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Attorneys for Plaintiff and  
Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

CARMELLA JONES, as an individual and on  
behalf of all others similarly situated,

Plaintiff,

vs.

PREVAIL RESOURCES LLC, a Texas limited  
liability company; F2ONSITE, business entity  
form unknown; and DOES 1 through 100,

Defendants.

Case No.: 20STCV29860

*[Assigned for all purposes to the Hon.  
Maren Nelson, Dept. SSC-17]*

**DECLARATION OF PAUL K.  
HAINES IN SUPPORT OF  
PLAINTIFF'S SUPPLEMENTAL  
BRIEFING IN SUPPORT OF  
MOTION FOR APPROVAL OF  
SETTLEMENT OF CLAIMS  
BROUGHT UNDER THE PRIVATE  
ATTORNEYS' GENERAL ACT AND  
REASONABLE ATTORNEYS' FEES,  
COSTS, AND ENHANCEMENT  
AWARD**

Date: June 22, 2023  
Time: 9:00 a.m.  
Dept.: SSC-17

Complaint Filed: August 7, 2020  
Trial Date: None Set

1 I, PAUL K. HAINES, declare as follows:

2 1. I am a shareholder and principal of Haines Law Group, APC, and counsel for the  
3 named Plaintiff Carmella Jones (“Plaintiff”) and the Aggrieved Employees in the above-  
4 captioned matter. I am a member in good standing of the bar of the State of California and am  
5 admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration  
6 and could testify competently to them if called upon to do so. This declaration is being submitted  
7 in support of Plaintiff’s supplemental briefing in support of Motion for PAGA settlement  
8 approval.

9 2. On March 21, 2023 the Court issued an Order Continuing Plaintiff’s Motion to  
10 Approve PAGA Settlement (“Order”). Pursuant to the Court’s Order, the Parties met and  
11 conferred and revised the Settlement Agreement as well as the Explanatory Letter. Attached  
12 hereto as **Exhibit 1** is a true and correct copy of the fully executed Amended Settlement  
13 Agreement. Attached hereto as **Exhibit 2** is a true and correct copy of the redlined changes to  
14 the Settlement Agreement. Attached hereto as **Exhibit 3** is a true and correct copy of the revised  
15 Explanatory Letter. Attached hereto as **Exhibit 4** is a true and correct copy of the redlined  
16 changes to the Explanatory Letter.

17 3. My office has reviewed all costs associated with this case and has determined that  
18 all costs were incurred in the prosecution of Plaintiff’s PAGA claim, with the exception of a  
19 \$150.00 charge for jury’s fees. Excluding this cost as well as the \$429.97 charge for Westlaw,  
20 my office has incurred \$4,404.08 in costs associated with the litigation of Plaintiff’s PAGA  
21 claim.

22 4. Taking into account the Court’s denial of Plaintiff’s requested enhancement  
23 payment as well as the reduction in our costs, the Net Settlement Amount (“NSA”) is now  
24 \$36,929.25. The NSA shall be distributed 75% (approximately \$27,696.94) to the LWDA, and  
25 25% (approximately \$9,232.31) to Aggrieved Employees, pursuant to the requirements of the  
26 PAGA as codified in Lab. Code § 2699(i). There are approximately 22 Aggrieved Employees  
27 who suffered a Labor Code violation during the applicable time period of April 6, 2019 to  
28 February 21, 2021, resulting in average payments of approximately \$419.65 to each Aggrieved

1 Employee.

2 I declare under penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct. Executed on May 30, 2023, at El Segundo, California.

4   
5 \_\_\_\_\_

6 Paul K. Haines  
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# Exhibit 1

## **AMENDED SETTLEMENT AGREEMENT**

This Amended Settlement Agreement (“Settlement” or “Agreement”) is made and entered into between Plaintiff Carmella Jones (“Plaintiff”), acting in a Private Attorney General capacity, and Defendant Prevail Resources, LLC dba F2Onsite (“F2Onsite” or “Defendant”).

