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FILED
Clerk of the Superior Court

SEP 08 2022

By: N. McKinley, Deputy

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SAN DIEGO

11 JULIE SOLIS; KRISTY BUETTNER; and
12 ARMANDO MENDEZ,

13 Plaintiffs,

14 v.

15 CALIFORNIA FIRE STOP, INC.; THOMAS
16 HIBINSKI; BRIAN LINTNER; and DOES 1-
17 100, inclusive,

18 Defendants.

Case No.: 37-2022-00003527-CU-OE-NC

**JOINT STIPULATION REQUESTING
APPROVAL OF PAGA SETTLEMENT;
AND [PROPOSED] ORDER**

19 Complaint Filed: 01/28/2022

20 Dept.: N-28

21 Judge: Hon. Earl H. Maas, III

1 Plaintiffs Julie Solis (also known as Julie Gurrola) ("Solis"), Kristy Buettner ("Buettner"),
2 and Armando Mendez (also known as Armando Mendez Perez) ("Mendez") (collectively,
3 "Plaintiffs" or "Named Plaintiffs"), on behalf of themselves and other current and former aggrieved
4 employees, and Defendants California Fire Stop, Inc., Thomas Hibinski ("Hibinski"), and Brian
5 Lintner ("Lintner") (collectively, "Defendants") (Plaintiffs and Defendants collectively are hereafter
6 referred to as the "Parties"), by and through their respective counsel of record, hereby stipulate as
7 follows for purposes of settling this action:

8 1. Defendants own and operate a fire stop contracting and installations company that
9 does business in California. Defendants employed Mendez as a construction estimator and project
10 manager, Buettner as an office manager, and Solis as a compliance coordinator.

11 2. On January 27, 2022, pursuant to Labor Code section 2698 *et seq.* (the California
12 Private Attorneys General Act of 2004 or "PAGA"), Plaintiffs submitted a PAGA notice letter to
13 the California Labor and Workforce Development Agency ("LWDA"), with a copy served on
14 Defendants, pursuant to California Labor Code section 2699.3, to notify the LWDA of alleged
15 California Labor Code violations. In their PAGA notice letter, Plaintiffs allege the following wage
16 and hour violations against Defendants on behalf of themselves and other similarly aggrieved
17 employees: (1) failure to pay minimum and overtime wages; (2) failure to timely pay all earned
18 wages; (3) failure to pay all earned wages upon the end of the employment relationship; (4) failure
19 to provide compliant meal periods; (5) failure to pay an additional hour of wages for each workday
20 with a missed meal period; (6) wage statement and records violations; (7) failure to reimburse
21 business expenses; and (8) independent contractor misclassification. The LWDA did not respond
22 to Plaintiffs' PAGA notice.

23 3. On January 28, 2022, Plaintiffs filed the instant lawsuit against Defendants (the
24 "Litigation"). In the initial Complaint, Plaintiffs asserted seven causes of action against Defendants
25 for: (1) Failure to Pay Wages Including Minimum Wages under Labor Code section 1194; (2)
26 Failure to Pay Overtime Wages under Labor Code section 1194; (3) Failure to Provide Meal Periods
27 pursuant to Labor Code sections 226.7 and 512; (4) Failure to Indemnify or Reimburse Business
28 Expenses under Labor Code section 2802; (5) Failure to Provide Proper Wage Statements and Keep

1 Records pursuant to Labor Code section 226; (6) Waiting Time Penalties under Labor Code section
2 203; and (7) Unfair Business Practices under Business and Professions Code sections 17200, *et seq.*

3 4. On April 8, 2022, after the sixty-five (65) day notice period required by PAGA
4 expired, Plaintiffs filed their operative First Amended Complaint, which added an eighth cause of
5 action for alleged violations of the California Private Attorneys General Act, Labor Code section
6 2698 *et seq* ("PAGA Claim"). Plaintiffs sought on behalf of the State of California to represent all
7 persons who were employed by Defendants in the State of California that were classified as non-
8 exempt employees at any time from January 27, 2021 through the present (the "PAGA Group" and
9 "PAGA Period").

10 5. Following the filing of the Litigation, the Parties agreed to attend mediation with
11 Stephen McAvoy. In furtherance of mediation, Defendants informally provided Plaintiffs with
12 information regarding the total number of the members of the PAGA Group, including how many
13 of those employees are former employees, and the total pay periods worked by the PAGA Group.
14 The Parties estimated for purposes of mediation that there are approximately 127 individuals in the
15 PAGA Group, who worked an aggregate total of approximately 5,049 pay periods during the PAGA
16 Period, all of which shall be confirmed by the Settlement Administrator, Phoenix Class Action
17 Administration Solutions (the "Settlement Administrator"). Defendants also provided Plaintiffs'
18 time and pay records, and a sampling of time and pay records of other members of the PAGA Group.

19 6. The Parties have engaged in good faith, arm's-length negotiations. On June 23, 2022,
20 the Parties participated in a mediation with Stephen McAvoy and reached a global settlement. The
21 Parties agreed to settle the PAGA Claim for Forty Thousand Dollars and Zero Cents (\$40,000.00)
22 (the "Settlement Amount"). The Parties agreed to finalize a formal Settlement Agreement after the
23 mediation and to seek Court Approval of the settlement of the PAGA Claim ("PAGA Settlement").
24 The Parties have now entered into a more detailed, formalized settlement agreement for submission
25 to the Court for Approval, which is attached hereto as **Exhibit 1** and incorporated herein by
26 reference.

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1 7. Plaintiffs' Counsel has conducted an investigation of the law and facts relating to the
2 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues
3 involved, the expense and time necessary to pursue the Litigation through trial and any appeals, the
4 risks and costs of further prosecution of the Litigation, the risk of an adverse outcome, the
5 uncertainties of complex litigation, and the substantial benefits to be received by Named Plaintiffs
6 and the members of the PAGA Group pursuant to the Agreement, and that a settlement with
7 Defendants on the terms and conditions set forth herein is fair, reasonable, adequate, and in the best
8 interests of the PAGA Group. Named Plaintiffs, on their own behalf and as representatives pursuant
9 to PAGA, have agreed to settle the Litigation with Defendants on the terms set forth in the
10 Agreement.

11 8. Defendants have concluded that, because of the substantial expense of defending
12 against the Litigation, the length of time necessary to resolve the issues presented herein, the
13 inconvenience involved, and the concomitant disruption to their business operations, it is in their
14 best interests to accept the terms of the Agreement. Defendants deny each of the allegations and
15 claims asserted against them in the Litigation. However, Defendants nevertheless desire to settle
16 the Litigation for the purpose of avoiding the burden, expense, and uncertainty of continuing
17 litigation and for the purpose of putting to rest the controversies engendered by the Litigation.

18 9. Further, in accordance with Labor Code section 2699(e)(1) and (e)(2), the Court in a
19 PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would
20 have, as well as complete discretion to "award a lesser amount than the maximum civil penalty
21 amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do
22 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."

