:00 AM** in Department 74
25 of the San Diego County Superior Court to determine all necessary matters concerning the
26 Settlement, including: whether the proposed settlement of the Action on the terms and conditions
27 provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the
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1 Court; whether an Order Granting Final Approval should be entered; whether the plan of allocation
2 contained in the Agreement should be approved as fair, adequate and reasonable to the Settlement
3 Class; and to finally approve the Class Counsel Award, Class Representative Service Award, and the
4 Settlement Administration Costs. All papers in support of the motion for final approval and the
5 motion for Attorneys' Fee and Costs and Class Representative Enhancement Awards shall be filed
6 with the Court and served on all counsel no later than sixteen (16) court days before the hearing.

7 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
8 shall be construed as a concession or admission by Defendant in any way, and shall not be used as
9 evidence of, or used against Defendant as, an admission or indication in any way, including with
10 respect to any claim of any liability, wrongdoing, fault or omission by Defendant or with respect to
11 the truth of any allegation asserted by any person. Whether or not the Settlement is finally approved,
12 neither the Settlement, nor any exhibit, document, statement, proceeding or conduct related to the
13 Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or
14 admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the
15 Defendant, including, but not limited to, evidence of a presumption, concession, indication or
16 admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

17 16. In the event the Settlement does not become effective in accordance with the terms of
18 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become
19 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the
20 Parties shall revert to their respective positions as of before entering into the Agreement. In such an
21 event, the Court's orders regarding the Settlement, including this Preliminary Approval Order, shall
22 not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter
23 the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it is
24 not approved.

25 17. Pending final determination of whether the Settlement should be approved, Class
26 Representatives and all members of the Settlement Class are barred and enjoined from filing,
27 commencing, prosecuting, intervening in, instigating or in any way participating in the

1 commencement or prosecution of any lawsuit, action or administrative, regulatory, arbitration or
2 other proceeding, in any forum, asserting any claims that are, or relate in any way to, the Class
3 Representatives' Released Claims or the Settlement Class' Released Claims, unless and until they
4 submit a timely request for exclusion pursuant to the Agreement.

5 18. The Court reserves the right to adjourn or continue the date of the final approval
6 hearing and all dates provided for in the Agreement without further notice to Settlement Class and
7 retains jurisdiction to consider all further applications arising out of or connected with the proposed
8 Settlement.

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10 Dated: 12/3/2021



11 JUDGE OF THE SUPERIOR COURT
12 Judge Keri Katz
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EXHIBIT D