### **I. DEFINITIONS**

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

1. “Action” means the matter entitled *Carmella Jones v. Prevail Resources LLC, et al.*, Los Angeles Superior Court Case No. 21STCV29860 and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated on or about August 7, 2020.

2. “Aggrieved Employees” means all current and former non-exempt employees who worked at least one pay period for F2Onsite in California at any time during the PAGA Period. F2Onsite represents that there are approximately 22 Aggrieved Employees.

3. “Complaint” means the First Amended Class and Representative Action Complaint entitled *Carmella Jones v. Prevail Resources LLC, et al.*, Los Angeles Superior Court Case No. 21STCV29860, filed on October 14, 2020.

4. “Court” means the Superior Court of California for the County of Los Angeles.

5. “Effective Date” means the date the Court enters an order approving the Settlement and entering judgment thereon.

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

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

8. “Gross Settlement Amount” is the non-reversionary sum of Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00), which represents the total all-in amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s Counsel’s fees and costs, payment of Plaintiff’s enhancement award and payment to the Settlement Administrator for administration costs.

9. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s Counsel’s fees up to one-third of the Gross Settlement Amount, currently estimated at \$21,666.67; (b) Plaintiff’s verified costs up to \$15,000.00;; and (c) verified administration costs up to \$2,000.00.

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

11. “PAGA Period” means the time-period from April 6, 2019 through February 21, 2021.

12. “Released Parties” means Defendant and its former, present and future parent companies, subsidiaries (direct or indirect), divisions, predecessors, related or affiliated companies, insurers, reinsurers, successors, and assigns, and each of their current and former shareholders, officers, directors, attorneys, and agents thereof, both individually and in their business capacities, and each of their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities.

13. “PAGA Released Claims” means any and all claims, liquidated or unliquidated, that were asserted or could have been asserted based on the facts set forth in the operative pleading in the Action and/or notice submitted to the LWDA in connection with the Action, to recover civil penalties pursuant to PAGA for any alleged violations by Defendant with respect to work performed for F2Onsite during the PAGA Period, including claims for PAGA civil penalties based on alleged violations of Labor Code §§ 201, 202, 203, 204, 221, 222, 223, 226, 226.2, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2802 and 2804, California Industrial Commission Wage Orders, and California Code of Regulations Title 8 §§ 11040, 11000 et seq., and all claims for attorneys’ fees and costs and statutory interest in connection therewith, which arose from April 6, 2019 to February 21, 2021.

14. “Parties” means Plaintiff and Defendant, collectively.

15. “Plaintiff” means Carmella Jones.

16. “Plaintiff’s Counsel” means Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC.

17. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

## **II. RECITALS**

1. Plaintiff alleges that with regard to the Aggrieved Employees, Defendant: (1) failed to pay all overtime wages owed; (2) failed to pay all minimum wages owed; (3) failed to authorize and permit rest periods; (4) failed to provide legally compliant meal periods; (5) failed to reimburse all necessary expenditures; (6) failed to provide accurate, itemized wage statements; and (7) engaged in unfair business practices, all of which result in liability for civil penalties under the PAGA.

2. On August 7, 2020, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described in Paragraph II.1 above.

3. On August 7, 2020, Plaintiff filed the initial Class Action Complaint in the Action.

4. On October 14, 2020, Plaintiff filed the operative First Amended Class and Representative Action Complaint, adding a cause of action for civil penalties under the PAGA.

5. On September 3, 2021, the Court granted Defendant's motion to compel arbitration of Plaintiff's individual claims and dismiss Plaintiff's class claims, but denied Defendant's request to stay Plaintiff's PAGA claim.

6. During the pendency of the Action, the Parties engaged in an informal discovery exchange prior to mediation. In response to Plaintiff's Counsel's informal discovery requests, Defendant provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff's Counsel to investigate Plaintiff's allegations and value the PAGA claim, including but not limited to timekeeping and payroll data.