23 10. The Settlement Agreement is intended to and does effectuate the full, final, and
24 complete resolution of all allegations and claims underlying the PAGA Claim that were asserted, or
25 could have been asserted, in the Litigation by Named Plaintiffs. The Settlement Agreement does
26 not cover Plaintiffs' Individual Claims, which have been resolved with a separate agreement
27 ("Plaintiffs' Individual Claims").

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1 11. The Settlement Amount will be distributed by the Settlement Administrator as
2 follows (the Settlement Distribution”):

3 a. Attorney’s Fees and Costs shall be paid from the Settlement Amount to Plaintiffs’
4 Counsel in the amount of Seventeen Thousand, Five Hundred Dollars and Zero Cents
5 (\$17,500.00) (the “Attorney’s Fees and Costs”).

6 b. All administrative costs of settlement, including any fees and costs incurred or
7 charged by the Settlement Administrator in connection with the execution of its
8 duties under the PAGA Settlement Agreement, estimated not to exceed Two
9 Thousand, Eight Hundred, Ninety-Five Dollars and Zero Cents (\$2,895.00), shall be
10 paid from the Settlement Amount (the “Administrative Costs”).

11 c. The remainder of the Settlement Amount after paying the Attorney’s Fees and Costs
12 and the Administrative Costs is the Net Settlement Amount allocated to satisfy the
13 PAGA penalties, which is estimated to be Nineteen Thousand, Six Hundred, Five
14 Dollars and Zero Cents (\$19,605.00) (the “Net Settlement Amount”).

15 d. Seventy-five percent (75%) of the Net Settlement Amount shall be paid to the
16 LWDA, which is estimated to be Fourteen Thousand, Seven Hundred, Three Dollars
17 and Seventy-Five Cents (\$14,703.75).

18 e. Twenty-five percent (25%) of the Net Settlement Amount shall be paid to the PAGA
19 Group members, which is estimated to be Four Thousand, Nine Hundred, One Dollar
20 and Twenty-Five Cents (\$4,901.25), according to the following distribution formula
21 (the “Net Settlement Payments”). The lump sum Net Settlement Payments to each
22 member of the PAGA Group will be determined with a distribution formula that
23 divides twenty-five percent (25%) of the Net Settlement Amount by the total number
24 of pay periods worked by all members of the PAGA Group during the PAGA Period
25 (the “Pay Period Amount”) and then multiplying the Pay Period Amount by the
26 number of pay periods worked by the individual PAGA Group member.

27 12. On or about August 18, 2022, Plaintiffs provided notice of the PAGA Settlement
28 to the LWDA by electronically submitting a copy of the Settlement Agreement.

1 13. Attached hereto as **Exhibit 2** and incorporated herein by reference is the email
2 confirmation from the LWDA regarding the submission of the Settlement Agreement.

3 14. Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that
4 the Court shall retain jurisdiction of this Litigation solely for the purpose of interpreting,
5 implementing, and enforcing the Settlement Agreement consistent with the terms set forth herein,
6 and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting,
7 implementing, and enforcing the Settlement Agreement and all orders and judgments entered in
8 connection therewith.

9 WHEREFORE, IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES
10 HERETO, THROUGH THEIR RESPECTIVE COUNSEL, AS FOLLOWS: The Settlement is fair,
11 adequate, and reasonable, as it represents a reasoned compromise reached through arm's-length
12 negotiations and considers the risks, complexity, and expense of further litigation.

13
14 Dated: August 15, 2022

JACKSON LEWIS P.C.

15
16 By: 

John P. Nordlund, Esq.
Stephanie A. Kierig, Esq.
Lana B. Nassar, Esq.
Counsel for Defendants
California Fire Stop, Inc., Thomas Hibinski,
and Brian Lintner

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20 Dated: August 15, 2022

W LAW

21
22 By: 

Jason Whooper, Esq.
Counsel for Plaintiffs
Julie Solis, Kristy Buettner, and Armando
Mendez

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1 **[PROPOSED] ORDER**

2 This Court has reviewed the foregoing joint stipulation submitted by Plaintiffs Julie Solis
3 (also known as Julie Gurrola) ("Solis"), Kristy Buettner ("Buettner"), and Armando Mendez (also
4 known as Armando Mendez Perez) ("Mendez") (collectively, "Plaintiffs" or "Named Plaintiffs"),
5 on behalf of themselves and other current and former aggrieved employees, and by Defendants
6 California Fire Stop, Inc., Thomas Hibinski ("Hibinski"), and Brian Lintner ("Lintner")
7 (collectively, "Defendants") (Plaintiffs and Defendants collectively are hereafter referred to as the
8 "Parties") in support of approval of a PAGA Settlement Agreement pursuant to the PAGA statute.
9 The PAGA Settlement Agreement is attached hereto as **Exhibit 1** and incorporated by reference in
10 this Order. Based upon this review, and the findings below, the Court finds good cause to enter this
11 Order.

12 **FINDINGS:**

13 1. Unless otherwise specified, defined terms in this Order granting approval of the
14 Settlement (the "Order") have the same definition as the terms in the Parties' joint stipulation above
15 and in the attached Settlement Agreement in **Exhibit 1**.

16 2. The Court has jurisdiction over the subject matter of this Litigation, over all
17 California affected non-exempt employees of Defendants, which comprise the PAGA Group for the
18 PAGA Period of January 27, 2021 to the date of this Order, and over those persons or entities
19 undertaking affirmative obligations under the Settlement Agreement.

20 3. On January 27, 2022, Plaintiffs submitted a notice letter to the LWDA and served a
21 copy on Defendants, pursuant to California Labor Code section 2699.3, to notify the LWDA of the
22 alleged California Labor Code violations. The LWDA did not respond to Plaintiffs' PAGA notice.

23 4. On January 28, 2022, Plaintiffs filed their lawsuit in this Litigation against
24 Defendants, which included individual claims for alleged wage and hour violations.

25 5. On April 8, 2022, after the sixty-five (65) day notice period required by PAGA
26 expired, Plaintiffs filed their First Amended Complaint to add the PAGA Claim.

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1 6. The Parties expressly acknowledge in the Settlement Agreement that the Agreement
2 is entered into solely for the purpose of compromising significantly disputed claims, and that nothing
3 contained therein is an admission of liability or wrongdoing by Defendants.

4 7. The Court determines that there is sufficient evidence to suggest that the Settlement
5 Agreement was entered into in good faith, that the Agreement is fair, reasonable, and adequate under
6 the circumstances, and that the Parties have satisfied the standards and applicable requirements for
7 approval of a settlement of claims brought under PAGA.

8 8. The Court finds that pursuant to California Labor Code section 2699(l)(2) and (l)(4),
9 the LWDA was given timely notice of the Settlement. On August 18, 2022, Plaintiffs provided
10 notice to the LWDA by submitting a copy of the Settlement Agreement to the LWDA. Plaintiffs'
11 notice of the Agreement complied with the requirements of California Labor Code section
12 2699(l)(2).

