

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698, ET SEQ.)

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS

Neff v. Kent Security of California, Inc., et al.,

Alameda County Superior Court Case No. RG21113417.

Plaintiff Divonte Neff (hereinafter "Plaintiff"), individually and in his capacity as representative of the State of California on behalf of other aggrieved employees, and Defendant Kent Security of California, Inc. (hereinafter "Defendant" or "Kent Security"), hereby enter into this Settlement Agreement and Release of Private Attorneys General Act of 2004 claims ("Settlement" or "Agreement") as follows:

I. DEFINITIONS

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

1. "Action" shall mean the civil action entitled *Neff v. Kent Security of California, Inc., et al.*, filed on or about September 21, 2021, in Alameda County Superior Court, Case No. RG21113417.

2. "Defendant" shall mean Kent Security of California, Inc.

3. "Defense Counsel" shall mean Grace Horoupian, Esq. of Fisher Phillips LLP.

4. "Effective Date" and "Final" shall mean the date that the Court grants approval to the settlement embodied herein.

5. "LWDA" refers to the California Labor & Workforce Development Agency.

6. "PAGA" refers to the Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.*

7. "PAGA Period" shall mean the period from July 15, 2020, to November 30, 2022 or the date of approval and the court's order therein, whichever comes first ("the PAGA Period").

8. "PAGA Members" shall mean all non-exempt employees who currently work or have worked for Defendant in California during the PAGA Period.

9. "PAGA Fund" shall mean the Total Settlement Payment, less Plaintiff's Counsel Payment, Plaintiff's Enhancement Award, the Settlement Administrator Costs, and any other Court mandated or approved deductions.

10. "Plaintiff" refers to Divonte Neff, individually and in his capacity as representative of the

1 State of California on behalf of other aggrieved employees.

2 11. "Plaintiff's Counsel" collectively refers to Joshua Falakassa, Esq. of Falakassa Law, P.C.

3 12. "Parties" collectively refers to Plaintiff and Defendant.

4 13. "Released Claims" shall mean any and all claims, whether known or unknown, that were
5 asserted or could have been asserted based on the facts set forth in the operative pleading in the Action
6 and/or notice submitted to the LWDA in connection with the Action, to recover civil penalties pursuant
7 to PAGA for any alleged violations by Defendant, including without limitation California Labor Code §§
8 201-203, 204, 210, 226, 226(a), 226(e), 226.3, 226.7, 510, 512, 1194, 1197.1, 1199, 2802, California
9 Industrial Commission Wage Orders, and California Code of Regulations Title 8, section 11050, 11000
10 *et seq.* which arose during the PAGA Period.

11 14. "Released Parties" shall mean Defendant Kent Security of California, Inc., including its
12 affiliates, subsidiaries, divisions, predecessors, insurers, successors, and assigns, and their current and
13 former employees, attorneys, officers, directors, and agents thereof, both individually and in their business
14 capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and
15 insurers of such plans and programs.

16 15. "Settlement Administrator" shall mean Phoenix Settlement Administrators as agreed to
17 by the Parties.

18 16. "Total Settlement Payment" shall mean an amount not to exceed Two Hundred Sixty-Five
19 Thousand Dollars and Zero Cents (\$265,000.00).

20 **II. RECITALS**

21 17. On or about July 15, 2021, Plaintiff sent a letter to the LWDA on behalf of himself and
22 other aggrieved employees in compliance with California Labor Code section 2699.3 ("PAGA Notice").
23 Plaintiff seeks to represent himself and all PAGA Members. The LWDA did not indicate that it intended
24 to investigate the alleged violations referenced in the letter, and the 65-day time period permitted for the
25 LWDA to provide such a notification expired.

26 18. On September 21, 2021, Plaintiff filed this matter in Alameda County Superior Court
27 alleging the same Labor Code violations set forth in his PAGA Notice.