7. On March 16, 2022, the Parties participated in mediation before mediator Jeffrey Krivis, Esq. With the assistance of Mr. Krivis, the Parties agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

### **III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT**

The Parties agree as follows:

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

2. **Gross Settlement Amount.** Defendant shall pay Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00) as the **non-reversionary** Gross Settlement Amount. Defendant will not pay more than the Gross Settlement Amount (subject to the Escalator Clause below). The payment of the Gross Settlement Amount shall be made within thirty (30) calendar days of the Effective Date. Defendant shall make the payment to the Settlement Administrator who will then distribute all payments.

3. **Escalator Clause.** Defendant represents that there are an estimated 673 total pay periods worked by the Aggrieved Employees in California during the PAGA Period ("Affected Pay Periods"). If the number of Affected Pay Periods as reported to the Settlement Administrator following the Effective Date is more than 10% greater than this figure (i.e., if there are 741 or more Affected Pay Periods), Defendant shall increase the GSA in proportion to the increase in Affected Pay Periods (e.g., if the number of Affected Pay Periods is 12% greater than 673, Defendant will increase the GSA by 12%).

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

a. **Plaintiff's Counsel's Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one-third of the Gross Settlement Amount (currently

estimated at \$21,666.67), and costs incurred in prosecuting this Action up to \$15,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. Intentionally Left Blank

c. Administration Costs. Defendant will not oppose the Settlement Administrator's costs in the amount up to \$2,000.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. Allocation of Net Settlement Amount. The Net Settlement Amount shall be distributed pursuant to Labor Code § 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA.

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee for F2Onsite in California during the PAGA Period.

The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to renegotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

6. PAGA Released Claims. Plaintiff agrees that upon entry of an Order approving the Settlement and full payment by Defendant of the Gross Settlement Amount, all Aggrieved Employees will release any and all PAGA Released Claims against the Released Parties that arose during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, as well as full payment by Defendant of the Gross Settlement Amount, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. Plaintiff's General Release. Upon the Effective Date and the Gross Settlement Amount being fully funded by Defendant, Plaintiff, individually and on behalf of Plaintiff's heirs, executors, administrators, representatives, attorneys, successors, and assigns knowingly and voluntarily releases and forever discharges Defendant and the Released Parties, to the full extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may have against Defendant and the Released Parties as of the date of execution of the settlement agreement. However, and notwithstanding the above, Plaintiff's general release does not include any claims for or related to workers compensation, unemployment benefits, or any other claims that cannot be released as a matter of law.

8. No Right to Opt-Out. Aggrieved Employees do not have the right to object or opt out of or otherwise exclude themselves from the settlement of claims for civil penalties under PAGA, and upon approval of the Settlement by the Court, each Aggrieved Employee will have released Defendant and each of the Released Parties of and for claims for civil penalties

under PAGA released herein and each Aggrieved Employee will be entitled to receive payment, in conformity with the Settlement.

9. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that she has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that she has read this Settlement, that she fully understands her rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that she had the opportunity to consult with her attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

10. **Notification to LWDA.** Plaintiff's Counsel will notify the LWDA of the settlement at the time the settlement is submitted to the court for approval, seek approval of the settlement, and perform any and all statutory tasks as required by law.

11. **Termination of Settlement.** If the Court does not approve the Settlement, or if the Court does not enter judgment as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement. However, before exercising this option, a Party contemplating terminating the Settlement will attempt to work with the other Party in good faith to modify the Settlement in order to obtain Court approval or to otherwise cure any defect in the Settlement.

12. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, and the Court retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement pursuant to Cal. Code Civ. Proc. § 664.6. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. **ADMINISTRATION OF SETTLEMENT**

1. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within five (5) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of

Affected Pay Periods, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within twenty-one (21) calendar days of the Settlement being fully funded as provided above in Section III.2, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, along with Individual PAGA Payments to all Aggrieved Employees via regular First Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address, using a skip-trace or other similar search, using the name, address and/or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing if a new address is located.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued.