13 **IT IS HEREBY ORDERED THAT:**

14 1. The terms of the Settlement Agreement are fair, adequate, and reasonable, and the
15 Agreement is approved under California Labor Code section 2699(l)(2).

16 2. The Court approves the Settlement Agreement in the attached **Exhibit 1**, which is
17 incorporated by reference into this Order.

18 3. Upon approval by the Court of this Settlement, Plaintiffs and each member of the
19 PAGA Group release any and all claims and causes of action under PAGA against Defendants, any
20 of Defendants' present and former partners, subsidiaries, and affiliated companies or entities,
21 divisions, predecessors, insurers, reinsurers, successors, and assigns, their current and former
22 respective employees, attorneys, officers, directors, partners, and agents thereof, both individually
23 and in their business capacities, and their employee benefit plans and programs and the trustees,
24 administrators, fiduciaries, and insurers of such plans and programs, both individually and in their
25 business capacities that could be liable for any of the Released Claims, and Defendants' counsel of
26 record in the Litigation ("Released Parties"), arising out of the facts and claims asserted in the
27 Litigation for civil penalties under PAGA based upon any of Named Plaintiffs' allegations or claims,
28 under any legal theory of liability, in any forum, and all claims for statutory penalties that could

1 have been sought by the Labor Commissioner for the violations identified in Plaintiffs' pre-filing
2 letter to the LWDA. This includes but is not limited to: failure to pay minimum wages; failure to
3 pay overtime wages; failure to provide meal periods; failure to pay wages due at termination; failure
4 to provide accurate itemized wage statements; failure to pay employees timely; and PAGA claims
5 for civil penalties due to the alleged Labor Code violations and by Defendants during the PAGA
6 Period, including California Labor Code sections 201-204, 210, 216, 218.5, 224, 225.5, 226, 226.3,
7 226.4, 226.6, 226.7, 245-249, 510, 512, 558, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
8 1199, 2698, *et seq.*, and their subsections, applicable IWC Wage Order 4-2001; penalties that could
9 have arisen out of the facts alleged in the operative First Amended Complaint ("Released Claims").
10 This release extends only to remedies available through PAGA and does not release Plaintiffs'
11 Individual Claims, which are subject to a separate Confidential Settlement Agreement and General
12 Release of All Claims.

13 4. The total Settlement Amount of Forty Thousand Dollars and Zero Cents (\$40,000.00)
14 ("Settlement Amount"), the Settlement Distribution, and the formula in the Settlement Agreement
15 for the distribution of Net Settlement Payments to each member of the PAGA Group are approved
16 under California Labor Code Section 2699(l)(2).

17 5. The Court approves the payment of Seventeen Thousand, Five Hundred Dollars and
18 Zero Cents (\$17,500.00) for Attorney's Fees and Costs to Plaintiffs' Counsel. The Court approves
19 the engagement of Phoenix Class Action Administration Solutions as the Settlement Administrator
20 and approves the payment to the Settlement Administrator for all Administrative Costs, which are
21 estimated not to exceed Two Thousand, Eight Hundred, Ninety-Five Dollars and Zero Cents
22 (\$2,895.00).

23 6. The Court orders that the Net Settlement Amount resulting after the Settlement
24 Administrator pays the Attorney's Fees and Costs and pays the Administrative Costs shall be
25 distributed as PAGA penalties. Seventy-five percent (75%) of the Net Settlement Amount shall be
26 paid to the LWDA. Twenty-five percent (25%) of the Net Settlement Amount shall be paid to the
27 PAGA Group members using the Net Settlement Payments distribution formula in the Settlement
28 Agreement.

1 7. If a PAGA Group member is deceased at the time of distribution, the Settlement
2 Administrator shall notify the executor of the deceased PAGA Group member's estate and, if
3 appropriate, place the deceased PAGA Group member's payment in escrow or similar disposition
4 such that any competing heirs may take whatever action they wish to resolve ultimate disposition of
5 such money, and the Settlement Administrator and the Parties hereto may disclaim any further
6 interest in or obligation in relation to such money. If a check is returned to the Settlement
7 Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a
8 valid mailing address by performing a skip trace search and, if another address is identified, shall
9 mail the check to the newly identified address. If the Settlement Administrator is unable to obtain
10 a valid mailing address through this process, the monies represented by the check shall be turned
11 over according to the below procedures. Settlement checks must specifically indicate that they are
12 void if not negotiated within one hundred eighty (180) days of their issuance. Any settlement checks
13 that remain uncashed one hundred eighty (180) or more calendar days after issuance by the
14 Settlement Administrator shall be voided. The Settlement Administrator will remit the entire
15 amount of each PAGA Group member's uncashed Net Settlement Payment to the California State
16 Controller for deposit in the Unclaimed Property Fund in the name of the PAGA Group member to
17 whom the uncashed Net Settlement Payment was drafted.

18 8. Plaintiffs' compliance with the notice procedures described in the PAGA Settlement
19 shall constitute due and sufficient notice to the LWDA and shall be deemed to satisfy any
20 requirement of due process.

21 9. The Court shall have authority and continuing jurisdiction to enforce the Settlement
22 Agreement.

23 10. Nothing in this Order or Settlement Agreement is intended or will be construed as an
24 admission of liability or wrongdoing by Defendants.

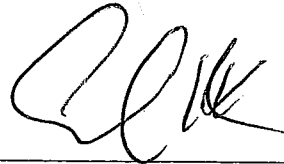
25 11. Within ten (10) calendar days after entry of this Order approving the Settlement
26 Agreement, Plaintiffs shall submit a copy of the Order to the LWDA in compliance with California
27 Labor Code Section 2699(l)(3).

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1 12. No later than when Plaintiffs serve on Defendants a notice of entry of the Court's
2 Approval Order, Plaintiffs shall provide Defendants an original fully-executed Request for
3 Dismissal with prejudice of the Litigation as to all parties and all causes of action. Defendants'
4 Counsel shall maintain custody of the original fully-executed Request for Dismissal of the
5 Litigation. Defendants and Defendants' Counsel shall not file the Request for Dismissal until after
6 Plaintiffs' Counsel confirms: (1) receipt of the settlement sums set forth in the separate settlement
7 agreement for Plaintiffs' Individual Claims; and (2) receipt of written confirmation from the
8 Settlement Administrator that the settlement funds have been disbursed pursuant to the Settlement
9 Agreement. Thereafter, Defendants shall have the authority to immediately file the Request for
10 Dismissal with the Court.

