

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698 ET SEQ.)
SETTLEMENT AGREEMENT & RELEASE

Raul Candelario v. Symons Fire Protection, Inc.
San Diego County Superior Court
Case No. 37-2021-00015452-CU-OE-CTL

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of the above-listed actions with respect to various claims brought in a representative capacity pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2698, *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this PAGA Settlement Agreement (“PAGA Settlement” or “Agreement”).

This Agreement is made by and between Defendant Symons Fire Protection, Inc. (“Symons” or “Defendant”) on the one hand, and Plaintiff Raul Candelario (“Candelario” or “Plaintiff”) on the other hand, for himself, the Aggrieved Employees (defined below), and on behalf of the State of California. Defendant and Plaintiff, as defined herein, are collectively referred to as the “Parties.” This Agreement shall be effective upon the last date upon which it is signed and circulated among the Parties.

The Parties agree that all representative PAGA claims brought, or that could have been brought, based upon the facts alleged in San Diego County Superior Court Case Number No. 37-2021-00015452-CU-OE-CTL (the “Action”), including, but not limited to, Plaintiff’s claims that Symons failed to pay Plaintiff and Aggrieved Employees all wages owed, including minimum and overtime wages, failed to provide Plaintiff and Aggrieved Employees compliant meal and rest periods, failed to pay Plaintiff and Aggrieved Employees meal and rest period premiums, failed to issue Plaintiff and Aggrieved Employees accurate itemized wage statements and/or maintain or provide certain records, failed to timely pay all wages owed during and upon separation of employment, and failed to provide reimbursement for necessary business expenses shall be, and hereby are, fully and completely ended, settled, resolved, and concluded by agreement of Symons to pay the all-in, gross sum of Forty-Four Thousand Two Hundred Fifty Dollars and Zero Cents (\$44,250.00) (hereinafter referred to as the “PAGA Settlement Sum”) in settlement of all PAGA civil penalties sought in the Action and in exchange for Plaintiff’s general release, the amount of which shall be inclusive of attorneys’ fees and costs for Plaintiff’s Counsel (defined below), in connection with this Agreement and general release by Plaintiff.

Article I.

Definitions

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “Aggrieved Employees” means all individuals who are, or previously were, employed by Symons Fire Protection, Inc. and classified as a non-exempt employee and performed work in California during the Release Period.
- (b) “Court” means the Superior Court for the State of California, County of San Diego.
- (c) “Defendant’s Counsel” or “Counsel for Defendant” are:

Michael J. O’Connor, Jr., Esq.
Geoff D. La Val, Esq.
Atkinson, Andelson, Loya, Ruud & Romo
4275 Executive Square, Suite 700
La Jolla, California 92037

- (d) “Effective Date” means the latter of:
 - i. if no objections to the motion to approve this Agreement are made in writing or at the hearing for Court approval, the date the Court enters an order granting approval of the Agreement in the Action;
 - ii. if objection is made in writing or at the hearing on the motion to approve the Agreement and overruled, and no appeal is taken of the Order granting approval or no motion to intervene or motion to vacate is filed, then the Effective Date shall be three (3) calendar days after the deadline to file an appeal of the Order granting approval; or
 - iii. if one or more appeals are taken from the Court’s overruling any objection to the Agreement in addition to an appeal of an order denying either intervention or a motion to vacate judgment, then the Effective Date shall be three (3) calendar days after any appeal is dismissed or the Order granting approval of the Agreement is affirmed after an appeal, and the Order granting approval is not subject to further review and becomes final.
- (e) “Complaint” means the operative First Amended Complaint filed by Plaintiff Raul Candelario on or around August 10, 2021 in San Diego County Superior Court, Case No. 37-2021-00015452-CU-OE-CTL, inclusive of the allegations set forth in the original complaint filed by Plaintiff on or around April 7, 2021, as well as the PAGA notice Plaintiff submitted to the California Labor and Workforce Development Agency

(“LWDA”) on or around April 7, 2021, the filing of which was a procedural prerequisite for Plaintiff to pursue recovery of civil penalties under PAGA.