5. **Payment of Remainder.** Within twenty-one (21) calendar days of the Settlement being fully funded, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees

and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting**. Within fifteen (15) business days of distribution of the Settlement funds, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement.

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

## **V. MISCELLANEOUS PROVISIONS**

1. **Mutual Preparation and Drafting**. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

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

3. **Costs and Fees**. The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees and other fees incurred in connection with this Settlement and Plaintiff's PAGA claim, except as otherwise set forth specifically herein.

4. **Governing Law**. This Settlement shall be construed under and governed by the laws of the state of California. This Settlement shall be deemed to have been entered into in the County of Los Angeles, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of Los Angeles.

5. **Complete Agreement**. The Parties each acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by counsel for the Parties hereto.

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

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the PAGA claim in the Action.

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

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument.

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

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

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

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

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

15. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms under California Code of Civil Procedure § 664.6 and any other applicable statute or law, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

16. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

17. **Confidential.** The Parties agree that this Settlement is confidential (except for purposes of enforcement) and that no Party will issue any press release nor other public or non-public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement. The Parties and their counsel agree that they will not initiate or have any contact with the press, respond to any press inquiry, or have any communication with the press about this case.

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

**[INTENTIONALLY LEFT BLANK]**

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

Dated: May 18, 2023

  
carmella.jones (May 18, 2023 13:56 PDT)  
Carmella Jones, Plaintiff

Dated: \_\_\_\_\_

Prevail Resources, LLC dba F2Onsite  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM ONLY:**

Dated: May 18, 2023

**HAINES LAW GROUP, APC**

By:   
Paul K. Haines  
Sean M. Blakely  
Alexandra R. McIntosh  
Attorneys for Plaintiff

Dated: \_\_\_\_\_

**JACKSON LEWIS P.C.**

By: \_\_\_\_\_  
Yvonne A. Fossati  
Hazel U. Poei  
Attorneys for Defendant

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Carmella Jones, Plaintiff

Dated: 5/18/23

\_\_\_\_\_  
Prevail Resources, LLC dba F2Onsite

By: Donny Landenbach

Title: President

**APPROVED AS TO FORM ONLY:**

Dated: \_\_\_\_\_

**HAINES LAW GROUP, APC**

By: \_\_\_\_\_

Paul K. Haines

Sean M. Blakely

Alexandra R. McIntosh

Attorneys for Plaintiff

Dated: May 18, 2023

**JACKSON LEWIS P.C.**

By: 

Yvonne A. Fossati

Hazel U. Poei

Attorneys for Defendant

# EXHIBIT A

Re: **Payment from Carmella Jones v. Prevail Resources, LLC, et al**  
**Superior Court of California for the County of Los Angeles; Case No. 20STCV29860**

Date: [REDACTED]/[REDACTED]/2022

SIMID  
Name  
Address

Dear **Name**:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Carmella Jones v. Prevail Resources, LLC, et al*, Case No. 20STCV29860, pending in the Superior Court of the State of California for the County of Los Angeles (the “Action”).

The Action was filed against Prevail Resources, LLC dba F2Onsite (“F2Onsite”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiff Carmella Jones (“Plaintiff”), a former employee of F2Onsite, on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that F2Onsite owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff’s claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of F2Onsite who were allegedly affected by the alleged violations of the Labor Code. Your payment is based on the proportionate number of pay periods you worked for F2Onsite in California from April 6, 2019 to February 21, 2021 (the “PAGA Period”). Based on F2OnSite’s records, you worked [Number] **pay periods** during the PAGA Period.