11 *** **IT IS SO ORDERED.**

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13 Dated: 9/8/22



14 HON. EARL H. MAAS, III

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16 *within 90 days of the Court signing this order,*
17 *Plaintiffs shall file a dismissal without prejudice,*
18 *hereby removing the action from the Court's active*
19 *calendar.*
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EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This Stipulation of Settlement ("PAGA Settlement Agreement") is made by and between Julie Solis (also known as Julie Gurrola) ("Solis"), Kristy Buettner ("Buettner"), and Armando Mendez (also known as Armando Mendez Perez) ("Mendez") (collectively, "Plaintiffs"), on their own behalf and on behalf of all members of the PAGA Group, as defined below, and Defendants California Fire Stop, Inc., Thomas Hibinski, and Brian Lintner ("Defendants") in the lawsuit entitled *Julie Solis, et al. v. California Fire Stop, Inc., et al.*, San Diego County Superior Court Case No. 37-2022-00003527-CU-OE-NC (the "Litigation"). The term "Party" or "Parties" as used herein shall refer to Plaintiffs, Defendants, or both, as may be appropriate. This PAGA Settlement Agreement resolves all claims for PAGA civil penalties that were asserted or could have been asserted against Defendants pertaining to the claims in the Litigation.

I. DEFINITIONS

A. Administrative Costs. All administrative costs of settlement, including any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this PAGA Settlement Agreement.

B. Agreement or Settlement Agreement. The terms "Agreement" and "Settlement Agreement" are used synonymously herein to mean the agreement reflected in this document, titled "PAGA Settlement Agreement."

C. Attorney's Fees and Costs. In the amount of Seventeen Thousand, Five Hundred Dollars and Zero Cents (\$17,500.00), as approved by the Court and awarded to Plaintiffs' Counsel. The Attorney's Fees and Costs shall be paid from the Settlement Amount and will not be opposed by Defendants.

D. Court. The term "Court" as used herein means the Superior Court of the State of California for the County of San Diego.

E. Date of Approval. The terms "Date of Approval" or "Approval" as used herein mean the date the Court enters an order granting approval of this PAGA Settlement Agreement.

F. Defendants. The term "Defendants" as used herein means: CALIFORNIA FIRE STOP, INC., THOMAS HIBINSKI, and BRIAN LINTNER.

1 **G. Litigation.** The term “Litigation” as used herein means the action entitled *Julie Solis, et*
2 *al. v. California Fire Stop, Inc., et al.*, filed in San Diego Superior Court, Case No. 37-2022-00003527-
3 CU-OE-NC.

4 **H. LWDA.** The term “LWDA” refers to the California Labor and Workforce Development
5 Agency.

6 **I. LWDA Payment.** The term “LWDA Payment” as used herein means seventy-five percent
7 (75%) of the Net Settlement Amount.

8 **J. Named Plaintiffs.** The term “Named Plaintiffs” as used herein means JULIE SOLIS
9 (ALSO KNOWN AS JULIE GURROLA), KRISTY BUETTNER, and ARMANDO MENDEZ (ALSO
10 KNOWN AS ARMANDO MENDEZ PEREZ).

11 **K. Net Settlement Amount.** The term “Net Settlement Amount” as used herein means the
12 remainder of the Settlement Amount after the deduction of any award of Attorney’s Fees and Costs and
13 Administrative Costs, and as provided in Sections X and VI, respectively.

14 **L. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall include
15 payments made to the PAGA Group under the terms of the Agreement.

16 **M. PAGA.** The term “PAGA” refers to the California Private Attorneys General Act of 2004,
17 Labor Code sections 2698 *et seq.*

18 **N. PAGA Group.** The PAGA Group is defined as: All persons who are or were employed
19 by Defendants in the State of California that were classified as non-exempt employees at any time within
20 the PAGA Period. The Parties estimated for purposes of mediation that there are approximately 127
21 individuals in the PAGA Group, who worked an aggregate total of approximately 5,049 pay periods
22 during the PAGA Period, all of which shall be confirmed by the Settlement Administrator.

23 **O. PAGA Period.** The term “PAGA Period” shall refer to the time period from January 27,
24 2021, to the Date of Approval.

25 **P. Plaintiffs’ Counsel.** The term “Plaintiffs’ Counsel” as used herein means: Jason Whooper
26 of W Law, who is counsel for and acting on behalf of Named Plaintiffs.

27 **Q. Plaintiffs’ Individual Claims.** The term “Plaintiffs’ Individual Claims” as used herein
28 means Plaintiffs’ individual claims for Failure to Pay Wages Including Minimum Wages under Labor

Code section 1194; Failure to Pay Overtime Wages under Labor Code section 1194; Failure to Provide Meal Periods pursuant to Labor Code sections 226.7 and 512; Failure to Indemnify or Reimburse Business Expenses under Labor Code section 2802; Failure to Provide Proper Wage Statements and Keep Records pursuant to Labor Code section 226; Waiting Time Penalties under Labor Code section 203; and Unfair Business Practices under Business and Professions Code sections 17200, *et seq.*, as outlined in the operative First Amended Complaint in the Litigation and/or separately asserted.

R. Settlement Administrator. The term “Settlement Administrator” as used herein refers to Phoenix Class Action Administration Solutions, which will be responsible for the Settlement Distribution, as defined below, and all related matters.

S. Settlement Amount. The term “Settlement Amount” as used herein means a fund in the sum of Forty Thousand Dollars and Zero Cents (\$40,000.00), which shall be paid by Defendants, and from which all Net Settlement Payments to the PAGA Group pursuant to Section VIII, Court approved Attorney’s Fees and Costs pursuant to Section X, Administrative Costs pursuant to Section VI, and distribution of the LWDA Payment pursuant to Section VIII shall be paid, except as provided herein.

T. Settlement Distribution. The Settlement Administrator shall disburse the Settlement Amount pursuant to Section VIII(D). Under the terms of the Settlement Agreement, the Settlement Administrator shall disburse: (1) the LWDA Payment to the LWDA; (2) the Net Settlement Payments to the PAGA Group; (3) the Attorney’s Fees and Costs award to Plaintiffs’ Counsel; and (4) the Administrative Costs, as approved by the Court.

II. BACKGROUND

A. On January 27, 2022, Plaintiffs provided Defendants with a PAGA Notice to the LWDA alleging the following wage and hour and PAGA violations against Defendants on behalf of themselves and other similarly aggrieved employees: (1) failure to pay minimum and overtime wages; (2) failure to timely pay all earned wages; (3) failure to pay all earned wages upon the end of the employment relationship; (4) failure to provide compliant meal periods; (5) failure to pay an additional hour of wages for each workday with a missed meal period; (6) wage statement and records violations; (7) failure to reimburse business expenses; and (8) independent contractor misclassification.