(f) “Plaintiff’s Counsel” are:

FINKELSTEIN & KRINSK LLP
Jeffrey R. Krinsk, Esq. (SBN 109234)
jrk@classactionlaw.com
Jeffrey P Jackson, Esq. (SBN 290364)
jeffrey@jacksonlaw.biz
501 West Broadway, Suite 1260
San Diego, CA 92101
T: (619) 238-1333
F: (619) 238-5425

LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS
Shelley K. Mack, Esq. (SBN209596)
4100 West Alameda Avenue, Third Floor
Burbank, CA 91505
T: (323) 302-8392
F: (323) 306-0551

(g) “Release Period” or “PAGA Period” means the time period of April 7, 2020 through the date the Court grants approval of the PAGA Settlement.

(h) “Settlement Administrator” means [Phoenix Class Action Administrators].

Article II.

Background.

Section 2.01 Procedural Background.

- (a) On or around April 7, 2021, Plaintiff submitted a PAGA Notice to the LWDA, which attached a copy of a draft putative class action and PAGA representative action complaint and declared Plaintiff’s intention to seek recovery of civil penalties for Symons’ alleged violation of California Labor Code sections 201, 201.3, 202, 203, 216, 218, 218.5, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2802, as well as the applicable Industrial Welfare Commission Wage Order.
- (b) On or around April 7, 2021, Plaintiff also filed a putative class and PAGA representative action complaint in the Superior Court of the State of California for the County of San Diego, entitled *Raul Candelario v. Symons Fire Protection, Inc.*, Case No. 37-2021-00015452-CU-OE-CTL.

- (c) On or around May 21, 2021, the Parties entered into a stipulation to allow Plaintiff to (1) dismiss his individual and putative class claims, without prejudice, in light of his execution of an arbitration agreement with Symons; and (2) file a First Amended Complaint that solely sought recovery of civil penalties under PAGA.
- (d) On or around August 10, 2021, Plaintiff filed the operative First Amended PAGA Representative Action Complaint in the Superior Court of the State of California for the County of San Diego, entitled *Raul Candelario v. Symons Fire Protection, Inc.*, Case No. STK-CV-UOE-2021-8835, which seeks recovery of civil penalties for Symons' alleged violation of California Labor Code sections 201, 201.3, 202, 203, 216, 218, 218.5, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2802, as well as the applicable Industrial Welfare Commission Wage Order.
- (e) During the course of the Action, the Parties engaged in informal discovery and investigation into Plaintiff's claims and reached this PAGA Settlement only after such discovery and investigation was performed and the Parties engaged in good faith, arm's length negotiations.
- (f) In connection with this PAGA Settlement, Plaintiff's PAGA representative claims that were, or could have been brought, alleging violations of California Labor Code sections 201, 201.3, 202, 203, 216, 218, 218.5, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2802, as well as the applicable Industrial Welfare Commission Wage Order, will be dismissed with prejudice through the entry of the Order granting approval of the Parties' PAGA Settlement.
- (g) This PAGA Settlement contemplates the entry of an order by the Court approving the payment allocated for settlement of the PAGA penalties sought in the Action and dismissal of the Action with prejudice in accordance with the paragraph above.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Court Approval of the PAGA Settlement; Mutual Cooperation.

Subject to Defendant's Counsel's review and approval prior to filing, Plaintiff's Counsel shall be responsible for preparing and filing a Motion for Approval of the PAGA Settlement ("Motion"). Plaintiff's Counsel will provide Defendant's Counsel with a copy of the Motion no later than three (3) business days prior to the deadline for submission and an opportunity to propose revisions to the Motion before it is filed. The Parties will cooperate in obtaining, through an unopposed motion, an Order from the Court approving the payment of the PAGA Settlement Sum as described in this Agreement at the earliest possible date.

Concurrently with the submission of this Agreement to the Court in support of the Motion, Plaintiff shall submit a copy of this Agreement to the LWDA, as required by PAGA. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement approval documents. The Parties further agree to fully cooperate in the drafting

and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to, the approval and implementation of the payment of the PAGA Settlement Sum as described in this Agreement.