In agreeing to this settlement, F2Onsite does not admit that it is liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff’s claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by F2Onsite, your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The Release applies to F2Onsite and its former, present and future parent companies, subsidiaries (direct or indirect), divisions, predecessors, related or affiliated companies, insurers, reinsurers, successors, and assigns, and each of their current and former shareholders, officers, directors, attorneys, and agents thereof, both individually and in their business capacities, and each of their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities. The release includes all claims under the PAGA that were alleged in, or could have been alleged based on the facts alleged in, Plaintiff’s complaint in the Action, including claims for civil penalties under the PAGA based on F2Onsite’s alleged violations of Labor Code 201, 202, 203, 204,

221, 222, 223, 226, 226.2, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2802 and 2804, California Industrial Commission Wage Orders, and California Code of Regulations Title 8 §§ 11040, 11000 *et seq.*, and all claims for attorneys' fees and costs and statutory interest in connection therewith, which arose during the PAGA Period.

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1- [REDACTED] - [REDACTED].

# Exhibit 2

## AMENDED SETTLEMENT AGREEMENT

This Amended Settlement Agreement (“Settlement” or “Agreement”) is made and entered into between Plaintiff Carmella Jones (“Plaintiff”), acting in a Private Attorney General capacity, and Defendant Prevail Resources, LLC dba F2Onsite (“F2Onsite” or “Defendant”).

### **I. DEFINITIONS**

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

1. “Action” means the matter entitled *Carmella Jones v. Prevail Resources LLC, et al.*, Los Angeles Superior Court Case No. 21STCV29860 and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated on or about August 7, 2020.

2. “Aggrieved Employees” means all current and former non-exempt employees who worked at least one pay period for F2Onsite in California at any time during the PAGA Period. F2Onsite represents that there are approximately 22 Aggrieved Employees.

3. “Complaint” means the First Amended Class and Representative Action Complaint entitled *Carmella Jones v. Prevail Resources LLC, et al.*, Los Angeles Superior Court Case No. 21STCV29860, filed on October 14, 2020.

4. “Court” means the Superior Court of California for the County of Los Angeles.

5. “Effective Date” means the date the Court enters an order approving the Settlement and entering judgment thereon.

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

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

8. “Gross Settlement Amount” is the non-reversionary sum of Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00), which represents the total all-in amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s Counsel’s fees and costs, payment of Plaintiff’s enhancement award and payment to the Settlement Administrator for administration costs.

9. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s Counsel’s fees up to one-third of the Gross Settlement Amount, currently estimated at \$21,666.67; (b) Plaintiff’s verified costs up to \$15,000.00; ~~(c) Plaintiff’s enhancement award of \$5,000.00~~; and (cd) verified administration costs up to \$2,000.00.

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

11. “PAGA Period” means the time-period from April 6, 2019 through February 21, 2021.

12. “Released Parties” means Defendant and its former, present and future parent companies, subsidiaries (direct or indirect), divisions, predecessors, ~~concepts~~, related or affiliated companies, insurers, reinsurers, successors, and assigns, and each of their current and former shareholders, officers, directors, ~~employees~~, attorneys, and agents thereof, both individually and in their business capacities, and each of their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities.

13. “PAGA Released Claims” means any and all claims, liquidated or unliquidated, that were asserted or could have been asserted based on the facts set forth in the operative pleading in the Action and/or notice submitted to the LWDA in connection with the Action, to recover civil penalties pursuant to PAGA for any alleged violations by Defendant with respect to work performed for F2Onsite during the PAGA Period, including claims for PAGA civil penalties based on alleged violations of Labor Code §§ 201, 202, 203, 204, ~~210~~, 221, 222, 223, 226, 226.2, ~~226.3~~, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, ~~1197.1~~, 1198, 1199, 2802 and ~~2804~~, California Industrial Commission Wage Orders, and California Code of Regulations Title 8 §§ 11040, 11000 et seq., and all claims for attorneys’ fees and costs and statutory interest in connection therewith, which arose from April 6, 2019 to February 21, 2021.

14. “Parties” means Plaintiff and Defendant, collectively.