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1 **B.** On January 28, 2022, Plaintiffs filed a Complaint against Defendants, which is pending
2 as *Julie Solis, et al. v. California Fire Stop, Inc., et al.*, San Diego County Superior Court Case No. 37-
3 2022-00003527-CU-OE-NC (the "Litigation"). In the Complaint, Plaintiffs asserted seven causes of
4 action against Defendants for: (1) Failure to Pay Wages Including Minimum Wages under Labor Code
5 section 1194; (2) Failure to Pay Overtime Wages under Labor Code section 1194; (3) Failure to Provide
6 Meal Periods pursuant to Labor Code sections 226.7 and 512; (4) Failure to Indemnify or Reimburse
7 Business Expenses under Labor Code section 2802; (5) Failure to Provide Proper Wage Statements and
8 Keep Records pursuant to Labor Code section 226; (6) Waiting Time Penalties under Labor Code section
9 203; and (7) Unfair Business Practices under Business and Professions Code sections 17200, *et seq.*

10 **C.** On April 8, 2022, Plaintiffs filed their operative First Amended Complaint in the
11 Litigation, which asserts claims for: (1) Failure to Pay Wages Including Minimum Wages under Labor
12 Code section 1194; (2) Failure to Pay Overtime Wages under Labor Code section 1194; (3) Failure to
13 Provide Meal Periods pursuant to Labor Code sections 226.7 and 512; (4) Failure to Indemnify or
14 Reimburse Business Expenses under Labor Code section 2802; (5) Failure to Provide Proper Wage
15 Statements and Keep Records pursuant to Labor Code section 226; (6) Waiting Time Penalties under
16 Labor Code section 203; (7) Unfair Business Practices under Business and Professions Code sections
17 17200, *et seq.*; and (8) Private Attorneys General Act Claim pursuant to Labor Code section 2699.
18 Plaintiffs pray for compensatory damages, liquidated damages, civil penalties, injunctive and declaratory
19 relief, attorneys' fees, interest, and costs.

20 **D.** Following the filing of the Litigation, the Parties agreed to attend Mediation with Stephen
21 McAvoy. In furtherance of Mediation, Defendants subsequently informally provided Plaintiffs with
22 information regarding the total number of the putative PAGA Group, including how many of those
23 employees are former employees, and the total pay periods worked by the PAGA Group. Defendants also
24 provided Plaintiffs' time and pay records, and a sampling of time and pay records of other members of
25 the PAGA Group.

26 **E.** The Parties have engaged in good faith, arms-length negotiations. On June 23, 2022, the
27 Parties participated in a Mediation with Stephen McAvoy. The Parties agreed to settle Plaintiffs' claims
28 under PAGA for Forty Thousand Dollars and Zero Cents (\$40,000.00). The Parties agreed to finalize a

1 formal Settlement Agreement after the Mediation and to seek Court Approval of the PAGA Settlement.
2 The Parties have now entered into a more detailed, formalized Settlement Agreement for submission to
3 the Court for Approval.

4 **F.** Plaintiffs' Counsel has conducted an investigation of the law and facts relating to the
5 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues
6 involved, the expense and time necessary to pursue the Litigation through trial and any appeals, the risks
7 and costs of further prosecution of the Litigation, the risk of an adverse outcome, the uncertainties of
8 complex litigation, and the substantial benefits to be received by Named Plaintiffs and the members of
9 the PAGA Group pursuant to this Agreement, and that a settlement with Defendants on the terms and
10 conditions set forth herein is fair, reasonable, adequate, and in the best interests of the PAGA Group.
11 Named Plaintiffs, on their own behalf and as representatives pursuant to PAGA, have agreed to settle the
12 Litigation with Defendants on the terms set forth herein.

13 **G.** Defendants have concluded that, because of the substantial expense of defending against
14 the Litigation, the length of time necessary to resolve the issues presented herein, the inconvenience
15 involved, and the concomitant disruption to their business operations, it is in their best interests to accept
16 the terms of this Agreement. Defendants deny each of the allegations and claims asserted against them
17 in the Litigation. However, Defendants nevertheless desire to settle the Litigation for the purpose of
18 avoiding the burden, expense, and uncertainty of continuing litigation and for the purpose of putting to
19 rest the controversies engendered by the Litigation.

20 **H.** This Agreement is intended to and does effectuate the full, final, and complete resolution
21 of all allegations and claims that were asserted, or could have been asserted, in the Litigation by Named
22 Plaintiffs. This Agreement does not cover Plaintiffs' Individual Claims, which have been resolved with
23 a separate agreement.

24 **III. JURISDICTION**

25 The Parties agree that the Court has jurisdiction over the Parties and the subject matter of this
26 Litigation. The Litigation includes claims that, while Defendants deny them in their entirety, would, if
27 proven, authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
28 Approval of this Agreement, pursuant to California Code of Civil Procedure section 664.6, the Parties

1 agree that the Court shall retain jurisdiction of this action solely for the purpose of interpreting,
2 implementing, and enforcing this Agreement consistent with the terms set forth herein, and the Parties
3 and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and
4 enforcing this Agreement and all orders and judgments entered in connection therewith.

5 **IV. STATEMENT OF NO ADMISSION**

6 **A.** Defendants deny liability to Named Plaintiffs and to the PAGA Group upon any claim or
7 cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by
8 Defendants as to the merits, validity, or accuracy of any of the allegations or claims made against them
9 in the Litigation.

10 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
11 statements, discussions, or communications, nor any materials prepared, exchanged, issued, or used
12 during the course of the negotiations leading to this Agreement, is intended by the Parties to constitute,
13 nor will any of the foregoing constitute, be introduced, be used, or be admissible in any way in this case
14 or any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as evidence of
15 any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or
16 any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit
17 this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative,
18 investigative, or other forum or proceeding, as purported evidence of any violation of any federal, state,
19 or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in
20 equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any
21 proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of
22 this Agreement or any orders or judgments of the Court entered in connection with this Agreement.

23 **C.** None of the documents produced or created by Named Plaintiffs or the PAGA Group in
24 connection with the claims procedures or claims resolution procedures constitute, and they are not
25 intended to constitute, an admission by Defendants of any violation of any federal, state, or local law,
26 statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

27 **D.** Nothing in this Agreement will be construed as an admission or acknowledgement of any
28 kind that any group should or would be given class, collective, or representative treatment in the

Litigation or in any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiffs will not be deemed to have waived, limited, or affected in any way any claims, rights, or remedies in the Litigation, and Defendants will not be deemed to have waived, limited, or affected in any way any of their objections or defenses in the Litigation.