The Court's approval of the payment of the PAGA Settlement Sum as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA by Plaintiff promptly upon entry, as required by PAGA. Should the Court not grant approval of the payment of the PAGA Settlement Sum as described in this Agreement or decline to dismiss the Action with prejudice, as agreed by the Parties, Plaintiff shall be permitted to file a successive Stipulation and/or Motion for Court Approval altering the allocation of the Settlement Sum funds; however, the Settlement Fund of \$44,250 will never be increased. Should the Court not grant approval of payment of the PAGA Settlement Sum on a successive Motion for Court Approval, this Agreement shall be null and void and have no further effect. The Parties shall be returned to their prior positions, with any and all rights and arguments intact and undisturbed.

Section 3.02 Settlement Payment Procedures.

(a) Payment of PAGA Settlement Sum.

- (1) Symons agrees to pay the total maximum amount of Forty-Four Thousand Two Hundred Fifty Dollars and Zero Cents (\$44,250.00) (i.e. "the PAGA Settlement Sum") to fully and finally settle and compromise the Action, and the Parties agree there are no circumstances that would require Symons to pay any amount greater than the PAGA Settlement Sum in connection with this Agreement. The PAGA Settlement Sum shall be paid as described in Section 3.02(a)(2) below, shall cover, resolve, and fully and completely satisfy any and all amounts owed to the State of California, the Aggrieved Employees, and Plaintiff's Counsel, including all amounts allocated to attorney fees and costs, in settlement of all of Plaintiff's claims, including both Plaintiff's individual claims and those brought pursuant to PAGA based on Plaintiff's allegation that Symons violated the California Labor Code, including but not limited to California Labor Code sections 201, 201.3, 202, 203, 216, 218, 218.5, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2802, as well as the applicable Industrial Welfare Commission Wage Order, and all related or associated claims which were asserted, or which could have been asserted based upon the facts alleged, in the Complaint. In the event this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur, or the settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Symons shall have no obligation to pay any of the PAGA Settlement Sum.
- (2) Symons' payment of the PAGA Settlement Sum shall be conditioned first upon Court approval of the PAGA Settlement and dismissal of the Action, with prejudice, after which Symons shall deposit the total amount of Forty-Two Thousand Two Hundred Fifty Dollars and Zero Cents (\$42,250.00) with the Settlement Administrator no later than thirty (30) calendar days after the Effective

Date. As part of the Settlement Sum, Symons shall remit payment to the Finkelstein & Krinsk Client Trust Account in the amount of \$2,000.00 for the consideration provided to Plaintiff in exchange for his general release of claims, subject to execution of this Settlement Agreement. Said payment to be reported by Defendant on an IRS Form 1099.

- a) Such deposit for the above items shall be performed either by mailing a check to the Settlement Administrator's designated address, or by wire transfer to the Settlement Administrator's designated account. Symons' obligation to deposit the Settlement Sum described above shall be deemed satisfied on the date either the check is mailed to the Settlement Administrator's designated address, or the funds are wired to the Settlement Administrator's designated account. Funds paid to the Plaintiff shall be performed by mailing a check payable to the "Finkelstein & Krinsk Client Trust Account" at the designated address for Counsel: FINKELSTEIN & KRINSK LLP, 501 West Broadway, Suite 1260, San Diego, CA 92101.
- (3) The "Net Settlement Fund" or "Net PAGA Penalties" shall be calculated by deducting from the PAGA Settlement Sum the following: (1) up to, but not exceeding \$27,000 for the payment of Plaintiff's Counsel's attorney fees; (2) up to, but not exceeding, actual costs incurred by Plaintiff's Counsel's not to exceed \$2,000; (3) \$2,000 to the Plaintiff in exchange for a General Release; and (4) up to, but not exceeding, \$3,000 for the payment of the Parties' agreed upon Settlement Administrator. The Net PAGA Penalties are currently estimated to total approximately \$10,250. The Net PAGA Penalties will be allocated and distributed pursuant to Labor Code section 2699(i) with 75% (\$7,687.50.) paid to the LWDA and 25% (\$2,562.50) paid to the Aggrieved Employees on a pro-rata basis according to the number of pay periods worked in the PAGA Period. If the Court does not approve the full amount of any of the items in this paragraph, such amount(s) not approved shall be re-allocated into the Net PAGA Penalties for distribution to the LWDA and the Aggrieved Employees consistent with PAGA.