15. “Plaintiff” means Carmella Jones.

16. “Plaintiff’s Counsel” means Paul K. Haines, Sean M. Blakely~~Tuvia Korobkin~~, and Alexandra R. McIntosh of Haines Law Group, APC.

17. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

## II. RECITALS

1. Plaintiff alleges that with regard to the Aggrieved Employees, Defendant: (1) failed to pay all overtime wages owed; (2) failed to pay all minimum wages owed; (3) failed to authorize and permit rest periods; (4) failed to provide legally compliant meal periods; (5) failed to reimburse all necessary expenditures; (6) failed to provide accurate, itemized wage statements; and (7) engaged in unfair business practices, all of which result in liability for civil penalties under the PAGA.

2. On August 7, 2020, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described in Paragraph II.1 above.

3. On August 7, 2020, Plaintiff filed the initial Class Action Complaint in the Action.

4. On October 14, 2020, Plaintiff filed the operative First Amended Class and Representative Action Complaint, adding a cause of action for civil penalties under the PAGA.

5. On September 3, 2021, the Court granted Defendant's motion to compel arbitration of Plaintiff's individual claims and dismiss Plaintiff's class claims, but denied Defendant's request to stay Plaintiff's PAGA claim.

6. During the pendency of the Action, the Parties engaged in an informal discovery exchange prior to mediation. In response to Plaintiff's Counsel's informal discovery requests, Defendant provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff's Counsel to investigate Plaintiff's allegations and value the PAGA claim, including but not limited to timekeeping and payroll data.

7. On March 16, 2022, the Parties participated in mediation before mediator Jeffrey Krivis, Esq. With the assistance of Mr. Krivis, the Parties agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

### **III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT**

The Parties agree as follows:

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

2. **Gross Settlement Amount.** Defendant shall pay Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00) as the **non-reversionary** Gross Settlement Amount. Defendant will not pay more than the Gross Settlement Amount (subject to the Escalator Clause below). The payment of the Gross Settlement Amount shall be made within thirty (30) calendar days of the Effective Date. Defendant shall make the payment to the Settlement Administrator who will then distribute all payments.

3. **Escalator Clause.** Defendant represents that there are an estimated 673 total pay periods worked by the Aggrieved Employees in California during the PAGA Period ("Affected Pay Periods"). If the number of Affected Pay Periods as reported to the Settlement Administrator following the Effective Date is more than 10% greater than this figure (i.e., if there are 741 or more Affected Pay Periods), Defendant shall increase the GSA in proportion to the increase in Affected Pay Periods (e.g., if the number of Affected Pay Periods is 12% greater than 673, Defendant will increase the GSA by 12%).

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

a. **Plaintiff's Counsel's Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one-third of the Gross Settlement Amount (currently

estimated at \$21,666.67), and costs incurred in prosecuting this Action up to \$15,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. Intentionally Left Blank~~Plaintiff's Enhancement Award. Defendant will not oppose Plaintiff's request for an enhancement award in the amount of \$5,000.00 for her service to the LWDA and the Aggrieved Employees, and the risk she undertook by attaching her name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to Plaintiff.~~

c. Administration Costs. Defendant will not oppose the Settlement Administrator's costs in the amount up to \$2,000.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. Allocation of Net Settlement Amount. The Net Settlement Amount shall be distributed pursuant to Labor Code § 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA.

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee for F2Onsite in California during the PAGA Period.

The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

6. PAGA Released Claims. Plaintiff agrees that upon entry of an Order approving the Settlement and full payment by Defendant of the Gross Settlement Amount, all Aggrieved Employees will release any and all PAGA Released Claims against the Released Parties that arose during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, as well as full payment by Defendant of the Gross Settlement Amount, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. Plaintiff's General Release. Upon the Effective Date and the Gross Settlement Amount being fully funded by Defendant, Plaintiff, individually and on behalf of Plaintiff's heirs, executors, administrators, representatives, attorneys, successors, and assigns knowingly and voluntarily releases and forever discharges Defendant and the Released Parties, to the full extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may have against Defendant and the Released Parties as of the date of execution of the settlement agreement. However, and notwithstanding the above, Plaintiff's

general release does not include any claims for or related to workers compensation, unemployment benefits, or any other claims that cannot be released as a matter of law.