V. RELEASE, DISMISSAL, AND CONFIDENTIALITY

A. Release as to All PAGA Group Members.

Upon Approval by the Court of this Settlement, Plaintiffs and each member of the PAGA Group, release any and all claims and causes of action under PAGA against Defendants, any of Defendants' present and former partners, subsidiaries, and affiliated companies or entities, divisions, predecessors, insurers, reinsurers, successors, and assigns, their current and former respective employees, attorneys, officers, directors, partners, and agents thereof, both individually and in their business capacities, and 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 that could be liable for any of the Released Claims, and Defendants' counsel of record in the Litigation ("Released Parties"), arising out of the facts and claims asserted in the Litigation for civil penalties under PAGA based upon any of Named Plaintiffs' allegations or claims, under any legal theory of liability, in any forum, and all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiffs' pre-filing letter to the LWDA. This includes but is not limited to: failure to pay minimum wages; failure to pay overtime wages; failure to provide meal periods; failure to pay wages due at termination; failure to provide accurate itemized wage statements; failure to pay employees timely; and PAGA claims for civil penalties due to the alleged Labor Code violations and by Defendants during the PAGA Period including California Labor Code sections 201-204, 210, 216, 218.5, 224, 225.5, 226, 226.3, 226.4, 226.6, 226.7, 245-249, 510, 512, 558, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, and their subsections, applicable IWC Wage Order 4-2001; penalties that could have arisen out of the facts alleged in the First Amended Complaint ("Released Claims"). This release extends

only to remedies available through PAGA and does not release Plaintiffs' Individual Claims, which are subject to a separate Confidential Settlement Agreement and General Release of All Claims.

No later than when Plaintiffs serve on Defendants a notice of entry of the Court's Approval order, Plaintiffs shall provide Defendants an original fully-executed Request for Dismissal with prejudice of the Action as to all parties and all causes of action. Defendants' Counsel shall maintain custody of the original fully-executed Request for Dismissal of the Action. Defendants and Defendants' Counsel shall not file the Request for Dismissal until after Plaintiffs' Counsel confirms: (1) receipt of the settlement sums set forth in the separate settlement agreement for Plaintiffs' Individual Claims; and (2) receipt of written confirmation that the settlement funds have been disbursed pursuant to this Agreement. Thereafter, Defendants' Counsel shall have the authority to immediately file the Request for Dismissal with the Court.

B. Publicity.

The Named Plaintiffs and their counsel agree that they have not and will not publish this Agreement. More specifically, Named Plaintiffs and their counsel agree that they will not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Named Plaintiffs or the Settlement on any website, and shall not contact any reporters or media regarding the Settlement. However, nothing in the provision shall be construed from as preventing the Parties from taking following actions: (a) Named Plaintiffs' Counsel shall be allowed to refer to the Litigation and Agreement in other litigations to support their adequacy as attorneys for a putative class or to justify an award of attorney's fees; (b) the Parties shall have the right to disclose the Agreement as may be required under federal or state tax and/or securities laws or under Generally Accepted Accounting Principles; (c) the Parties may refer to the Agreement, describe its terms, and file the settlement agreement with the Court, the California LWDA, and the Settlement Administrator in connection with any proceedings that are reasonably necessary to obtain Approval of the Settlement; and (d) the Parties or their representatives may communicate with accountants or legal advisors regarding the Agreement. Except for the previously listed exceptions, in response to any inquiries about the Litigation, the Parties may state that "the case was resolved, and it was resolved confidentially."

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1 **VI. SETTLEMENT ADMINISTRATOR**

2 Defendants require the Parties to use a Settlement Administrator to distribute the Settlement
3 Amount and the Parties, through their respective counsel, have selected Phoenix Class Action
4 Administration Solutions as the Settlement Administrator to administer the Agreement. The Settlement
5 Administrator shall be responsible for calculating and mailing all the amounts to be paid as the Net
6 Settlement Payments and distributing them to the PAGA Group; calculating and mailing the LWDA
7 Payment to the LWDA; distributing the Attorney's Fees and Costs awarded to Plaintiffs' Counsel;
8 printing and providing the PAGA Group with IRS forms 1099, as required under this Agreement and
9 applicable law; providing any funds remaining from the Net Settlement Amount as a result of uncashed
10 checks to the California State Controller's Office - Unclaimed Property Fund; payment to itself for
11 Administrative Costs approved by the Court; providing updates to Defendants' Counsel and Plaintiffs'
12 Counsel regarding the funding and disbursement of the Settlement Amount; and for such other tasks as
13 the Parties mutually agree. Defendants, through their attorney, shall be responsible for engaging the
14 Settlement Administrator and providing all information the Settlement Administrator requires from the
15 Parties for the Settlement Administrator to complete the Settlement Distribution.

16 The Administrative Costs, which are the charges and expenses of the Settlement Administrator
17 in administering this Settlement, are estimated not to exceed Two Thousand, Eight Hundred, Ninety-Five
18 Dollars and Zero Cents (\$2,895.00) and will be paid from the Settlement Amount. Any charges and
19 expenses of the Settlement Administrator greater than the allocated Two Thousand, Eight Hundred,
20 Ninety-Five Dollars and Zero Cents (\$2,895.00) will come from the Settlement Amount. If the actual
21 Settlement Administrator fees are less than Two Thousand, Eight Hundred, Ninety-Five Dollars and Zero
22 Cents (\$2,895.00), then the remainder of the amount allocated for Settlement Administrator fees will be
23 included in the Net Settlement Amount.

24 **VII. NOTICE OF SETTLEMENT TO LWDA**

25 Named Plaintiffs, through their attorney, shall provide written notice of the settlement of the
26 Litigation to the LWDA on the same day or before this Settlement is submitted to the Court for approval.
27 Plaintiffs' Counsel shall provide Defendants' Counsel with a copy of the written notice of the Litigation
28 settlement sent to the LWDA to within three (3) business days of the notice being sent. The provision of

notice of the settlement of the Litigation to the LWDA is a condition precedent to this Settlement.

VIII. COMPUTATION AND DISTRIBUTION OF PAYMENTS

A. PAGA Group Information

Within twenty (20) calendar days of Plaintiffs serving on Defendants a notice of entry of the Court's Approval order, Defendants will provide to the Settlement Administrator the full names, last known addresses, last known telephone numbers, Social Security Numbers, and pay periods worked during the PAGA Period for all members of the PAGA Group.

B. Net Settlement Payment Distribution Formula.

The estimated Net Settlement Amount of Nineteen Thousand, Six Hundred, Five Dollars and Zero Cents (\$19,605.00) is allocated to satisfy the PAGA penalties claim as alleged in the operative First Amended Complaint. Members of the PAGA Group will receive a lump sum Net Settlement Payment as good and valuable consideration for the waiver and release of claims set forth in Section V(A), above, in an amount determined by the Settlement Administrator in accordance with the provisions of this Agreement.

The lump sum Net Settlement Payment to each member of the PAGA Group will be determined by dividing twenty-five percent (25%) of the Net Settlement Amount by the total number of pay periods worked by all members of the PAGA Group during the PAGA Period (the "Pay Period Amount") and then multiplying the Pay Period Amount by the number of pay periods worked by the individual PAGA Group member.

C. Funding of the Settlement.

The funding of the Settlement Amount will be completed at one (1) time with funds provided to and escrowed by the Settlement Administrator. The funds used for the Settlement Amount shall be paid to the Settlement Administrator by Defendants within thirty (30) calendar days of Plaintiffs serving on Defendants a notice of entry of the Court's Approval order.