1 19. On September 22, 2022, Plaintiff's Counsel and Defendant's counsel participated in
2 private mediation before an experienced wage and hour mediator, Marc Feder, Esq. Through the
3 mediator's and the parties' efforts in mediation, the parties were able to reach a settlement of the Action,
4 the terms of which have been formalized in this Agreement.

5 20. Counsel for all Parties have thoroughly investigated the facts relating to the claims alleged
6 in the operative complaint and engaged in significant informal discovery in advance of mediation. Based
7 on their investigation and evaluation of this case, Plaintiff's Counsel have concluded that the settlement
8 is fair, reasonable, and adequate considering all known facts and circumstances, including the defenses
9 asserted by Defendant, the risks and uncertainties associated with ongoing litigation, the potential inability
10 for the Action to proceed to trial as a PAGA representative action, potential adverse findings regarding
11 liability, the statutory discretion provided to the Court to decrease civil penalties under PAGA, and
12 numerous potential appellate issues.

13 21. Defendant specifically denies, and continues to deny, each and every claim and contention
14 alleged in the Action and has always maintained that it has never engaged in any unlawful acts regarding
15 any of the matters alleged in the Action. Defendant further asserts that the Action cannot manageably
16 proceed to trial as a PAGA representative action.

17 **NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions set
18 forth, the Parties agree as follows:

19 **III. NON-ADMISSION OF LIABILITY**

20 22. Based on the factual and legal issues involved, the expense and time necessary to
21 prosecute the Action, the risks, uncertainty, and costs of further prosecution, the existence of arbitration
22 agreements with express class waiver clauses, the difficulty of proof necessary to establish a PAGA
23 representative action for purposes of liability, and the relative benefits to the PAGA Members of an
24 expeditious resolution of the Action, the Parties have concluded that the terms set forth in this Settlement
25 are fair, reasonable, adequate, and in the best interests of the PAGA Members.

26 23. By entering into this Settlement, Defendant denies any liability for any of the claims in
27 the Action, as well as any other potential or unknown claims based on wage and hour violations under
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1 state or federal law. Defendant contends, among other things, that it has at all times complied with the
2 Labor Code, the related Wage Orders, and all other state and federal wage laws, and further contends that
3 the Action is without merit. Defendant has denied and continues to deny each and every factual allegation
4 and alleged claim asserted as part of the Action and the PAGA Notice. Defendant further contends that
5 the imposition of the asserted penalties would be unjust, arbitrary, oppressive, and confiscatory. Neither
6 this Settlement, nor any document referred to or contemplated herein, nor any action taken to carry out
7 this Settlement, is, may be construed as, or may be used as, an admission, concession, or indication by or
8 against Defendant of any unlawful conduct, fault, wrongdoing or liability whatsoever and should this
9 settlement not be completed for any reason, Defendant does not waive any right to attack or challenge the
10 appropriateness of these or similar claims for representative treatment. Defendant specifically denies
11 that it engaged in any unlawful or wrongful conduct against Plaintiff and/or the PAGA Members. Rather,
12 Defendant maintains it always complied with applicable laws governing wages and hours of work for its
13 employees.

14 **IV. TERMS OF THE PAGA SETTLEMENT**

15 In consideration of the mutual covenants, promises, and representations set forth in this
16 Agreement, Plaintiff, on behalf of the PAGA Members and the State of California as a
17 Private Attorney General, on the one hand, and Defendant, on the other, agrees to settle and
18 compromise the Action and the Covered Claims, subject to the settlement and release terms
19 and conditions set forth in this Agreement.

20 **A. *The Total Settlement Payment***

21 24. Defendant shall pay a Total Settlement Payment in a total amount of Two Hundred Sixty-
22 Five Thousand Dollars and Zero Cents (\$265,000.00).

23 25. The Total Settlement Payment shall include Plaintiff's Counsel Payment, Enhancement
24 Award to Plaintiff, Settlement Administrator Costs, and the PAGA Fund. Subject to the limited escalator
25 provision in Paragraph 27, in no event shall Defendant be required to pay more than the Total Settlement
26 Payment in connection with the Settlement.

27 26. Defendant shall provide the Total Settlement Payment to the Settlement Administrator
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1 within twenty-one (21) business days of the Effective Date.

2 27. Defendant represents that there are approximately 4,287 pay periods in the PAGA Period.
3 If the actual number of pay periods during the PAGA Period is more than ten percent (10%) greater than
4 4,287 pay periods (*i.e.*, greater than 4,715), the Total Settlement Payment will be increased by the
5 percentage difference between the 10% increase and the actual number of pay periods (*i.e.*, if there is a
6 11% difference, the Total Settlement Payment will increase by 1%).

7 ***B. Enhancement Award To Named Plaintiff***

8 28. Subject to Court approval, Plaintiff shall seek a payment of Ten Thousand Dollars
9 (\$10,000.00), subject to Court approval, to be paid from the Total Settlement Payment, as an enhancement
10 for his services as the PAGA representatives and execution of a general release with respect to Defendant
11 ("Enhancement Award"), in addition to any payment he may otherwise receive as a PAGA Member.

12 29. Defendant will not oppose Plaintiff's request for the Enhancement Award. Plaintiff will
13 be responsible for characterizing this compensation for tax purposes and for paying any taxes owing on
14 said amount. The Enhancement Awards approved by the Court and issued to Plaintiff will, if required by
15 law, be reported on an IRS Form 1099 to Plaintiff. The Parties agree that a reduction by the Court of the
16 requested Enhancement Awards does not constitute a material alteration of the terms of this Agreement
17 and shall not provide a basis for rendering the Settlement void or unenforceable. Any reductions by the
18 Court of the Enhancement Awards shall revert to the PAGA Fund.

19 30. Release by Named Plaintiff:

20 In addition to the Released Claims identified in Paragraph 13, upon approval by the Court of
21 this Agreement, Plaintiff for himself, his heirs, successors and assigns, does waive, release, acquit and
22 forever discharge the Released Parties, from any and all claims, actions, charges, complaints,
23 grievances and causes of action, of whatever nature, whether known or unknown, which exist or may
24 exist on Plaintiff's behalf as of the date of this Agreement, including but not limited to any and all tort
25 claims, contract claims, wage claims, wrongful termination claims, disability claims, benefit claims,
26 public policy claims, retaliation claims, statutory claims, personal injury claims, emotional distress
27 claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit claims, and any
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1 and all claims arising under any federal, state or other governmental statute, law, regulation or
2 ordinance, including any claims arising under the California Fair Employment and Housing Act
3 (FEHA), the California Labor Code, the Wage Orders of California's Industrial Welfare Commission,
4 other state wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in
5 Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil
6 Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights
7 Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California Business
8 & Professions Code Section 17200 et seq., and any and all claims arising under any federal, state or
9 other governmental statute, law, regulation or ordinances. Plaintiff specifically waives the benefit
10 of the provisions of California Civil Code § 1542, which provides as follows:

11 A general release does not extend to claims that the creditor or releasing party
12 does not know or suspect to exist in his or her favor at the time of executing
13 the release and that, if known by him or her, would have materially affected
14 his or her settlement with the debtor or released party.

15 Plaintiff understands and agrees that claims or facts in addition to or different from those which
16 are now known or believed by Plaintiff to exist may hereafter be discovered. It is Plaintiff's intention to
17 settle fully and release all claims Plaintiff now has against the Released Parties, whether known or
18 unknown, suspected or unsuspected. Plaintiff expressly acknowledges that the release in this Paragraph is
19 intended to include in its effect, without limitation, all claims Plaintiff did not know or suspect at the time
20 of execution hereof, regardless of whether the knowledge of such claims, or the facts upon which they
21 might be based, would materially have affected the settlement of this matter, and that the consideration
22 given under this Settlement is also for the release of those claims and contemplates the extinguishment of
23 any such claims.