8. **No Right to Opt-Out.** Aggrieved Employees do not have the right to object or opt out of or otherwise exclude themselves from the settlement of claims for civil penalties under PAGA, and upon approval of the Settlement by the Court, each Aggrieved Employee will have released Defendant and each of the Released Parties of and for claims for civil penalties under PAGA released herein and each Aggrieved Employee will be entitled to receive payment, in conformity with the Settlement.

9. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that she has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that she has read this Settlement, that she fully understands her rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that she had the opportunity to consult with her attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

10. **Notification to LWDA.** Plaintiff's Counsel will notify the LWDA of the settlement at the time the settlement is submitted to the court for approval, seek approval of the settlement, and perform any and all statutory tasks as required by law.

11. **Termination of Settlement.** If the Court does not approve the Settlement, or if the Court does not enter judgment as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement. However, before exercising this option, a Party contemplating terminating the Settlement will attempt to work with the other Party in good faith to modify the Settlement in order to obtain Court approval or to otherwise cure any defect in the Settlement.

12. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, and the Court retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement pursuant to Cal. Code Civ. Proc. § 664.6. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

#### IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within five (5) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of Affected Pay Periods, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within twenty-one (21) calendar days of the Settlement being fully funded as provided above in Section III.2, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, along with Individual PAGA Payments to all Aggrieved Employees via regular First Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address, using a skip-trace or other similar search, using the name, address and/or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing if a new address is located.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such

checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued.

5. **Payment of Remainder**. Within twenty-one (21) calendar days of the Settlement being fully funded, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting**. Within fifteen (15) business days of distribution of the Settlement funds, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement.

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

## **V. MISCELLANEOUS PROVISIONS**

1. **Mutual Preparation and Drafting**. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

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

3. **Costs and Fees**. The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees and other fees incurred in connection with this Settlement and Plaintiff's PAGA claim, except as otherwise set forth specifically herein.

4. **Governing Law**. This Settlement shall be construed under and governed by the laws of the state of California. This Settlement shall be deemed to have been entered into in the County of Los Angeles, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of Los Angeles.

5. **Complete Agreement**. The Parties each acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions

pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by counsel for the Parties hereto.

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

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the PAGA claim in the Action.

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

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument.

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

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

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

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

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

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

15. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms under California Code of Civil Procedure § 664.6 and any other applicable statute or law, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

16. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

17. **Confidential.** The Parties agree that this Settlement is confidential (except for purposes of enforcement) and that no Party will issue any press release nor other public or non-public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement. The Parties and their counsel agree that they will not initiate or have any contact with the press, respond to any press inquiry, or have any communication with the press about this case.

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

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Carmella Jones, Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Prevail Resources, LLC dba F2Onsite

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM ONLY:**

Dated: \_\_\_\_\_

**HAINES LAW GROUP, APC**

By: \_\_\_\_\_

Paul K. Haines

~~Sean M. Blakely~~ ~~Tuvia Korobkin~~

Alexandra R. McIntosh

Attorneys for Plaintiff

Dated: \_\_\_\_\_

**JACKSON LEWIS P.C.**

By: \_\_\_\_\_

Yvonne A. Fossati

Hazel U. Poei

Attorneys for Defendant

# Exhibit 3

# EXHIBIT A

Re: **Payment from Carmella Jones v. Prevail Resources, LLC, et al**  
**Superior Court of California for the County of Los Angeles; Case No. 20STCV29860**

Date: [REDACTED]/[REDACTED]/2022

SIMID  
Name  
Address

Dear **Name**:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Carmella Jones v. Prevail Resources, LLC, et al*, Case No. 20STCV29860, pending in the Superior Court of the State of California for the County of Los Angeles (the “Action”).

The Action was filed against Prevail Resources, LLC dba F2Onsite (“F2Onsite”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiff Carmella Jones (“Plaintiff”), a former employee of F2Onsite, on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that F2Onsite owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff’s claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of F2Onsite who were allegedly affected by the alleged violations of the Labor Code. Your payment is based on the proportionate number of pay periods you worked for F2Onsite in California from April 6, 2019 to February 21, 2021 (the “PAGA Period”). Based on F2OnSite’s records, you worked [Number] **pay periods** during the PAGA Period.

In agreeing to this settlement, F2Onsite does not admit that it is liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff’s claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by F2Onsite, your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The Release applies to F2Oniste and its former, present and future parent companies, subsidiaries (direct or indirect), divisions, predecessors, related or affiliated companies, insurers, reinsurers, successors, and assigns, and each of their current and former shareholders, officers, directors, attorneys, and agents thereof, both individually and in their business capacities, and each of their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities. The release includes all claims under the PAGA that were alleged in, or could have been alleged based on the facts alleged in, Plaintiff’s complaint in the Action, including claims for civil penalties under the PAGA based on F2Onsite’s alleged violations of Labor Code 201, 202, 203, 204,

221, 222, 223, 226, 226.2, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2802 and 2804, California Industrial Commission Wage Orders, and California Code of Regulations Title 8 §§ 11040, 11000 *et seq.*, and all claims for attorneys' fees and costs and statutory interest in connection therewith, which arose during the PAGA Period.

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1- [REDACTED] - [REDACTED].

# Exhibit 4

# EXHIBIT A

Re: **Payment from Carmella Jones v. Prevail Resources, LLC, et al**  
**Superior Court of California for the County of Los Angeles; Case No. 20STCV29860**

Date: [REDACTED]/[REDACTED]/2022

SIMID  
Name  
Address

Dear Name:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Carmella Jones v. Prevail Resources, LLC, et al*, Case No. 20STCV29860, pending in the Superior Court of the State of California for the County of Los Angeles (the “Action”).

The Action was filed against Prevail Resources, LLC dba F2Onsite (“F2Onsite”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiff Carmella Jones (“Plaintiff”), a former employee of F2Onsite, on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that F2Onsite owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff’s claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of F2Onsite who were allegedly affected by the alleged violations of the Labor Code. Your payment is based on the proportionate number of pay periods you worked for F2Onsite in California from April 6, 2019 to February 21, 2021 (the “PAGA Period”). Based on F2OnSite’s records, you worked [Number] pay periods during the PAGA Period.

In agreeing to this settlement, F2Onsite does not admit that it is liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff’s claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by F2Onsite, your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The Release applies to F2Onsite and its former, present and future parent companies, subsidiaries (direct or indirect), divisions, predecessors, related or affiliated companies, insurers, reinsurers, successors, and assigns, and each of their current and former shareholders, officers, directors, attorneys, and agents thereof, both individually and in their business capacities, and each of their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities. The release includes all claims under the PAGA that were alleged in, or could have been alleged based on the facts alleged in, Plaintiff’s complaint in the Action, including claims for civil penalties under the PAGA based on F2Onsite’s alleged violations of Labor Code 201, 202, 203, 204,

~~210,~~ 221, 222, 223, 226, 226.2, ~~226.3,~~ 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, ~~1197.1,~~ 1198, 1199, 2802 and ~~2800~~84, California Industrial Commission Wage Orders, and California Code of Regulations Title 8 §§ 11040, 11000 *et seq.*, and all claims for attorneys' fees and costs and statutory interest in connection therewith, which arose ~~from April 6, 2019 to February 21, 2021~~ during (the "PAGA Period").

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1--.