D. Uncashed Checks.

If a PAGA Group member is deceased at the time of distribution, the Settlement Administrator shall notify the executor of the deceased PAGA Group member's estate and, if appropriate, place the deceased PAGA Group member's payment in escrow or similar disposition such that any competing heirs

1 may take whatever action they wish to resolve ultimate disposition of such money and the Settlement
2 Administrator and the Parties hereto may disclaim any further interest in or obligation in relation to such
3 money.

4 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
5 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search
6 and, if another address is identified, shall mail the check to the newly identified address. If the Settlement
7 Administrator is unable to obtain a valid mailing address through this process, the monies represented by
8 the check shall be turned over according to the below procedures.

9 Settlement checks will specifically indicate that they are void if not negotiated within one hundred
10 eighty (180) days of their issuance. Any settlement checks that remain uncashed one hundred eighty
11 (180) or more calendar days after issuance by the Settlement Administrator shall be voided. The
12 Settlement Administrator will remit the entire amount of each PAGA Group member's uncashed Net
13 Settlement Payment to the California State Controller for deposit in the Unclaimed Property Fund in the
14 name of the PAGA Group member to whom the uncashed Net Settlement Payment was drafted.

15 **E. Disbursement of Settlement.**

16 Subject to the terms and conditions of this Agreement, within ten (10) calendar days after receipt
17 of the Settlement funds from Defendants, the Settlement Administrator shall disburse the Settlement
18 Amount as follows:

19 1. **To The PAGA Group Members.** The Settlement Administrator will pay the PAGA
20 Group members their Net Settlement Payments estimated to be Four Thousand, Nine Hundred, One
21 Dollar and Twenty-Five Cents (\$4,901.25) according to the distribution formula set forth above.

22 2. **To the LWDA.** Seventy-five percent (75%) of the Net Settlement Amount shall be paid
23 to the LWDA which is estimated to be Fourteen Thousand, Seven Hundred, Three Dollars and Seventy-
24 Five Cents (\$14,703.75).

25 3. **To Plaintiffs' Counsel.** A total award for Attorney's Fees and Costs of Seventeen
26 Thousand, Five Hundred Dollars and Zero Cents (\$17,500.00) shall be paid to Plaintiffs' counsel. This
27 consists of Thirteen Thousand, Three Hundred and Thirty-Two Dollars and Zero Cents (\$13,332.00)
28 which is 33.33% of the Settlement Amount for attorney's fees plus Four Thousand, One Hundred and

1 Sixty-Eight Dollars and Zero Cents (\$4,168.00) for reimbursement of costs that Plaintiffs' Counsel
2 advanced in the Litigation. The Settlement Administrator will pay the Court-approved amount of the
3 Attorney's Fees and Costs award out of the Settlement Amount. An IRS Form 1099 will be issued to
4 Plaintiffs' Counsel with respect to the Attorney's Fees and Costs award.

5 4. **To the Settlement Administrator.** The Settlement Administrator will pay to itself
6 Administrative Costs estimated not to exceed Two Thousand, Eight Hundred, Ninety-Five Dollars and
7 Zero Cents (\$2,895.00).

8 **IX. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

9 The amounts paid under this Agreement do not represent a modification of any previously
10 credited hours of service under any employee benefit plan, policy, or bonus program sponsored by
11 Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any
12 other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendants, policies,
13 or bonus programs. Any payments made under the terms of this Agreement shall not be applied
14 retroactively, currently, or on a going forward basis as salary, earnings, wages, or any other form of
15 compensation for the purposes of Defendants' benefit plan, policy, or bonus program. Defendants retain
16 the right to modify the language of their benefit plans, policies, and bonus programs to effect this intent
17 and to make clear that any amounts paid pursuant to this Agreement are not for "hours worked," "hours
18 paid," "hours of service," or any similar measuring term as defined by applicable plans, policies, and
19 bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that
20 additional contributions or benefits are not required by this Agreement.

21 **X. PLAINTIFFS' COUNSEL'S ATTORNEYS' FEES AND LITIGATION COSTS**

22 Plaintiffs' Counsel shall be awarded Seventeen Thousahd, Five Hundred Dollars and Zero Cents
23 (\$17,500.00) for all past and future Attorney's Fees and Costs necessary to prosecute, settle, and
24 administer the Litigation and this Agreement. Any Attorney's Fees and Costs awarded to Plaintiffs'
25 Counsel by the Court shall be deducted from the Settlement Amount for the purpose of determining the
26 Net Settlement Amount. This amount shall include all attorneys' fees, Litigation costs, and expenses for
27 which Named Plaintiffs and Plaintiffs' Counsel could claim under any legal theory whatsoever. This
28 consists of Thirteen Thousand, Three Hundred and Thirty-Two Dollars and Zero Cents (\$13,332.00)

1 which is 33.33% of the Settlement Amount for attorney's fees plus Four Thousand, One Hundred and
2 Sixty-Eight Dollars and Zero Cents (\$4,168.00) for reimbursement of costs that Plaintiffs' Counsel
3 advanced in the Litigation.

4 **XI. TAXATION AND ALLOCATION**

5 For withholding tax characterization purposes and payment of taxes, the Net Settlement Amount
6 and any Net Settlement Payments paid therefrom, shall be deemed, and are allocated by the Parties 100%
7 as penalties. All PAGA Group members who cash their settlement check may receive an IRS Form 1099
8 for their portion of the Settlement, if deemed required by the Settlement Administrator (in compliance
9 with IRS guidelines).

10 **XII. COURT APPROVAL**

11 This Agreement is contingent upon Approval by the Court. The Parties agree that time is of the
12 essence and agree to exercise diligence and good faith to take all steps as may be reasonably necessary
13 to secure Approval of the Agreement as expeditiously as possible, to the extent not inconsistent with the
14 terms of this Agreement and will not take any action adverse to each other in obtaining Court Approval
15 of this Agreement in all respects. The Parties will seek Approval by physically delivering a Stipulation
16 and [Proposed] Order Approving PAGA Settlement directly to Judge Earl H. Maas, III, Department N-
17 28, of the Superior Court of California, County of San Diego.

18 **XIII. APPRISAL AND CERTIFICATION BY THE SETTLEMENT ADMINISTRATOR.**

19 The Settlement Administrator shall keep Plaintiffs' Counsel and Defendants' Counsel apprised
20 of all distributions from the Settlement Amount. Upon completion of administration of the Settlement,
21 the Settlement Administrator shall provide written certification of such completion to Plaintiffs' Counsel
22 and Defendants' Counsel by providing a declaration. The Settlement Administrator shall also provide
23 Defendants with a final accounting, including the names of payees and their respective Net Settlement
24 Payments received.

25 **XIV. MISCELLANEOUS PROVISIONS**

26 **A. Stay of Litigation.**

27 Named Plaintiffs and Defendants agree to the stay of all discovery in the Litigation, pending
28 Approval of the Agreement by the Court.

