



May 15, 2023

VIA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
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Oakland, CA 94612
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**NOTICE OF COURT'S ORDER APPROVING SETTLEMENT AND DISMISSING
ENTIRE ACTION PER C.M.O. #1**

Subject: *John Poltz, on behalf of himself and all similarly aggrieved employees v. Desert Fire Extinguisher
CO., Inc., Michael Shayne, Denise Gilbert, and Joshua Gilbert*

Riverside Superior Court Case No.: CVRI12103037

The Riverside Superior Court's Order Approving Settlement and Dismissing Entire Action Per
C.M.O #1 is hereby submitted for filing and service.

Thank you for your attention to this matter.

Very truly yours,

Craig Sterling
Craig Sterling, Esq.

cc: John Poltz (via email)

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Attorneys for Plaintiff John Poltz

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

JOHN POLTZ, on behalf of himself and others
similarly situated,

Plaintiff,

vs.

DESERT FIRE EXTINGUISHER, CO., INC.,
a California Corporation; MICHAEL SHAYNE,
an individual; DENISE GILBERT, an individual;
JOSHUA GILBERT, an individual, and
DOES 1-50, inclusive,

Defendants.

Case No. CVRI2103037

~~PROPOSED~~ ORDER APPROVING
SETTLEMENT AND DISMISSING
ENTIRE ACTION PER C.M.O. # 1

Reservation ID: 885904061990

Hearing Date: March 6, 2023

Time: 8:30 A.M.

Judge: Hon. Harold Hopp

Dept.: 10

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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1 The Motion for Order Approving the Settlement of Plaintiff's Individual Claims and
2 Dismissal of Entire Action filed by Plaintiff John Poltz ("Poltz") on March 6, 2023, came on for a
3 Noticed hearing before the Court ("Motion"). Defendants (Desert Fire Extinguisher Co., Inc.,
4 Michael Shayne, Denise Gilbert, and Joshua Gilbert (collectively "Defendants")) and Plaintiff ("the
5 Parties") agree on these issues, which are set forth in the Parties' Settlement Agreement and the
6 documents filed in support of the Motion.

7 Plaintiff's SAC asserts seventeen (17) "Individual Claims" as follows: (1) Financial Elder
8 Abuse; (2) Fraud; (3) Breach of Contract; (4) Constructive Termination; (5) Retaliation, Labor Code §
9 98.6; (6) Intentional Infliction of Emotional Distress; (7) Failure to Pay Wages, Labor Code § 204; (8)
10 Unpaid Overtime Wages, Labor Code § 510; (9) Unpaid Premium Wages for 30 Minute Duty-Free
11 Meal Periods; Labor Code § 226.7; (10) Unpaid Premium Wages for 10 Minute Duty-Free Rest
12 Breaks, Labor Code § 226.7; (11) Failure to Issue Wage Statements, Labor Code § 226(a); (12) Failure
13 to Keep Payroll Records, Labor Code § 1174(d); (13) Deficient Pay Penalties, Labor Code § 210; (14)
14 Unreimbursed Business Expenses, Labor Code § 2802; (15) Waiting Time Penalties, Labor Code §
15 203; (16) Violation of Unfair Competition Law – Bus. & Prof. Code § 17200, et seq.; and (18) Age
16 Discrimination, Gov. C. 12940, et seq (the "Individual Claims").

17 The Parties have agreed to settle all Individual Claims claims as provided in the Settlement
18 Agreement, which are to be dismissed with prejudice.

19 Plaintiff's SAC also asserts one cause of action (No.17) under the California Labor Code
20 Private Attorneys General Act ("PAGA"), Cal. Lab. Code § 2698 et. seq, to recover wages and
21 penalties with respect to himself and other allegedly "aggrieved employees" in California (the "PAGA
22 Claim").

23 The Parties have also agreed to settle the Plaintiff's PAGA Claim and dismiss it with
24 prejudice.

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1 Having reviewed and considered the Motion, supporting documentation filed with the
2 Motion, the pleadings and papers filed in this Action, and oral argument in support of Plaintiff's
3 Motion, and finding good cause thereon,

4 **THE COURT ORDERS THE FOLLOWING:**

- 5 1. The settlement and release of claims between the Parties are approved;
6
7 2. Plaintiff's Individual Claims (*i.e.*, SAC Causes of Action Nos. 1-16 and No. 18) are hereby
8 dismissed with prejudice;
9
10 3. Plaintiff's representative PAGA Claim is dismissed with prejudice;
11
12 4. As is noted in CMO # 1, Section (D)(6)(b), the dismissal of Plaintiff's PAGA Claim (*i.e.*,
13 SAC Cause of Action No. 17) does not extend to or otherwise affect the ability of an
14 aggrieved employee of Defendants to bring individual, non-representative claims against
15 Defendants for alleged violations of the Labor Code.

16 *Non Appearance*

- 17 5. Pursuant to CMO # 1, Section (D)(11)(b), the Final Accounting Hearing shall take place
18 on 11-03-2023 at 8:30 AM, Department 10.

19
20 *Ten*

- 21 6. ~~Thirty~~ days before the Final Accounting Hearing, Plaintiff's counsel shall file a report
22 concerning the distribution of money and, if applicable, uncashed checks.

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IT IS SO ORDERED:

DATED: 3/29/23



Harold Hopp, Superior Court Judge

Judge Harold W. Hopp

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9 **Attorneys for Plaintiff John Poltz**

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE**
13

14 JOHN POLTZ, on behalf of himself and others
15 similarly situated,

16 Plaintiff,

17 vs.

18 DESERT FIRE EXTINGUISHER, CO., INC.,
19 a California Corporation; MICHAEL SHAYNE,
20 an individual; DENISE GILBERT, an
individual; JOSHUA GILBERT, an individual,
21 and DOES 1-50, inclusive,

22 Defendants.
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Case No. CVRI2103037

PROOF OF SERVICE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am a citizen of the United States and a resident of Riverside County. I am over the age of eighteen years and not a party to the within entitled action. My business address is 42-600 Caroline Court, Suite 101, Palm Desert, CA 92211. My electronic service address is tina@karensloatlaw.com.

On May 15, 2023, I served the on all interested parties in the said action appearing in the Service List the below-listed document(s):

**ORDER APPROVING SETTLEMENT AND DISMISSING ENTIRE ACTION
PER CMO # 1**

- ☒ BY EMAIL, pursuant to California Code of Civil Procedure § 1010.6(e)(1) and (2), I caused the above-listed document(s) to be sent by electronic transmission (e-mail) to the persons at the electronic service address(es) listed in the Service List. The recipients appearing in the Service List previously confirmed with this office their email address. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- ☒ BY MAIL, by placing a true copy thereof enclosed in a sealed envelope, addressed as follows: I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. The above-described envelope will be deposited with the United States Postal Service in Palm Desert, California in the ordinary course of business. I am the person who sealed and placed for collection and mailing the within correspondence on this date at Palm Desert, California, following ordinary practices.

SERVICE LIST

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Indian Well, CA 92210

Counsel for Defendants Desert Fire
Extinguisher Co., Inc., Denise
Gilbert, Joshua Gilbert, and Michael
Shayne

1 I declare under penalty of perjury, that the foregoing is true and correct. Executed on May 15,
2 2023, in Palm Desert, California.

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4 *Tina Gonzalez*

5 By: Tina Gonzalez, Declarant
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