24 31. Plaintiff represents and affirms that he does not have any pending court actions,
25 arbitrations, or other legal proceedings against Defendant other than the Action.

26 ***C. Plaintiff's Counsel Payment of Attorneys' Fees and Costs***

27 32. Plaintiff's Counsel will apply to the Court for an award of attorneys' fees not to exceed
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one-third (1/3) of the Total Settlement Payment, which is Eighty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$88,333.33). Plaintiff's Counsel will also seek reimbursement of reasonable litigation costs not to exceed Fifteen Thousand Dollars (\$15,000.00) (Plaintiff's Counsel's attorneys' fees and reasonable litigation costs are collectively referred to as the "Plaintiff's Counsel Payment"). Plaintiff's Counsel will submit declarations in support of their request for Plaintiff's Counsel Payment. Should Plaintiff's Counsel request a lesser amount for attorneys' fees and costs and/or the Court approve a lesser amount, the difference shall be allocated to the PAGA Fund and distributed accordingly. Any attorneys' fees and costs awarded to Plaintiff's Counsel shall fully compensate and reimburse Plaintiff's Counsel for any and all of the work already performed in connection with the Action and all work remaining to be performed in fully and finally resolving the Action, including but not limited to securing Final Court approval of the Agreement, and all costs that Plaintiff's Counsel has incurred or will incur.

33. Defendant will not oppose or object to Plaintiff's Counsel Payment and any request or application for attorneys' fees and costs submitted in connection therewith.

34. In the event that the Court does not approve the requested Plaintiff's Counsel Payment, or the Court alters the attorneys' fees and litigation costs sought by Plaintiff's Counsel, the Parties agree that any modifications or reductions by the Court of the requested Plaintiff's Counsel Payment (whether in the aggregate or individually) does not constitute a material alteration of the terms of this Agreement and shall not provide a basis for rendering the Settlement void or unenforceable.

35. Plaintiff's Counsel Payment shall be paid from the Total Settlement Payment. Any reductions by the Court of Plaintiff's Counsel's request for attorneys' fees or costs shall revert to the PAGA Fund in the event Plaintiff's Counsel elect not to seek appellate review of the Court's order awarding a lower amount of attorneys' fees sought.

D. Settlement Administration Fees and Costs

36. Settlement administration shall be done by the qualified, third-party Settlement Administrator agreed to by the Parties and approved by the Court. The Parties agree that the Settlement Administrator Costs shall be paid from the Total Settlement Payment. This includes all fees and costs for

1 postage, envelopes, and computer searches to locate addresses, expenses of the Settlement Administrator
 2 to implement and complete the settlement process according to the terms of this Settlement, to calculate
 3 payments to individual PAGA Members, any cost associated with the escheatment process for any
 4 uncashed or undeliverable settlement checks, to prepare any necessary tax documents, and any other
 5 related fees and costs associated with the administrative duties associated with the Settlement (the
 6 “Settlement Administrator Costs”).

7 37. The Settlement Administrator Costs shall be paid from the Total Settlement Payment. The
 8 Settlement Administrator Costs are estimated by Plaintiff’s Counsel to not exceed Ten Thousand Dollars
 9 (\$10,000.00). Any reductions by the Court or any unused Settlement Administrator Costs shall revert to
 10 the PAGA Fund.

11 ***E. PAGA Fund***

12 38. After deducting the Plaintiff’s Counsel Payment, Plaintiff’s Enhancement Award, and
 13 Settlement Administrator Costs, the remainder of the Total Settlement Payment shall be allocated to the
 14 LWDA and PAGA Members (the “PAGA Fund”).

15 39. Seventy-five percent (75%) of the PAGA Fund will be sent to the LWDA (“LWDA
 16 Payment”) and twenty-five percent (25%) of the PAGA Fund will be allocated among the PAGA
 17 Members (“PAGA Member Payment”), based on his or her proportionate share of pay periods during the
 18 PAGA Period as set forth in Section V(B.).

19 **V. COMPUTATION AND DISTRIBUTION OF TOTAL SETTLEMENT FUND**

20 ***A. Deposit of Total Settlement Payment***

21 40. The Settlement Administrator shall establish a Qualified Settlement Fund (“QSF”) for
 22 purposes of administering the Settlement. The Settlement Administrator shall furnish the QSF with its
 23 own Employer ID Number and calculate all settlement checks required under law based on information
 24 that will be confidentially furnished by Defendant. There are no payroll deductions to be calculated under
 25 this Settlement since no part of the Settlement will be classified as wages.

26 ***B. Formula for Calculating Share of PAGA Fund***

27 41. The pro-rata portion of the PAGA Fund that is paid to each PAGA Member shall be
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1 determined based on the following formula:

2 (a) The payment to PAGA Members will be based on the number of pay periods that each
3 PAGA Member performed work for Defendant during the PAGA Period.

4 (b) The amount to be paid per pay period for each PAGA Member will be calculated by
5 dividing the number of pay periods that the PAGA Member performed work for Defendant during the
6 PAGA Period by the total aggregate number of pay periods all PAGA Members performed work for
7 Defendant during the PAGA Period. The PAGA Member's percentage of the PAGA Period will then be
8 multiplied by the PAGA Member Payment to arrive at the PAGA Member's pro rata share.

9 (c) Defendant's records shall be determinative for purposes of calculating the number of pay
10 periods and any payments to PAGA Members. The Settlement Administrator shall be responsible for
11 calculating each individual PAGA Member's respective pro-rata settlement payment.

12 ***C. Distribution of PAGA Fund***

13 42. Pursuant to an order by the Court specifically compelling Defendant to do so (in light of
14 the California Consumer Privacy Act and the California Privacy Rights Act), Defendant shall provide the
15 Settlement Administrator with a list of the names, addresses and number of pay periods each of the PAGA
16 Members performed work for Defendant during the PAGA Period within ten (10) days after the Court
17 issues an Order approving the Settlement. The contact information shall be provided confidentially to the
18 Settlement Administrator only, and the Settlement Administrator shall treat the information as private and
19 highly confidential and take all necessary precautions to maintain the confidentiality of contact
20 information of the PAGA Members. This information is to be used only to carry out the Settlement
21 Administrator's duties as specified in this Settlement, shall not be shared with Plaintiff's Counsel, and
22 shall be destroyed promptly once the Settlement Administrator has completed its delineated duties.

23 43. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully
24 funded, whichever is later, the Settlement Administrator shall pay to the LWDA an amount equivalent to
25 seventy-five percent (75%) of the PAGA Fund, or as otherwise directed by the Court.

26 44. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully
27 funded, whichever is later, the Settlement Administrator shall distribute to PAGA Members their
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individual portion of the PAGA Fund (the "Individual Payment"), or as otherwise directed by the Court. A letter approved by the Parties will be included in the mailing of the Individual Payment to each PAGA Member.

45. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully funded, whichever is later, the Settlement Administrator shall distribute the Plaintiff's Enhancement Award.

46. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully funded, whichever is later, the Settlement Administrator shall distribute to Plaintiff's Counsel the court-approved Plaintiff's Counsel Payment.

47. The Settlement Administrator will send the Individual Payments to the PAGA Members by First Class U.S. Mail.

48. To provide the best notice and delivery of Individual Payments practicable, any Individual Payment returned to the Settlement Administrator as non-delivered shall be sent by First Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is provided for an Individual Payment that is returned as non-deliverable, the Settlement Administrator shall use the best available technology accessible (e.g., skip tracing, address verification, etc.) to the Settlement Administrator or other mutually agreeable method to locate PAGA Members and will then mail the Individual Payment to the address identified by First Class U.S. Mail. If no valid address is located, the Individual Payment for that individual will be deemed undeliverable. If any PAGA Members cannot be located within two attempts at mailings by the Settlement Administrator, the Individual Payment for that individual will be deemed undeliverable.

49. The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Payment to the PAGA Members, the postmark date of any subsequent mailing to any PAGA Members, and a list of PAGA Members who did not receive the Individual Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

50. All Individual Payment checks will remain valid and negotiable for 180 days from the

1 date of their initial mailing by the Settlement Administrator. After 180 days from the date of their mailing
2 by the Settlement Administrator, any uncashed checks will be void. For any PAGA Member whose
3 funds are undeliverable and/or who does not cash or negotiate her or his Individual Payment check
4 within 180 days, the uncashed funds shall be distributed to the Controller of the State of California to
5 be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit
6 of the PAGA Member(s) who did not cash their checks until such time that they claim their property,
7 or the property is otherwise disposed of pursuant to the Unclaimed Property Laws. The Settlement
8 Administrator will send Defense Counsel a list of any such uncashed checks seven days prior to
9 distributing those uncashed funds to the Controller.

10 51. The Settlement Administrator will prepare and issue any tax forms required by law,
11 including any IRS Form 1099s to PAGA Members, Plaintiff, and Plaintiff's Counsel.

12 52. The Settlement Administrator shall also prepare any accounting, declaration of
13 completion of distribution of settlement funds, or other settlement administrative task required by the
14 Court to effectuate the Settlement.

15 ***D. Settlement Administration Payment***

16 53. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully
17 funded, whichever is later, the Settlement Administrator shall deduct an amount equivalent to the
18 Settlement Administrator Costs.

19 **VI. RELEASED CLAIMS**

20 ***A. Claims Released by Plaintiff, the LWDA, and the State of California***

21 54. Upon the Effective Date, the LWDA, the State of California, Plaintiff and PAGA
22 Members fully release and forever discharge the Released Parties from any and all Released Claims.

23 ***B. Tax Treatment and Tax Indemnification***

24 55. PAGA Members, including Plaintiff, will assume any tax obligations or consequences
25 which may arise from this Settlement. PAGA Members, including Plaintiff, release any and all claims
26 that they have or may have against Defendant for any claims, demands, deficiencies, levies, assessments,
27 executions, judgments, penalties, taxes, indemnification, and any other recoveries related to any payments
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1 made under this Settlement or any compensation provided at any time by Defendant or any of the Released
2 Parties. If any state or federal taxing authority contacts, investigates, or pursues any action against any
3 PAGA Members, including Plaintiff, for their individual share of taxes related to any payments made
4 under this Settlement or any compensation provided at any time by Defendant or any of the Released
5 Parties, each PAGA Member, including Plaintiff, shall be responsible for their own defense of and
6 payment for any claim of unpaid taxes, interest, or penalties brought by any state or federal taxing
7 authority for the PAGA Settlement Member's share of any state or federal tax obligation. PAGA
8 Members agree to hold Defendant and any of the Released Parties harmless and fully indemnify
9 Defendant and any of the Released Parties for any costs, assessments, penalties, taxes, and/or attorneys'
10 fees, which Defendant and any of the Released Parties may incur arising out of any and all claims made,
11 sought or imposed by the I.R.S., the California Franchise Tax Board, and/or any other federal, state or
12 local taxing board and/or agency in regard to any amounts due, or claimed to be due, by the PAGA
13 Member, if any, to such authority or agency as a result of the tax treatment of the payment described
14 above. If a PAGA Member has questions about any liability to any state or federal taxing authority, they
15 shall contact the Settlement Administrator. The PAGA Members, including Plaintiff, shall not contact
16 Defendant, any of the Released Parties, or Defense Counsel regarding this Settlement or its tax
17 consequences. Nothing herein shall be deemed to constitute tax advice or guidance.

18 56. Any payment to PAGA Members pursuant to this Settlement will not result in additional
19 benefit payments, such as 401(k) or bonus payments.

20 **VII. MISCELLANEOUS PROVISIONS**

21 **A. *Nullification of Settlement Agreement.***

22 57. In the event that: (a) the Court does not approve the Settlement as provided herein; (b) the
23 Court strikes, modifies, or does not approve any material term of this Agreement; or (c) the Settlement
24 does not become final as written and agreed to by the Parties for any other reason, then this Agreement,
25 and any documents generated to bring it into effect, will be null and void, all amounts deposited into the
26 QSF will be returned to Defendant, and the Parties shall be returned to their original respective positions.
27 The Parties' agreement to a representative PAGA Member group is for purposes of Settlement only,
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1 therefore, if the Settlement is nullified or void, so too, is the agreement to treat this as a representative
2 action. Should such a nullification occur each of the Parties shall be referred to her, his, its or their
3 respective positions as if this Agreement did not exist. Pursuant to California Evidence Code § 1152, this
4 Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this
5 Agreement. If this Agreement is not approved or does not become Effective (as defined by the Effective
6 Date), the Parties agree that this Settlement Agreement is void, and remains protected by California
7 Evidence Code § 1152.

8 ***B. Mutual Full Cooperation***

9 58. Plaintiff and Defendant, Plaintiff's Counsel, and Defense Counsel agree to fully cooperate
10 with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such
11 documents and to take such other action as may reasonably be necessary to implement the terms herein.
12 The Parties agree to use their best efforts and any other efforts that may become necessary by Order of
13 the Court, or otherwise, to effectuate this Settlement.

14 ***C. Parties' Authority***

15 59. The signatories hereto represent that they are fully authorized to enter into this Settlement.

16 ***D. Binding Nature of the Settlement***

17 60. This Settlement shall be binding upon, and inure to the benefit of, the successors or assigns
18 of the Released Parties. Plaintiff represents, covenants, and warrants that he has not directly or indirectly,
19 assigned, transferred, or encumbered any claim, demand, action, cause of action or rights released in the
20 Released Claims in this Settlement. This Settlement also shall be binding upon Plaintiff, the PAGA
21 Members, the State of California, and the LWDA.

22 61. This Settlement may be amended or modified only by a written instrument. No rights
23 under this Settlement may be waived except in writing.

24 62. This Settlement constitutes the entire agreement between Plaintiff and Defendant relating
25 to the terms contained herein. All prior or contemporaneous agreements, understandings, and statements,
26 whether oral or written, whether express or implied, and whether by a party or its counsel, concerning this
27 Settlement are merged herein. No oral or written representations, warranties or inducements have been
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1 made to any party concerning this Settlement or its exhibits other than the representations, warranties and
2 covenants contained and memorialized in such documents.

3 63. Paragraph titles or captions contained herein are inserted as a matter of convenience and
4 for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any of its
5 provisions. Each term of this Settlement is intended to be contractual and not merely a recital.

6 ***E. Joint Drafting of Settlement Documents***

7 64. Plaintiff's Counsel and Defense Counsel have arrived at this Settlement as a result of a
8 series of arm's-length negotiations, including a full-day mediation with experienced wage and hour
9 mediator Marc Feder, Esq., and counsel have taken into account all relevant factors, present and potential
10 risks with ongoing litigation.

11 65. This Settlement has been drafted jointly by Plaintiff's Counsel and Defense Counsel and,
12 therefore, in any construction or interpretation of this Settlement, the same shall not be construed against
13 any of the Parties.

14 ***F. Execution of the Settlement***

15 66. This Agreement may be executed in any number of counterparts, any of which shall be
16 deemed to be the original if fully executed by both Parties. This Agreement may be executed and delivered
17 by facsimile or email and, when fully executed and delivered, this Settlement and photocopies thereof
18 shall be legally binding and enforceable as the original. If an electronic signature is utilized by any
19 signatory to this Agreement the Party and/or our counsel utilizing the electronic signature acknowledge
20 that the electronic signature is binding pursuant to California Civil Code section 1633.1, *et seq.* (the
21 "Uniform Electronic Transactions Act") and that it was obtained by the person for whom it appears, and
22 appropriate measures were taken to protect the security and authenticity of the signatory.

23 ***G. Continuing Jurisdiction of the Court***

24 67. Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that the
25 Court shall retain jurisdiction over the Parties, and over this Settlement, in order to: (i) monitor and enforce
26 compliance of Settlement, and/or (ii) resolve any disputes over this Settlement or the administration of the
27 benefits of this Settlement.

1 ***H. Invalidity of Any Provision***

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

5 ***I. No Collateral Attack***

6 69. This Agreement shall not be subject to collateral attack by any PAGA Member after the
7 Effective Date. Such prohibited collateral attacks shall include but not be limited to claims that the PAGA
8 Member failed for any reason to receive notice of the settlement and/or her or his Individual Payment.
9 PAGA Members do not have the right to object or opt out of the Settlement.

10 ***J. Notifications to the LWDA***

11 70. Plaintiff's Counsel shall notify the LWDA of the Settlement at the same time that it is
12 submitted to the Court and take all other steps required to effectuate the Settlement under Labor Code
13 Section 2699(l).

14 ***K. Representations by Plaintiff***

15 71. Plaintiff acknowledges the following:

- 16 (a) Plaintiff has carefully read and fully understands all of the provisions of this Settlement;
17 (b) Plaintiff knowingly and voluntarily agrees to all of the terms set forth in this Settlement
18 and have not been coerced, threatened, or intimidated into executing this Settlement;
19 (c) Plaintiff was advised, and hereby is advised in writing, to consider the terms of this
20 Settlement and consult with their attorneys before signing this Settlement; and
21 (d) Other than the fees and costs awarded pursuant to the terms of this Settlement, Plaintiff
22 acknowledges that all Parties shall bear their own fees and costs through the conclusion of the Actions.

23 ***L. Representations by Defendant***

24 72. Defendant acknowledges the following:

- 25 (a) Defendant has carefully read and fully understand all of the provisions of this Settlement;
26 (b) Defendant knowingly and voluntarily agrees to all of the terms set forth in this Settlement
27 and have not been coerced, threatened, or intimidated into executing this Settlement;
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(c) Defendant was advised, and hereby is advised in writing, to consider the terms of this Settlement and consult with its attorneys before signing this Settlement.

(d) Other than the fees and costs awarded pursuant to the terms of this Settlement, Defendant acknowledges that all Parties shall bear their own fees and costs through the conclusion of this Action.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement and Release of PAGA Claims as of the date(s) set forth below:

AGREED TO BY PLAINTIFF AND DEFENDANT:

DATED: November __, 2022
11/2/2022

DIVONTE NEFF, individually and on behalf of other aggrieved employees

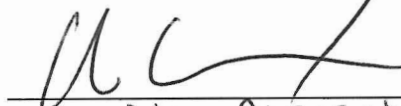
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DATED: November 1, 2022

KENT SECURITY OF CALIFORNIA, INC.



By: Alan Alexander
Title: President

APPROVED AS TO FORM TO BY PLAINTIFF'S COUNSELS:

FALAKASSA LAW, P.C.

DocuSigned by:



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DATED: November __, 2022
11/1/2022

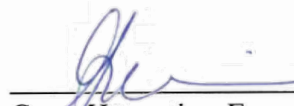
Joshua Falakassa, Esq.

Attorney for Plaintiff and the Aggrieved Employees

APPROVED AS TO FORM TO BY DEFENDANT'S COUNSEL:

FISHER PHILLIPS L.L.P.

DATED: November 1, 2022



Grace Horoupian, Esq.

Attorney for Defendant Kent Security of California, Inc.