(b) Distribution of the PAGA Settlement Sum.

- (1) Distribution of the PAGA Settlement Sum shall be conditioned upon the Effective Date first occurring, then it will proceed as follows:
 - a) The Settlement Administrator shall distribute the amounts described in paragraph 3.02(a)(3) within fifteen (15) calendar days of Symons' deposit of the PAGA Settlement Sum.
 - i) The 25% portion of the Net PAGA Penalties to be distributed to the Aggrieved Employees will be divided pro-rata among and paid to all Aggrieved Employees according to the total number of pay periods that each Aggrieved Employee worked during the PAGA Period.

- ii) All interest accrued on the PAGA Settlement Sum shall be distributed 75% to the LWDA and 25% to the Aggrieved Employees. The Settlement Administrator shall transmit the settlement checks to the Aggrieved Employees, with no claims process required, by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to return all undeliverable settlement checks.
- (2) For each settlement check that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. Any settlement checks that remain uncashed more than 180 calendar days after issuance shall be paid to the California State Controller, with the identity of the Aggrieved Employee(s) to whom the funds belong, to be held for the Aggrieved Employee(s) per the California Unclaimed Property Law, in the interest of justice. The money paid to the State Controller will remain each of the Aggrieved Employee's property to the extent permitted by law.
- (3) The entire amount of the PAGA Settlement Sum is considered penalties or attorney fees/costs and will not be subject to local, state, or federal tax withholdings. All recipients of payments under this PAGA Settlement shall have their payments reported on an IRS Form 1099 via the Settlement Administrator if required.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement, and compliance with this Agreement, shall not be construed as an admission by Symons of any liability whatsoever, or as an admission by Symons of any violations of Plaintiff's or Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Symons specifically disclaims any liability to Plaintiff or any other allegedly Aggrieved Employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract. Symons further denies, for any purpose other than settling these matters, that this action is appropriate for representative treatment.

Section 4.02 No Use; Non-Evidentiary Use.

Neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be publicized, marketed, reported, posted, or advertised by Plaintiff or his counsel, nor offered or used as evidence by any of the Parties or their respective counsel in the Action or in any other action or proceeding, including to establish any liability or admission on the part of Symons or any Released Parties (defined in Section 5.01) or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. Symons and the Released Parties may also use this Agreement as an affirmative defense and bar, in whole or in

part, to any future or subsequent claims or suits by the Aggrieved Employees or others, in whole or in part, to the fullest extent applicable. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Symons or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. Symons specifically retains the right to defend, on the merits, against any non-settled claims brought by any allegedly Aggrieved Employees.

Section 4.03 Nullification.

Invalidation of any material provision of this Agreement shall invalidate this Agreement in its entirety unless the Parties subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims; Non-Disparagement.

Section 5.01 Release of Claims by Aggrieved Employees.

In exchange for the significant and sufficient consideration contained in this Agreement, upon approval by the Court, Plaintiff, on behalf of himself and his heirs, executors, and assigns, and the State of California, fully and finally release, waive, and discharge Symons, and each of its present and former parent companies, subsidiaries, divisions, affiliates, successors, predecessors, and assigns, and each of its respective past and present owners, officers, directors, operators, managing agents, members, shareholders, partners, employees, agents, franchisors, franchisees, attorneys, insurers, successors, assigns, representatives, accountants, payroll providers, benefits providers, and all persons acting jointly, under, by, through, or in concert with any of them (collectively, "Released Parties") from any and all claims under PAGA which were asserted in the Complaint, or which could have been asserted in the Complaint based on the facts pleaded therein, including relating to alleged violations of California Labor Code sections 201, 201.3, 202, 203, 216, 218, 218.5, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2802, as well as the applicable Industrial Welfare Commission Wage Order ("Released Claims") that accrued during the PAGA Period.

As a result of this release and waiver, the State of California and the Aggrieved Employees will be unable to bring or recover on a claim against any of the Released Parties under the California Private Attorneys General Act, California Labor Code section 2698 et seq., for any violations of or related to the Released Claims that took place during the Release Period. Symons and the Released Parties shall have no liability whatsoever, including for any payment of civil penalties, arising out of or related to the Released Claims in this Action, except as expressly set forth in this Agreement.

Section 5.02 General Release of Any and All Claims by Plaintiff.

In exchange for the consideration provided in this agreement, and his pro-rata portion of the PAGA Settlement Sum based upon the number of pay periods he worked in the PAGA

Period, Plaintiff individually releases the Released Claims against the Released Parties, and makes the additional following General Release in favor of the Released Parties:

Plaintiff individually hereby unconditionally waives, forever releases, and discharges any and all demands, damages, debts, liabilities, contracts, obligations, actions, causes of action and claims of every kind, nature, and description whatsoever, whether now known or unknown, suspected or unsuspected, including in equity or otherwise, which he ever had or now has against the Released Parties arising or accruing at any time prior to the Effective Date, including without limitation any matter, cause or claim arising out of or related to facts or events occurring prior to the execution of this Settlement Agreement, and/or related to each of his employment with Symons and his separation therefrom. At a minimum, the claims released by Plaintiff include but are not limited to: (a) any claims that were or could have been brought under California Labor Code sections California Labor Code sections 201, 201.3, 202, 203, 216, 218, 218.5, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2802, the applicable Industrial Welfare Commission Wage Orders, the FLSA, and all related or corresponding federal laws, and all implementing regulations and interpreting guidance; (b) any claims that were or could have been brought under California Corporations Code, and California Business and Professions Code, including but not limited to California Business and Professions Code section 17200 et seq. as unlawful, fraudulent or misleading based on the claims, facts and allegations alleged in the Action (including, but not limited to, claims of conduct unlawful under state or federal law); (c) any other causes of action, including those seeking premiums, penalties, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, equity, statute, or common law; (d) any claims under the Fair Employment and Housing Act, Americans with Disabilities Act, Age Discrimination in Employment Act, and Title VII of the Civil Rights Act of 1964, and (e) any other claims the Class Representatives could have made related to his employment with Symons. Plaintiff may hereafter discover facts in addition to or different from those which he now knows or believes to be true, but stipulates and agrees that, upon their receipt of his funds to settle his individual claims and in exchange for a General Release, he fully, finally, and forever settles and releases any and all claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity and without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff is deemed, by operation of the Order granting Court approval of the PAGA Settlement, to have agreed not to sue or otherwise make a claim against any of the Released Parties for any claim.

Plaintiff further individually acknowledges that he has had the opportunity to review, and has reviewed, California Civil Code section 1542, which provides:

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

Being fully informed of this provision of the Civil Code and understanding its provisions, Plaintiff individually agrees to waive any rights under that section, and acknowledges that this

Settlement Agreement and the release of claims contained herein extends to all claims that he has or might have against the Released Parties, including those which are presently unknown to him or that he does not know or suspect to exist, which, if known by him, might have affected his settlement with, and release of, the Released Parties or might have affected his decision.

Section 5.03 Non-Disparagement by Plaintiff.

Plaintiff agrees he will not, orally or in writing, publicly or privately, post, publish, make or express any comment, view or opinion which criticizes, is adverse to, brings disrepute in the eyes of the public, defames, derogates or disparages Symons or the Released Parties in any manner, nor shall Plaintiff authorize any agent or representative to make or express any such comment, view or opinion.

Article VI.

Miscellaneous Provisions.

Section 6.01 Drafting.

The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

Section 6.02 No Impact on Benefit Plans.

Neither the Settlement Agreement nor any amounts paid to Plaintiff or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Symons. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Symons' sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Symons' benefit plans, policy, or bonus program. Symons retains the right, if necessary, to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

Section 6.03 Acknowledgement that the Settlement is Fair and Reasonable.

The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each

represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

Section 6.04 Mutual Preparation.

The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement 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 Agreement.

Section 6.05 Representation By Counsel.

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

Section 6.06 Waiver of Right to Appeal.

Provided that the Court's Order granting approval of this PAGA Settlement is consistent with the terms and conditions of the Settlement Agreement, Plaintiff, Aggrieved Employees, the LWDA, and Symons, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Court's Order, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Order will become final and non-appealable at the time it is entered. This provision does not in any way impact Plaintiff's, Symons', nor Plaintiff's Counsel's right to appeal any adverse rulings entered as a result of any objections and/or other collateral attacks.

Section 6.07 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 6.08 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both: (a) signed by the Plaintiff and Symons who executed this Agreement; and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 6.09 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and

agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.10 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 6.11 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

Section 6.12 Waiver of Compliance.

Any failure of any Party hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.13 Counterparts.

The Parties hereby acknowledge that this Agreement may be executed in counterpart originals with like effect as if executed in a single original document. The Parties also agree that a facsimile, scanned, or electronically signed (provided it complies with California Civil Code sections 1633.1, et seq. and the party provides appropriate verification) copy of the signed Agreement shall have the same force and effect as an original signed Agreement.

Section 6.14 Attorney Fees and Costs.

With respect to this Agreement, neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiff may recover, or seek to recover, any amounts for fees, costs, or disbursements from the Released Parties or the PAGA Settlement Sum except as expressly provided herein. Symons shall bear its own attorney fees and costs, and neither Plaintiff's Counsel, the Aggrieved Employees, nor Plaintiff shall be responsible for Symons' attorney fees and costs. The Court shall retain jurisdiction to enforce this Agreement pursuant to Code of Civil Procedure section 664.6; if any party moves the Court to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorneys' fees and costs incurred to enforce this Agreement.

Section 6.15 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties shall submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Section 6.16 No Other Claims or Actions

Plaintiff represents that he has not filed any complaints, claims, or actions against Symons or the Released Parties with any court or administrative agency other than the Action, and the related notice(s) filed with the LWDA. If any agency or court has or assumes jurisdiction of any complaint, claim, or action against Symons or the Released Parties on behalf of Plaintiff, Plaintiff will request that agency or court to withdraw from or dismiss the matter. Plaintiff and his Counsel agree to fully defend this Agreement and this Settlement in the event that any third party objects to, undermines, attacks, or attempts to otherwise intervene or interfere with the process and approval of this settlement or this Agreement.

Plaintiff further represents and warrants he has no other claims or actions pending or which he intends to make, on behalf of Plaintiff or any other party, against Symons or the Released Parties, nor do they represent or currently intend to represent any other parties on behalf of whom such other claims or actions may be made. In negotiating, constructing, and then executing this Agreement, it is the Parties' full and complete intention to buy there peace from each other.

Section 6.17 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.18 Default, Notice and Cure; Time is of the Essence.

If Symons fails to timely make any payment required herein, it shall be in default and Plaintiff shall give Counsel for Symons notice of the default by e-mail. Symons shall then have fifteen (15) business days thereafter to cure the default without penalty. The Parties agree that time is of the essence with respect to all provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: _____, 2022

SYMONS FIRE PROTECTION, INC.

By _____
Title _____

Dated: 02 / 16 / 2023

RAUL CANDELARIO

By Raul candelario
Plaintiff Raul Candelario

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: 02 / 15 / 2023

HILLIER DIGIACCO LLP

By 
Francis A. DiGiacco
Attorney for Plaintiff

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

January 31, 2023
Dated: _____, 2022

SYMONS FIRE PROTECTION, INC.

DocuSigned by:
By Jamil Shamoon
Title Authorized Signatory

Dated: _____, 2022

RAUL CANDELARIO

By _____
Plaintiff Raul Candelario

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: _____, 2022

FINKELSTEIN & KRINSK LLP

By _____
Jeffrey R. Krinsk
Attorney for Plaintiff

Dated: _____, 2022

LAWYERS FOR EMPLOYEE AND
CONSUMER RIGHTS

By _____
Shelley Mack, Esq.
Attorney for Plaintiff