1 **B. Interpretation of the Agreement.**

2 This Agreement constitutes the entire agreement between Named Plaintiffs and Defendants.
3 Except as expressly provided herein, this Agreement has not been executed in reliance upon any other
4 written or oral representations or terms, and no such extrinsic oral or written representations or terms
5 shall modify, vary, or contradict its terms. In entering into this Agreement, the Parties agree that this
6 Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic
7 evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both
8 in its procedural and substantive aspects, without regard to its conflict of laws provisions. Any claim
9 arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and
10 exclusively in the Superior Court of the State of California for the County of San Diego and Named
11 Plaintiffs and Defendants hereby consent to the personal jurisdiction of the Court over them solely in
12 connection therewith. The foregoing is only limited to disputes concerning this Agreement and in no
13 way limits or negates the enforceability and effect of any other agreements signed by employees of
14 Defendants. Named Plaintiffs, on their own behalf and on behalf of the PAGA Group, and Defendants
15 participated in the negotiation and drafting of this Agreement and had available to them the advice and
16 assistance of independent counsel. As such, neither Named Plaintiffs nor Defendants may claim that any
17 ambiguity in this Agreement should be construed against the other.

18 The terms and conditions of this Agreement constitute the exclusive and final understanding and
19 expression of all agreements between Named Plaintiffs and Defendants with respect to the Settlement of
20 the Litigation. The Agreement may be modified only by a writing signed by counsel for all Parties or
21 their successors-in-interest.

22 **C. Further Cooperation.**

23 Named Plaintiffs and Defendants and their respective attorneys shall proceed diligently to prepare
24 and execute all documents, to seek Approval from the Court, and to do all things reasonably necessary
25 or convenient to consummate the Agreement as expeditiously as possible.

26 **D. Confidentiality of Documents & Enforcement.**

27 In an action to enforce any term or terms of this Settlement Agreement or to seek damages for
28 breach of this Settlement Agreement, the prevailing party in that action shall be entitled to recover

1 reasonable attorney's fees and costs. Pursuant to California Code of Civil Procedure section 664.6, the
2 Parties agree that the Court may retain jurisdiction over the Parties to enforce the terms of this Agreement,
3 and the Court may enforce the terms of the Agreement including by entering judgment pursuant to the
4 terms of the Agreement. Named Plaintiffs, the Settlement Administrator, and Plaintiffs' Counsel shall
5 maintain the confidentiality of all documents, deposition transcripts, declarations, and other information
6 obtained in the Litigation, unless necessary for appeal or such documents are ordered to be disclosed by
7 the Judge or by a subpoena.

8 **E. Counterparts.**

9 The Agreement may be executed in one or more actual or non-original counterparts, all of which
10 will be considered one and the same instrument and all of which will be considered duplicate originals.

11 **F. Authority.**

12 Each individual signing below warrants that he or she has the authority to execute this Agreement
13 on behalf of the party for whom or which that individual signs.

14 **G. No Third-Party Beneficiaries.**

15 Named Plaintiffs, members of the PAGA Group, Defendants, and Released Parties are direct
16 beneficiaries of this Agreement, but there are no third-party beneficiaries.

17 **H. Force Majeure.**

18 The failure of any party to perform any of its obligations hereunder shall not subject such party
19 to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part
20 by acts of God, fires, accidents, earthquakes, other natural disasters, explosions, floods, wars,
21 interruptions or delays in transportation, power outages, labor disputes or shortages, shortages of material
22 or supplies, governmental laws, restrictions, rules or regulations, sabotage, terrorist acts, acts or failures
23 to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable
24 control of such party.

25 **I. Deadlines Falling on Weekends or Holidays.**

26 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal
27 holiday, that deadline shall be continued until the following business day.

28 ///

J. Severability.

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendants' Counsel and Plaintiffs' Counsel, on behalf of the Parties and the PAGA Group, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

K. Defendants' Fees and Costs.

All of Defendants' own legal fees, costs, and expenses incurred in this Litigation shall be borne by Defendants.

L. No Prior Assignment.

Plaintiffs hereby represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

M. No Tax or Legal Advice.

The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that PAGA Group members will assume any such tax obligations or consequences that may arise from this Agreement, and that PAGA Group members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any PAGA Group members, such members assume all responsibility for the payment of such taxes.

N. Amendment or Modification of Agreement.

This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.

[Signatures to follow on next page]

1 Dated: _____, 2022

Plaintiff JULIE SOLIS

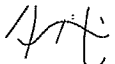
3 Dated: _____, 2022

Plaintiff KRISTY BUETTNER

5 Dated: _____, 2022

Plaintiff ARMANDO MENDEZ

8 Dated: 8/11/22 _____, 2022


By: Thomas Hibinski, on behalf of
CALIFORNIA FIRE STOP, INC.

11 Dated: 8/11/22 _____, 2022


By: Thomas Hibinski, on behalf of
THOMAS HIBINSKI

14 Dated: 8/11/2022 _____, 2022

Brian Lintner
By: Brian Lintner, on behalf of
BRIAN LINTNER

17 **APPROVED AS TO FORM ONLY:**

18 Dated: _____, 2022

W LAW

Jason Whooper, Esq.
Attorney for Plaintiffs

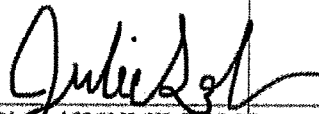
23 Dated: August 15 _____, 2022

JACKSON LEWIS P.C.



John Nordlund, Esq.
Stephanie A. Kierig, Esq.
Lana B. Nassar, Esq.
Attorneys for Defendants
California Fire Stop, Inc., Thomas Hibinski, and
Brian Lintner

1 Dated: August 10th, 2022


Plaintiff JULIE SOLIS

2
3 Dated: August 10th, 2022


Plaintiff KRISTY BUETTNER

4
5 Dated: August, 10th, 2022


Plaintiff ARMANDO MENDEZ

6
7
8 Dated: _____, 2022

By: Thomas Hibinski, on behalf of
CALIFORNIA FIRE STOP, INC.

9
10
11 Dated: _____, 2022

By: Thomas Hibinski, on behalf of
THOMAS HIBINSKI

12
13
14 Dated: _____, 2022

By: Brian Lintner, on behalf of
BRIAN LINTNER

15
16
17 **APPROVED AS TO FORM ONLY:**

18 Dated: August 12, 2022

W LAW



Jason Whooper, Esq.
Attorney for Plaintiffs

19
20
21
22
23 Dated: _____, 2022

JACKSON LEWIS P.C.

24
25
26 John Nordlund, Esq.
Stephanie A. Kierig, Esq.
Lana B. Nassar, Esq.
27 Attorneys for Defendants
28 California Fire Stop, Inc., Thomas Hibinski, and
Brian Lintner

EXHIBIT 2



Jason Whooper <jwhooper@wlawinc.com>

Thank you for your Proposed Settlement Submission

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>

Thu, Aug 18, 2022 at 4:43 PM

To: jwhooper@wlawinc.com

08/18/2022 04:43:25 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm