



# **AGREEMENT**

**BETWEEN**

**FEDERAL DEFENDERS OF SAN DIEGO, INC.**

**AND**

**ENGINEERS & SCIENTISTS OF CALIFORNIA**

**LOCAL 20 IFPTE AFL-CIO & CLC**

**December 19, 2023 through December 18, 2026**

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**ARTICLE 1**  
**MISSION, PURPOSE, AND SCOPE OF AGREEMENT**

**Section 1.1. Mission Statement and Purpose**

- A. The parties recognize and agree to the following mission statement of Federal Defenders of San Diego, Inc. (“FSDSI”):

Members of the Federal Defenders team share a commitment to excellence and a passion for justice in representing indigent people accused of myriad federal criminal offenses. We combine hard work, constant training, and intense dedication in the defense of each of our clients.

- B. In keeping with this mission statement, this Agreement has as its purpose the promotion of harmonious relations between FSDSI and the Union; the maintenance of an environment where all employees, including represented staff and management, treat each other with dignity and respect; the establishment of equitable and peaceful procedure for the resolution of differences; and the establishment of working conditions that set industry standards, thus enhancing FSDSI’s ability to carry out its mission.

**Section 1.2. Scope**

- A. This Agreement contains the entire understanding, undertaking and agreement of FSDSI and the Union and finally determines all matters of collective bargaining for its term with respect to the topics covered herein and those matters that were discussed between FSDSI and the Union during negotiations that led to this agreement. Changes to the Agreement must be reduced to writing and executed by both FSDSI and the Union to be effective.
- B. If there are conflicts between this Agreement and FSDSI's Personnel Manual, policies, and work rules, this Agreement shall govern. Where there are no conflicts, and in those areas not addressed specifically by this Agreement, the Personnel Manual, policies, and work rules shall govern. Changes to the Personnel Manual, policies, work rules, and working conditions will not be unilaterally implemented by the Employer. FSDSI shall provide advance written notice of no less than thirty (30) calendar days prior to the desired implementation date and an opportunity to bargain over proposed changes consistent with its obligations under the National Labor Relations Act. If the Union does not agree to the proposed change, FSDSI will not implement the change until the parties have bargained in good faith concerning the proposed change and exhausted all possible avenues to reach agreement.

### **Section 1.3. Successorship**

This Agreement shall bind the signatories hereto, as well as their successors and assigns. The Employer shall give reasonable advance written notice to the Union of any proposed merger, transfer, joint venture, or consolidation of the organization, its services, or sites and afford the Union an opportunity to bargain over the effects of the action. FDSDI shall advise the third party of the terms and conditions of this Agreement prior to concluding any such transaction.

### **Section 1.4. Notices**

Unit members shall provide to FDSDI their current email address and telephone number and shall promptly notify FDSDI of any change in their email address or telephone number while employed. The Union shall designate a representative to receive notices and provide FDSDI with a contact email and phone number. Failure by the unit member or Union to provide this information shall relieve FDSDI of any notification obligation under this Agreement for the time period such information has not been provided to FDSDI. Upon submission of such information FDSDI is obligated to comply with all notification requirements provided for under this Agreement.

## **ARTICLE 2 MANAGEMENT RIGHTS**

### **Section 2.1. Scope**

Except as expressly limited by specific provisions of this Agreement, FDSDI retains the sole and exclusive right to exercise all management rights and functions which it deems appropriate to operate its facilities and render its services. Examples of those functions are listed below in Section 2.2. The exercise of management rights by FDSDI will be subject to such prior notice, discussion or negotiation to or with the Union as the law or the terms of this Agreement expressly require.

### **Section 2.2. Examples of Rights Retained**

Except as limited by the express language of specific provisions of this Agreement FDSDI has the exclusive right to determine who will be hired; the number of job positions required; the right to discharge, suspend, or otherwise discipline employees for just cause—provided, however, that with respect to probationary employees and employees whose positions are eliminated as part of a reduction in force, just cause is not required; the right to demote, transfer (temporarily or permanently) or promote employees; the right to determine hours and locations of work and the nature and amount of work assigned; the right to utilize non-bargaining unit personnel including part-time and temporary employees and contractors as well as management personnel to perform bargaining unit work provided, however, that FDSDI will not use non-bargaining unit personnel in order to reduce the size of the bargaining unit or avoid the posting of a full-time unit position; the right to select the services to be rendered and the sources of the products it uses to deliver those services and to lay employees off because of lack of work or other business causes.

### **Section 2.3. Resolution of Ambiguities**

In the event of any ambiguity between the specific provisions of this Article and another Article of this Agreement, the terms of this Article will control.

### **Section 2.4. Conformance with Grant Conditions**

The Union recognizes that FDSDI must conform its operational and business practices to the terms and conditions of the annual Grant and Conditions established by the Administrative Office of the United States Courts (“Grant”). In the event of a conflict between fulfilling the express terms of this Agreement and compliance with the terms and conditions of the Grant, FDSDI may implement such modifications of this Agreement as it deems necessary to comply with the terms of the Grant. FDSDI will notify the Union of the nature and effective date of the proposed modifications and, upon written request delivered to the Executive Director prior to the effective date, will meet with



the Union to discuss such changes. Except under circumstances where it is impractical to do so, FDSDI will provide thirty (30) calendar days advance notice of the proposed modifications. If the parties are unable to reach agreement concerning the proposed modifications prior to the effective date, FDSDI may implement the modifications on an interim basis, so long as required by the Grant, until such time as the parties reach an agreement or impasse.

**ARTICLE 3  
UNION RIGHTS**

**Section 3.1. Union Recognition**

FDSDI recognizes Engineers and Scientists of California Local 20 (“Union”) as the exclusive bargaining agent in all matters concerning wages hours and working conditions pursuant to the Certification of Representative issued by the National Labor Relations Board in Case No. 21- RC -271675 for all full-time professional employees, including all assistant federal defenders, appellate attorneys and capital fellows, and law grad-paralegals, employed by FDSDI at its facilities currently located at 225 Broadway, Suite 900, San Diego, California and 1699 West Main Street, Suite D, El Centro, California.

Excluded: All other employees, non-professional employees, office clerical employees, managerial employees, guards and supervisors as defined in the Act.

**Section 3.2. Union Check-Off**

A. Union Membership

1. All employees subject to this Agreement employed by FDSDI on the execution date of this Agreement shall be required, as a condition of employment, to join and remain a member of the Union.
2. All employees subject to this Agreement hired after the execution date of this Agreement shall, as a condition of employment, join and remain a member of the Union within thirty (30) calendar days after starting employment.

B. Check-off Dues

1. FDSDI will deduct from unit members' wages and turn over to the proper officers of the Union the membership dues of each unit member who individually and voluntarily certifies in writing that they authorize such deductions.
2. Dues and other applicable deductions from the unit members' paychecks shall be remitted to the Union via Automated Clearing House (ACH) or Electronic Funds Transfer (EFT) within ten (10) business days of the last day of each month.
3. Legislative Education and Action Program (LEAP) Post-Tax Deductions: Unit members may make LEAP contributions through payroll deductions. FDSDI agrees to deduct LEAP contributions on a per pay period basis from the paycheck of each unit member who voluntarily executes and delivers to FDSDI a valid LEAP

deduction authorization form. LEAP deductions may be canceled by the unit member with thirty (30) days' notice to the Union and FDSDI.

### **Section 3.3. Union Meetings**

The Union shall be entitled to hold a one-hour meeting during the lunch hour or after work hours every other month. The Union and FDSDI will agree on a 6-month schedule for these meeting dates.

### **Section 3.4. Union Time**

- A. Unit members shall bill all Union related matters in Defender Data as non-case related (“NCR”) human resources (“HR”) time.
- B. There will be three (3) shop stewards appointed by the Union. Shop stewards will be entitled to bill a reasonable amount of “HR” time during their workday to represent members in meetings with management. At the same time, shop stewards will not disrupt or interfere with a unit member’s work duties during normal work hours and will ensure that their own work is not negatively impacted by the discharge of their shop steward duties. All shop steward investigations into potential grievances shall be conducted during non-business hours.
- C. Unit members appointed by the Union to serve on the Negotiating Committee will be entitled to bill “HR” Time for all meetings scheduled with management at mutually agreeable times. As officers and negotiating committee members are elected, the Union will notify FDSDI, so that FDSDI can in turn notify the respective supervisors.
- D. When new employees are hired into the bargaining unit, a steward will be permitted one (1) hour to conduct an orientation with the new hire(s) as part of new attorney training.

### **Section 3.5. Financial Statements**

To the extent required by law, FDSDI will provide financial information to the Union upon request. The Union may request such relevant financial information for contract administration, collective bargaining, impact bargaining, arbitration hearings, or grievance investigations.

### **Section 3.6. Union/Management Meetings**

Union Stewards and management shall meet quarterly to discuss and make recommendations regarding labor/management and professional practices of mutual concern. The parties will exchange a proposed agenda at least 48 hours before each meeting.

### **Section 3.7. Union Acknowledgment**

A. FDSDI will recognize the bargaining unit's affiliation with ESC by:

1. Displaying a union bug on FDSDI's website;
2. Posting a statement, approved by Management, acknowledging this affiliation in the lunchrooms or copy rooms.

### **Section 3.8. Union Communications**

Announcements of administrative Union business may be circulated to members of the bargaining unit via FDSDI electronic mail and via other forms of digital communication hosted or paid for by FDSDI.

**ARTICLE 4**  
**FULL-TIME EMPLOYEES**

A full-time employee is an employee who is regularly scheduled to work a minimum of forty (40) hours per week on a continuing basis.

**ARTICLE 5**  
**PAST PRACTICE**

FDSDI and the Union shall adhere to the express terms of this Agreement but shall not be bound by any written or unwritten past practices established by FDSDI, its employees, the Union or any other employer.

**ARTICLE 6**  
**NO STRIKE/NO LOCKOUT**

The parties subscribe to the principle that differences will be resolved by peaceful and appropriate means consistent with the procedures set forth in this Agreement. The Union agrees that there will be no strikes, work stoppages, slowdowns, sympathy strikes, deliberate withholding of production or physical presence in the office, or concerted refusal to perform work during the term of this Agreement, which interferes with or interrupts the work of FDSDI or the courts. Neither the Union nor any officer or agent thereof, will, directly or indirectly, authorize, assist, condone, encourage or in any way participate in any such activities. FDSDI will not lockout its employees during the term of this Agreement.

**ARTICLE 7**  
**UNION STEWARDS**

**Section 7.1. Number of Union Stewards**

The Union may select three (3) unit members of FDSDI to act as shop stewards. The Stewards shall be working unit members. The steward's duties shall not interfere with their work duties or the work duties of other employees.

**Section 7.2. Union Steward Work**

The Stewards shall be available to meet with unit members to investigate or process potential grievances or discuss matters of Union concern on non-working time (e.g., during lunch or rest breaks or before or after the regular workday), unless FDSDI approves a request to address the matter during the workday. All meetings with Management regarding union matters shall be billable in DefenderData and count towards the seven-hour daily minimum and the minimum forty-hour work week.



**ARTICLE 8**  
**BARGAINING UNIT WORK AND TEMPORARY EMPLOYEES**

**Section 8.1. Bargaining Unit Work**

FDSDI has the right to utilize non-bargaining unit personnel including part-time and temporary employees and contractors as well as management personnel to perform bargaining unit work; provided, however, that FDSDI will not use non-bargaining unit personnel in order to reduce the size of the bargaining unit or avoid the posting of a full-time unit position.

**Section 8.2. Fellows**

Non-Capital Fellows not covered by the CBA and hired into a full-time bargaining unit position will not have to serve an additional preliminary evaluation period if they have served time as a fellow in the organization for 1 year or more.

**ARTICLE 9**  
**FDSDI RULES AND PERSONNEL MANUAL**

The current Personnel Manual is attached hereto as Appendix A and is incorporated into and made part of this Agreement. The Manual contains rules, policies, codes of conduct, benefits and other terms and conditions of employment. FDSDI retains the right to modify any of the terms of the Manual, provided that, (1) it notifies the Union at least thirty (30) days prior to the effective date of such changes, except under circumstances where it is impractical to do so; and (2) upon written request delivered to the Executive Director prior to the effective date, FDSDI will meet with the Union to discuss the proposed modification.

In the event of a conflict between provisions of the Manual and the express terms of this Agreement, the terms of this Agreement will take precedence, as long as such terms do not violate Grant conditions.

**ARTICLE 10**  
**COMPLIANCE WITH DISCRIMINATION LAW**

**Section 10.1. General Provisions**

- A. FDSDI and the Union agree that there will be no discrimination by either party on the basis of race, color, religious creed, sex (including pregnancy), gender, national origin, ethnicity, ancestry, age, physical disability, military or veteran status, marital status, family care or medical leave status, sexual orientation, gender identity (including transgender status), gender expression, status as a victim of domestic violence, sexual assault, or stalking, legally protected medical condition, Union activity, or any other basis prohibited by law. This Article also prohibits discrimination based on a perception that an individual has any of the characteristics of the protected classes listed above, and further prohibits discrimination against an individual who is associated with a person who has, or is perceived to have, any of those characteristics.
- B. FDSDI commits to making the work facilities barrier-free and accessible for all applicants and employees in accordance with the law and will make reasonable accommodations in accordance with the law, provided such accommodations do not constitute an undue hardship.
- C. FDSDI will establish and maintain a work environment for its employees that is free from all forms of unlawful discrimination, harassment and/or retaliation. Such conduct will not be tolerated by FDSDI or the Union, whether by co-workers, managers, supervisors or third parties. FDSDI's policy regarding discrimination, harassment and retaliation, are further set forth in the Personnel Manual.

**Section 10.2. Diversity, Equity, and Inclusion**

- A. FDSDI shall provide an opportunity for all applicants for open bargaining unit positions and all current unit members to voluntarily self-identify their race, ethnicity, gender/gender identity, and sexual orientation. Unit members will not be required to share this information as a condition of employment and it shall be made clear on the collection form that the information is to inform FDSDI's understanding of the diversity of its workforce.
- B. Unit members and applicant demographic information will be shared with the Hiring Committee. Personal identifying information will not be included. The Hiring Committee shall not use this information in any manner, other than to evaluate the diversity of the unit workforce.

**ARTICLE 11**  
**CONTRACT ADMINISTRATION**

**Section 11.1. Scope of Grievance**

A grievance is an alleged violation of specific terms of this Agreement by FDSDI. Verbal counseling and disciplining or terminating probationary employees, including non-disciplinary termination, and terminations that are part of a reduction in force are not grievable events. Because the parties wish to maintain an orderly process to resolve disputes, FDSDI and Union agree that this Article will survive and remain in full force and effect after the termination of this Agreement. Any grievance arising under this Agreement, unless expressly excluded from this Article's coverage, will be settled by the parties exclusively according to this Article's terms. With the exception of breaks and lunch hours, grievances will not be filed, discussed, investigated or otherwise processed during regular office hours (currently 8:00 a.m. – 6:00 p.m.), unless FDSDI agrees on a case-by-case basis in writing. With the exception of unit members who have not completed their introductory period, no unit member covered by this Agreement may be disciplined or discharged except for just cause.

**Section 11.2. Grievance Procedure**

Step I. Grievances in disciplinary cases must be filed within ten (10) working days of the date the unit member is advised of the discipline. In all other cases the grievance must be filed within ten (10) working days of the event giving rise to the grievance or within ten (10) working days of the date the union should reasonably have been aware of the event giving rise to the grievance. The Shop Steward must discuss the grievance with the immediate supervisor of the aggrieved unit member in an informal meeting in order to initiate the grievance. The aggrieved unit member may accompany the Steward, if they so desire. The immediate supervisor shall render a decision within twenty-four (24) hours after the conclusion of the informal Step 1 meeting. The decision shall be given to the Steward and the aggrieved unit member.

FDSDI will notify the Union in writing of any termination or disciplinary action so that the Union will have sufficient time to review and respond before the expiration of the applicable time limit.

Failure by FDSDI to provide a response within the established time limits at any Step shall automatically move the grievance to the next Step.

Appeal. If the Union wishes to appeal, it must appeal a denied grievance to Step II within ten (10) working days after receipt of FDSDI's decision or within ten (10) working days after the Step I deadline for the FDSDI response has expired. Such Step II appeal shall be in writing to the immediate supervisor.

Step II. A Union representative or the Shop Steward shall represent the unit member. The immediate supervisor and/or member(s) of the management team shall meet with the Union representative within ten (10) working days of the Step I response. A decision by FDSDI shall be in writing and sent to the Union within seven (7) working days.

Appeal. The Union may appeal a denied Step II grievance within ten (10) working days of receipt by the Union of the written Step II decision or within ten (10) working days after the Step II deadline for the FDSDI response has expired. Such appeal shall be in writing.

Step III. A Union representative or designee shall meet to discuss the grievance with the Executive Director or designee within ten (10) working days after of receipt of the Union's request for a Step III meeting. A decision by FDSDI shall be in writing and provided to the Union within seven (7) working days of the Step III meeting.

Step IV. Either party may request non-binding mediation by delivering a written request to the Executive Director or Union Representative within ten (10) working days of its receipt of the written Step III decision or within ten (10) working days after the deadline for the Step III response has expired. Neither party shall be obligated to participate in the mediation unless the mediator confirms that they can conduct the mediation within thirty (30) working days of the request. The parties may extend this deadline by mutual written agreement.

The mediator may be selected from any source by mutual agreement. Otherwise, the mediator will be selected from a list supplied by The Federal Mediation and Conciliation Service.

### **Section 11.3. Selection of Arbitrator**

If, after Step III of the grievance procedure, or conclusion of Step IV the Union wishes to proceed to arbitration, the Executive Director must be notified in writing within fifteen (15) working days of the final meeting or mediation, as applicable. Additionally, during the same time period the Union must notify the Federal Mediation and Conciliation Service and request a list of seven (7) arbitrators. Arbitrator names will be struck alternatively by both parties until one name remains. Each side shall alternate the first striking of a panel name provide by FMCS. Either party may reject one panel prior to striking, in which case a new panel will be requested. The arbitrator will be notified of his or her selection and asked to submit with his or her acceptance the earliest available hearing date.

#### **Section 11.4. Full Disclosure**

For any grievance which proceeds beyond Step III or IV of this Article, no later than thirty (30) days prior to the arbitration, the aggrieved unit member, the Union and FSDSI must exchange in writing all known non-privileged evidence bearing on the grievance. This includes, but is not limited to, a description of the subject matter giving rise to the grievance, relevant dates the names of all witnesses, and the specific contract language that has allegedly been violated. Nothing herein may be construed to compel any party to produce information which is covered by the attorney client privilege. Failure to comply with this Section will serve as a bar to the introduction of the evidence by the party withholding the evidence at arbitration. Evidence that is discovered at a later date may be introduced at the arbitration only if the party discovering the evidence provides the other party prompt written notice of its existence at least ten (10) days prior to the arbitration.

#### **Section 11.5. Time Limits**

The number of days indicated in this Article shall not be considered as merely procedural but shall be deemed of the essence and jurisdictional prerequisites to the grievance and arbitration. Except as provided otherwise herein, failure to adhere to this Article's time limitations will permanently bar any further processing of the grievance, including the submission of the grievance to arbitration. Either party, however, may request a reasonable extension of time not to exceed ten (10) working days to respond at any step or to request arbitration after Step III or IV and such request shall be granted by the opposing party. In addition, for good cause either party may ask to reschedule an arbitration and such request will be agreed to by the opposing party provided that the requesting party pays any cancellation fees that may be imposed by the arbitrator. In order to be subject to arbitration under this Agreement, the grievance must have been filed prior to the expiration of this Agreement.

No settlement of any grievance will operate as a precedent for subsequent situations.

#### **Section 11.6. Scope of Authority**

In rendering a decision, the arbitrator will be governed and limited by this Agreement's provisions, applicable law, and the expressed intent of the parties as set forth in this Agreement. In matters relating to unit member discipline and/or discharge, the arbitrator's authority will be limited to determining whether the unit member engaged in the prohibited behavior of which accused. The arbitrator will have no authority to add to, subtract from, or modify any of the terms and provisions of this Agreement and will confine his judgment strictly to the facts submitted in the hearing, the evidence presented, and the express terms and provisions of this Agreement. The arbitrator's decision will be final and binding upon the parties, unless the arbitrator fails to comply with this Article.

**Section 11.7. Expenses**

Each party will bear the expense of preparation and presentation of its own case. The expense of the arbitrator will be equally divided between the parties.

**Section 11.8. Evidence Excluded**

In the event of an arbitration, or any judicial or administrative proceeding concerning an alleged violation of this Agreement by either party, the arbitrator, judge or other trier of fact is expressly prohibited from accepting evidence concerning, or basing an award or a decision on, proposals made or withdrawn during the negotiating of this Agreement.

**ARTICLE 12**  
**FACILITY VISITS**

Subject to security requirements, Union representatives will be given access to FDSDI facilities in order to investigate grievances being processed under the grievance procedure, investigate potential grievances, or to discuss matters of Union concern provided the representative has obtained permission in advance from the Executive Director or designee. Prior to receiving permission to enter FDSDI premises, the Union representative must first, however, submit a verbal or written request to the Executive Director or designee identifying the reason for the visit. A time will be set for such visit, which is mutually satisfactory to the parties, and the Executive Director or designee will respond no later than one working day from the original request. It is understood that there shall be no interruption of FDSDI's operations. All other Union requests for access, which FDSDI is lawfully required to grant, will be granted under the same conditions.



**ARTICLE 13**  
**POSITIONS, HIRING, AND VACANCIES**

**Section 13.1. Hiring Process**

- A. FDSDI recognizes the importance of represented staff having input into the hiring of new attorneys. To that end, FDSDI has created a recruitment committee responsible for aiding in the recruitment and hiring of applicants for attorney positions. The recruitment committee shall include at least two (2) bargaining unit members. The recruitment committee will be responsible for:
1. Reviewing applications for attorney positions;
  2. Conducting initial interviews, evaluating candidates' qualifications, and recommending applicants for callback interviews;
  3. Making recommendations where the job announcement should be circulated;
  4. Making recommendations for career fairs or other hiring events at which FDSDI should conduct interviews;
  5. Attending online and in-person job fairs and/or coordinating with FDSDI attorneys who attend job fairs;
  6. Creating and updating the hypothetical used during the big room interview;
  7. Making hiring recommendations.

**Section 13.2. Internal Movement Between Job Titles**

- A. Qualified internal candidates for Appellate Attorney and Trial Attorney position(s) will automatically receive a callback interview.
- B. Where schedules allow, FDSDI will interview internal applicants prior to interviewing external applicants.
- C. This Section does not apply to internal selection of unit members for senior designations, special projects, committees, and liaison roles, which are addressed in Article 22.6 of this Agreement.

**Section 13.3. Seniority**

- A. Seniority will be counted from the first day of employment, including time as a fellow or temporary attorney, if subsequently hired for permanent employment, and will accrue based on the number of years employed at FDSDI as an attorney, temporary attorney, law grad/paralegal or fellow. Seniority will be taken into consideration as a factor in lateral

movements as addressed in Section 13.2 above and promotions as addressed in Article 22 Professional Development and Training.

B. Breaks in Service

1. Non-disciplinary Terminations: Unit members who are terminated for non-disciplinary reasons and subsequently reinstated will not lose seniority.
2. Voluntary Resignations: Unit members who voluntarily resign and are rehired will be reinstated without loss of seniority, and the unit member's prior seniority will be credited less their period time away.
3. Leaves of Absence: Unit members on leave of absence shall continue to accrue seniority.

**Section 13.4. Orientation**

- A. When a new bargaining unit employee is hired the Union shall be notified and a Union Representative will be permitted to conduct a one (1) hour orientation with new hires as part of new attorney training.
- B. FDSDI will provide a copy of the current union contract and personnel policies to new unit members within their first week of employment.

**ARTICLE 14**  
**PRELIMINARY EVALUATION PERIOD**

**Section 14.1. Preliminary Evaluation Period Timeline**

Each applicant hired into a bargaining unit position will serve a preliminary evaluation period of twelve (12) months starting from their date of hire. A preliminary performance evaluation shall be completed and discussed with the unit member after ten (10) months into the introductory period. If at that time FDSDI believes the unit member's performance is unsatisfactory, FDSDI will provide the unit member with a detailed description of the specific criteria which must be met in order to successfully complete the introductory period. The preliminary performance evaluation period may be extended if the unit member has been given an unsatisfactory performance evaluation. The unit member will be given notice of the extension within two weeks of the last day of their twelve-month preliminary evaluation period. The preliminary evaluation period may be extended for other reasons with the agreement of FDSDI, the Union and the unit member. A full performance evaluation will be completed once the unit member successfully completes their introductory period.

**Section 14.2. Right to Discharge or Discipline**

During the preliminary evaluation period, FDSDI will have the right to discharge or discipline a unit member for any reason. This action will not be subject to the grievance and arbitration provisions of this Agreement.

**Section 14.3. Ineligibility for Benefits**

Unless required by law or provided to all FDSDI employees under the Personnel Manual, unit members serving an evaluation period will not be eligible for any benefits granted to Union members under this Agreement.

**ARTICLE 15**  
**COMPENSATION AND SALARY PLACEMENT**

**Section 15.1. Compensation**

Salaries and salary increases will be determined by federal funding provided for that purpose by the Administrative Office of the United States Courts (“AO”). Unit members will receive salaries within the range established by annual AO Salary Charts for the relevant locality, according to the unit member’s Years of Professional Attorney Experience (“YPAE”). FDSDI will select a salary within the relevant salary range that will allow the unit member to receive the maximum salary for those whose performance “Substantially Exceeds Expectations” when the unit member first reaches the 9+ level of YPAE.

**Section 15.2. Salary Placement Criteria**

All new hired or reclassified attorneys will be placed within the applicable salary range on the AFD starting salary chart. It is the Executive Director’s discretion to select the appropriate starting salary within that range. However, the Executive Director may set the salary at any amount within the applicable starting salary range, as necessary to ensure consistency between the salary of the AFD being hired or reclassified and the salaries of other AFDs in the organization, based on their relevant professional attorney experience and qualifications. The Executive Director will set the starting salary appropriately in the range to allow for optimal APR pay increases each year until the AFD reaches the next applicable AD level.

**Section 15.3. New Unit Member Hires Salary Placement Criteria**

With the initial offer letter, all prospective unit members will be provided with a copy of the starting salary chart in order to offer an explanation of their starting salary placement which includes the individual’s number of years of prior qualifiable “professional attorney experience.” They will also be provided the contact information for the current Stewards. The prospective unit member’s signing of the offer letter confirms final terms of employment, including starting salary.

**Section 15.4. Salary Placement Process**

Upon request, Management will provide quarterly updated individual salary information to the Stewards.

### **Section 15.5. First CBA Current Unit Member Salary Placement Discrepancies**

Union Stewards may address current unit member salary inequity concerns with Management in the Union/Management meetings throughout the duration of this agreement. “Current unit members” are defined as unit members employed as of the effective date of the agreement. The Stewards may propose a different salary, if warranted, based on current unit members’ years of prior qualifiable “professional attorney experience.” If a salary placement discrepancy is raised, Management will attempt to remedy such discrepancy if both parties agree it exists or provide a written response to conclude the matter.

**ARTICLE 16**  
**EMPLOYEE BENEFITS: INSURANCE PLANS**

The Union recognizes that FDSDI must conform employee benefit policies to those applicable to federal public defender organizations and all AO guidelines. The Union also recognizes the Grant provides that expenditures for employee benefits shall not exceed a certain percent of its expenditures of salaries for each fiscal year. Based on a yearly review of the budget, and if it is in the best financial interest of the organization, FDSDI will endeavor to maximize expenditure on benefits within the limits established by the Grant. The parties understand and agree that if any benefit described in this Agreement or in the Personnel Manual exceeds that permitted by the AO, the AO amount shall apply. It is also understood and agreed that because FDSDI is entirely dependent on AO funding in order to provide monetary benefits to unit members, there can be no guarantee that such benefits will not be reduced or modified during the term of this Agreement as a result of action by the AO or increased cost of providing the benefit.

**Section 16.1. Eligibility and Enrollment**

- A. FDSDI will provide group medical, dental, vision, long-term disability and life insurance (including accidental death and dismemberment insurance plans) for all unit members covered by this Agreement. Plan descriptions are available from Human Resources.
- B. Unit members may enroll their dependents, including but not limited to all children, spouses, and domestic partners, in health, dental, vision, and life insurance benefits. This definition of dependents (inclusive of spouses and partners regardless of their income or employment status) shall be used throughout this Article.
- C. FDSDI will inform the prospective unit member of the parameters of insurance waiting-period requirements in their offer letter.

**Section 16.2. Open Enrollment**

- A. **Currently Enrolled Unit Members and Dependents:** Currently enrolled unit members may change health plans during open enrollment. FDSDI will make its best efforts to hold open enrollment during the same period every year.
- B. **Unit Members and Dependents Not Currently Enrolled:** Previously eligible unit members who have waived benefit coverage for themselves and/or their dependents may enroll themselves and/or their dependents during open enrollment.

**Section 16.3. Medical Insurance**

- A. Medical coverage will be provided for eligible unit members and their dependents.
- B. After conducting a yearly budgetary evaluation, FDSDI will endeavor to maintain the same level of coverage for the duration of this Agreement. Health plan options shall include a health maintenance organization (“HMO”) and a preferred provider plan (“PPO”) option, or other comparable alternative options if such options become available.

**Section 16.4. Dental Insurance**

- A. Dental coverage shall be provided for all eligible unit members and their dependents.
- B. After conducting a yearly budgetary evaluation, FDSDI will endeavor to maintain the same level of dental coverage for the duration of this Agreement.

**Section 16.5. Vision Insurance**

- A. Vision coverage shall be provided for all eligible unit members and their dependents.
- B. After conducting a yearly budgetary evaluation, FDSDI will endeavor to maintain the same level of vision coverage for the duration of this Agreement.

**Section 16.6. Life Insurance**

- A. Term life insurance in the amount \$50,000 per unit member, will be provided at FDSDI’s expense for all unit members.
- B. Unit members will designate a beneficiary for life insurance when enrolling for the benefit and may change the beneficiary by advising Human Resources.

**Section 16.7. Short-term Disability Insurance (SDI)**

Unit members may be eligible for short-term disability insurance benefits through the State of California SDI program for a non-occupational injury or illness.

**Section 16.8. Long-term Disability Insurance (LTD)**

- A. Long-term disability insurance shall be provided for all unit members covered by this Agreement.
- B. After conducting a yearly budgetary evaluation, FDSDI will endeavor to maintain the same level of LTD coverage for the duration of this Agreement.



**ARTICLE 17**  
**LAYOFF AND RECALL**

**Section 17.1. Layoff Procedure**

- A. The Executive Director retains the discretion to determine whether a reduction in force will be effected by termination or by layoff. FDSDI shall promptly notify the Union when it believes layoffs may be necessary.
- B. Prior to finalizing a list of employees for layoff, FDSDI shall notify employees of the opportunity to be voluntarily laid off.
- C. If layoffs of unit members become necessary, unit members shall be laid off according to level of seniority (the least senior being laid off first). For the purpose of this section (17.1), seniority is defined by a class hired within the same fiscal year.
- D. Tiebreaker: When multiple unit members with the same seniority are considered for layoff, FDSDI shall have sole discretion in deciding whom to layoff. FDSDI will consider a number of factors, including the unit members' demonstrated skills, ability and performance, diversity, financial considerations, and the needs and mission of FDSDI. The parties agree that there may be occasions when a senior unit member is laid off and a junior unit member is retained because the retained unit member possesses special skills, has a better work record, or fits the needs or mission of FDSDI.

**Section 17.2. Restoration of the Workforce**

In the event of a restoration of the workforce, laid off unit members will be recalled in the reverse order in which they were laid off, provided, however, that unit members being recalled have the ability and qualifications to perform the work. Recall notices will be sent by certified mail and e-mail to the laid off unit members' address on file with FDSDI. A Union Representative will also be notified of such recalls via e-mail.

**Section 17.3. Return to Work**

Laid off unit members have five (5) working days or a mutually agreed upon date to return to work after being recalled by any verifiable means.

#### **Section 17.4. Not Subject of Grievance and Arbitration**

The provisions of this Article are not subject to the grievance and arbitration provisions of this Agreement.

**ARTICLE 18**  
**HEALTH, SAFETY, AND WELLBEING**

**Section 18.1. Health & Safety**

- A. FDSDI will work with unit members to provide a safe work environment. Any unit member who is aware of conditions that pose a potential health or safety hazard, must immediately bring them to the attention of Management. No unit member will be subject to retaliation for reporting safety concerns to Management.
- B. FDSDI will comply with all applicable OSHA rules and state rules and regulations (Cal/OSHA, CDPH, etc.) concerning the workplace.
- C. At least annually, FDSDI shall provide to the Union copies of any injury and illness logs, reports, and records FDSDI is or has been required to maintain under applicable laws or orders. Whenever FDSDI reports a workplace incident that results in a serious injury or illness, or death, to the Division of Occupational Safety and Health (Cal/OSHA), FDSDI shall notify the Union in writing of the details of the report as soon as practicable.
- D. In the event of a public health/safety emergency that affects unit member working conditions (e.g., pandemic, earthquake, flood, wildfire, extreme weather conditions, etc.), FDSDI shall inform the Union as soon as practicable about responses concerning unit member safety and working conditions.

**Section 18.2. Ergonomic Evaluation and Equipment**

- A. FDSDI will make its best efforts, subject to budget constraints, to provide unit members with ergonomic information. FDSDI will provide reasonable accommodations with respect to ergonomic equipment when requested by a unit member and supported by a doctor's note. FDSDI reserves the right to request a second opinion by a different doctor.
- B. Unit members are encouraged to promptly report any case of ergonomic injury/discomfort due to work or job station or tool design to a designated FDSDI Management/HR employee responsible for workplace safety.

**Section 18.3. First-Aid and Emergency Response**

- A. First-aid supplies will be located in clearly marked locations at the El Centro and San Diego offices, including each floor at the San Diego office.

- B. FSDSI will maintain a current emergency evacuation plan and will participate in practice evacuations.

#### **Section 18.4. Safety Plans and Prevention**

If an Unit member notifies a representative of FSDSI management that they have been threatened by a visitor, contractor, or employee, or if they otherwise fear for their physical safety at any work location, FSDSI management will respond and work with the unit member(s) to create a safety plan before the end of the next business day and disseminate the plan to all employees to which the plan applies. To the extent possible, FSDSI will respect the privacy and confidentiality of the unit member that reports any such behavior.

#### **Section 18.5. Breastfeeding and Lactation Support**

- A. Breastfeeding unit members who choose to continue providing their milk for their child after returning to work will be provided a private place to express milk.
- B. FSDSI will allow unit members to use their offices to express milk and will be provided an internal doorstop wedge for any unit member who requests it for this purpose.
- C. Subject to available office space, FSDSI will make a private room (not a restroom) available for unit members to express breast milk. The private room will have a chair, electrical outlet, small refrigerator, and an internal doorstop wedge. If at any time a unit member is using the room for a purpose other than expressing milk, the space must be relinquished to a unit member needing it for lactation.
- D. Expressed milk can be stored in either a private small refrigerator or the kitchen refrigerator.

#### **Section 18.6. Privacy in the Workplace**

- A. FSDSI will not monitor, surveil, or spy on unit members through any means unless reasonably necessary for client representation or to comply with legal, ethical and regulatory rules, FSDSI's grant conditions, and FSDSI policies such as those regarding social media and electronic communications.
- B. Social media postings will not be the basis of or admitted as evidence to any disciplinary action, or unit member evaluation/review, unless reasonably necessary for client representation or to comply with legal, ethical, and regulatory rules, FSDSI's grant conditions, and FSDSI policies.

**ARTICLE 19**  
**WORKING CONDITIONS**

**Section 19.1. Work Week**

- A. In furtherance of the organization's primary mission to serve clients, unit members are expected to work as necessary to complete their work in a timely and professional basis and to meet program needs, including being generally available to clients, the courts, the legal community, and colleagues during FDSDI's regular office hours Monday through Friday.
- B. Between the hours of 9:00 am and 5:00 pm Monday through Friday (except holidays or other office closure) unit members are expected to be in the office, conducting jail visits, making court appearances, participating in investigations or trainings, or working remotely consistent with telework policy.
- C. Unit members are expected to complete semi-monthly Time and Attendance Timecards. Daily totals must reflect eight hours (8) per day, and forty (40.0) hours per week. The forms are due the last day of each pay period, falling on the 15<sup>th</sup> and last day of the month.
- D. Unit members are expected to promptly enter time for all employment related activities in a designated time-keeping system, such as DefenderData. Unit members are expected to enter at least **seven (7)** hours per day and forty (40.0) hours per work week in DefenderData. If a unit member is taking sick/vacation/admin leave for an entire day, the unit member must request eight (8) hours of leave and the amount of time entered in DefenderData **must be eight (8) hours**.
- E. Requests to deviate from the expectations of this sections for a particular day must be made in advance to the unit member's immediate supervisor. Request will not be unreasonably denied.
- F. Unit members may request a reduced or modified schedule pursuant to FDSDI's Alternative Work Arrangement Policy as adopted in 2017 and updated in 2024. FDSDI reserves the right to review these requests on a case-by-case basis.

**Section 19.2. Telecommuting and Working Remotely**

- A. Purpose

This Telework Policy (“Policy”) establishes the conditions and requirements under which those eligible may telework.

## B. Categories of Telework Authorized

The Executive Director determines which specific positions are suitable for telework and authorizes the following categories under this Policy.

1. Recurring Telework: Assistant Federal Defenders may elect to telework no more than one day per week, subject to the eligibility requirements and conditions set forth in this Policy.
2. Ad Hoc Telework:
  - (a) Any unit member may be ordered to telework due to unforeseen circumstances such as a Continuity of Operations (COOP) event, public health directives, a government shutdown, the loss of building services such as electricity or water, or other similar situations.
  - (b) Only the Executive Director may order ad hoc telework.

## C. Unit Member Eligibility

1. Unit members must be in good standing with the office to remain eligible for recurring telework. Unit members on a performance improvement plan (PIP), formal or informal performance-related probation, or a performance improvement-related mentorship program may not telework. Unit members unsure if they are eligible to telework under this clause may direct questions to Management.
2. Unit members may be denied recurring telework if they do not perform work competently and on time; fail to punctually report to work; miss deadlines or court appearances; fail to complete their administrative tasks such as Defender Data and closing files; or, if they engage in any other behavior the Executive Director deems harmful to clients or the operations of the office.
3. In order to facilitate mentoring and training and to help promote their successful integration into the office, new unit members including law grads

and new attorneys are not eligible to telework until eight months after start date.

#### D. Telework Dates & Recording Requirements

1. Unit members may not designate certain days of the week as their fixed, permanent telework days. Rather, unit members may only telework on days when their work, cases, client needs, and training does not require their presence in the office. Unit members must inform their supervisor, legal assistant, and investigator when they will be teleworking in case they need to be reached.
2. Unit members must initiate the “telework” option in Simple In/Out, or an equivalent program designated by management (e.g., Microsoft Outlook), on the days they select to telework to facilitate better communication with the receptionists, legal assistants, investigators and supervisors. Unit members will log “Telework” when teleworking. Unit members who need assistance with utilizing Simple In/Out may request it from the tech team.
3. Unit members must inform their direct supervisor of their intent to telework and attest they are up to date with their administrative responsibilities and that they have no meetings or court that require their presence. Except in circumstances that could not reasonably have been foreseen, notice to the direct supervisor should be delivered at least one working day in advance. Direct supervisors may at their discretion set additional telework logging requirements (for example, sending calendar invites to the TTL for the telework days).
4. Unit members may not telework during their case assignment week.
5. Unit members are required to be in the office for all mandatory trainings and designated in-person meetings. Only a unit member’s supervisor may excuse their presence.

#### E. Additional Conditions and Requirements

1. A unit member may submit a request for additional telework to the management team with their direct supervisor copied on the request. The Executive Director, First Assistant, or direct supervisors (or designee if all are unavailable) may grant an additional telework request. The Executive Director and First Assistant will make their best efforts to ensure that any extra telework is allocated fairly and consistently.

2. Unit members are not authorized to represent to the courts, another agency, a client, a client's family member, a witness, or any other external party that they are unavailable to perform a work-related function because it is their telework day. Unit members who make such representations may lose telework privileges or face other sanctions.
3. The Executive Director or First Assistant may suspend or terminate an attorney's telework privileges or impose other sanctions if, because of poor time management skills or other negligence, the attorney regularly causes their legal assistant to perform work outside of the hours of 8:00 AM to 5:00 PM, or 9:00 AM to 6:00 PM.
4. A unit member who is teleworking must be available during the agreed work hours by videoconference, email, or cellular phone. A unit member who is teleworking is expected to plan in advance for the possibility that urgent and unforeseen circumstances may require the unit member to return to the office or court within two hours of being called upon to do so. In the event the unit member wishes to perform telework from a location which is more than an hour away from the office or court, the immediate supervisor must be informed of that fact at the time the telework is requested.
5. Unit members may not save up telework days. If unit members do not use or are unable to use their allotted telework days in a particular week, those days are forfeited. If a unit member takes leave for part of a telework day, the day is still counted as a full telework day. Unit members may not request to telework "partial" days with the objective of partially teleworking more than two days per week.
6. Unit members are expected to work a minimum of eight (8) hours and bill a minimum of seven (7) hours in Defender Data, on telework days. Unit members may not use telework to meet personal obligations that interfere with the ability to work, including dependent care, or as a substitute for sick or annual leave. Unit members may only perform official duties while teleworking.
7. Unit members who choose to telework agree to the policies and procedures covering the care and maintenance of the office-owned IT equipment, the security of equipment, and the protection of office and client records and data from unauthorized disclosure or damage, as outlined in the office's IT User Agreement. Unit members must immediately report any unauthorized access to office and client records or data to Tech Support and the Ethics Committee. They must also report



loss of or damage to office-owned IT equipment to Tech Support at [zzCASml\\_Tech\\_Support@fd.org](mailto:zzCASml_Tech_Support@fd.org).

8. The use of telework does not change the unit member's general terms and conditions of employment.

#### F. Termination of Telework Arrangements

1. Telework is subject to the guidelines set by DSO and the AO and may be terminated at their direction or by the Executive Director if it is determined that extraordinary circumstances so require. In either case, FDSOI will provide the Union (at least to a Union Representative and Stewards) as much advance notice of termination as is practicable via email and will meet with the union upon request within five (5) working days to discuss the reasons for the termination.
2. The Executive Director or First Assistant may terminate an individual unit member's telework program for violations of this Policy, or if the unit member's telework arrangements are adversely affecting the unit member's performance or the operations of the office. If an unit member's telework arrangement is terminated, the unit member will be required to report in person to their designated office.

#### G. Responsibilities By the Unit Member

1. A unit member must be knowledgeable and comply with all their ethical duties while teleworking. This includes duty of confidentiality, duty of competence, duty of diligence, ABA Model Rule 1.4 - Communication, ABA Formal Op. 21-498 - Virtual Practice, ABA Formal Op. 477R – Securing Communication of Protected Client Communication; and any other ethical rules, including state specific rules, that address attorney responsibilities while teleworking.
2. Unit members may only telework in a setting that is conducive to a professional, working environment that complies with an attorney's responsibilities of confidentiality, diligence, and communication.
3. A unit member participating in telework must have a place to work that is free from interruptions and provides the necessary level of security and protection for confidential data and communication.

4. Unit members who use their own equipment when teleworking are responsible for the hardware repair and maintenance of their equipment. The unit member's personal computer must have a configuration approved by the SCSA, including VPN access.
5. The employer is not responsible for any costs related to recurring teleworking (e.g., utilities, long distance calls, internet access, furniture, or non-office supplies such as ink for privately-owned printers).

### **Section 19.3. Drinking Water**

Filtered drinking water shall be available to all unit members.

## **ARTICLE 20 CASE MANAGEMENT**

### **Section 20.1. Case Pick-Up Weeks**

- A. Unit members generally pick up client assignments during their case assignment week, which rotates by trial team.
1. Every unit member in good standing (not on a PIP or other disciplinary proceedings), who has completed one year of employment as a trial attorney may skip one pick-up week per year.
  2. Unit members may be permitted to switch pick-up weeks, so long as both unit members clear it with their Trial Team Leader in advance, and they switch with a unit member of comparable experience. Unit members will not be permitted to take leave during their pick-up week unless they have switched pick up weeks with another unit member ahead of time.
  3. In the event a unit member moves Trial Teams, they shall not pick-up a larger combined caseload than unit members in their new team if the first week occurs within three weeks of their previous pick-up week.

### **Section 20.2. Caseload Management**

If a unit member has more than 45 active cases, they shall receive a notification from their Trial Team Leader to meet and work together to figure out why and to develop a strategy for lowering their caseload. The notification shall be directed via email with “Caseload Management Meeting” as the subject. Unit members can also request a Caseload Management meeting with their Trial Team Leader, particularly when they are scheduling multiple trials, have complex cases, and other substantial litigation. Caseload Management Meetings are not disciplinary meetings and a unit member’s request, itself, for such meeting will not result in disciplinary action or a Performance Improvement Plan.

### **Section 20.3. Appeals**

Trial attorneys are expected to handle their first trial and non-trial (e.g., sentencing, OSC, conditional plea) appeal. A trial attorney may request to postpone this responsibility to a subsequent case due to an excessive workload (e.g., unusually high or complex caseload, multiple trials or appeals). The unit member’s Trial Team Leader, the Chief Appellate Attorney and the Executive Director must all agree to the postponement. Requests will not unreasonably be denied.

## **Section 20.4. El Centro Assignments**

Barring significant changes to the number of clients assigned to FDSDI from El Centro:

1. Trial Team Leaders will make reasonable efforts to assign El Centro cases on a duty rotation to minimize the number of times that unit members are expected to go to El Centro.
2. FDSDI will provide rental cars to be coordinated by a point person in the office. The unit member shall be responsible for timely pick up and return of the rental car. The unit member shall also be responsible for communicating regarding cancellations or any changes to the rental car. FDSDI shall provide a parking reimbursement for rental cars where overnight rental is necessary.
3. FDSDI will pay for a hotel room if El Centro travel requires an overnight stay. The unit member must get prior approval from Management for overnight stay.
4. FDSDI will provide meal expense reimbursement, according to the FDSDI travel policies and procedures, which requires a minimum travel of 10 hours. Unit members must provide receipts.
5. A Spanish interpreter shall be provided for every legal visit as needed by the unit member. FDSDI will approve costs associated with retaining an Other than Spanish interpreter if an OTS interpreter is available within the United States or accepts payment in accordance with FDSDI and DSO policies.

## **Section 20.5. San Diego New Complaints (NUKES)**

1. “Nukes” duty is assigned to unit members to cover the court and interview needs of recently arrested clients.
2. The Chief Trial Attorney (CTA), or a delegated supervisor, will assign nukes coverage by creating a three-month calendar published to the office’s SharePoint site at least two weeks prior to the beginning of the three-month calendar.
3. In preparation for the assignment calendar, the CTA or the delegated supervisor, will seek input from the unit members about their calendars, in an attempt to avoid assigning on days that the unit member is unavailable due to a scheduled trial, pre-approved vacation or training. It is the responsibility of the unit member to indicate any unavailability in a timely fashion. Once the three-month calendar is posted to

SharePoint, if the unit member becomes unavailable, it will be the unit member's responsibility to find coverage for the nukes shift. If such a coverage switch is made, the unit member must notify the Chief Investigator and the assigning Trial Team leader that they are switching. The unit member must also promptly go into SharePoint and update the three-month calendar. In the event of illness, last-minute emergency, or management directive, the unit member shall promptly notify their TTL. The TTL will assist with finding coverage for the nukes shift and making other notifications.

4. FDSDI will assign nukes shifts according to seniority. That is, the newest unit members will get the most shifts and the unit members with greater levels of seniority will get a decreasing number of nukes shifts. Absent extraordinary circumstances, unit members shall not receive more than two (2) NUKES shifts per week. Unit members employed within their first year shall have NUKES shifts assigned equitably.

**ARTICLE 21**  
**VACATION, HOLIDAYS, AND LEAVE**

**Section 21.1. Holidays**

- A. All unit members covered by this agreement are entitled to the following paid holidays:

New Year's Day (January)  
Martin Luther King Day (January)  
President's Day (February)  
Memorial Day (May)  
Juneteenth National Independence Day (June)  
Independence Day (July)  
Labor Day (September)  
Columbus Day/Indigenous Peoples' Day (October)  
Veteran's Day (November)  
Thanksgiving Day (November)  
Christmas Day (December)

- B. If the Southern District of California observes any other holiday by completely closing the courthouse or operating with minimal staffing, FDSDI will also observe the holiday. FDSDI will staff a skeleton crew of unit members to cover all court appearances and other necessary functions that must happen on the holiday. These unit members may request to take paid leave on any other day within that or the next pay period.
- C. Unit members may receive two (2) excused absence days per calendar year, without loss of pay or charge to leave, with approval from the Executive Director. Requests for scheduling of an excused absence on a day to observe religious holidays (such as Rosh Hashanah, Yom Kippur, Eid al-Fitr, Eid al-Adha, Ash Wednesday, Good Friday, and Passover) shall not be unreasonably denied. The unit member must request the excused absence day at least (14) calendar days in advance. Excused absence days will be scheduled by mutual agreement between the unit member and the unit member's immediate supervisor. These excused absence days shall not be carried from calendar year to calendar year, nor shall they be granted if unused, to any unit member upon retirement, termination, or discharge.
- D. Unit members who are required by case specific demands, and who have been given supervisor approval, to work on a day addressed in Section B, shall be entitled to take an alternative paid day off in lieu of the day they worked. These unit members may request to

take paid leave on any other day within that or the next pay period.

- E. A compensated holiday that falls within a unit member's vacation or sick leave will not be charged as a vacation day or sick day for that unit member.

**Section 21.2. Vacation Accrual and Use**

- A. Unit members covered by this agreement, accrue paid vacations in accordance with the following schedule.

<b>Length of Employment</b>	<b>Vacation Accrued</b>	<b>Accrual Rate (Approx hours per pay period)</b>
15 years and over	26 days per year	Approximately 8 hours
3 to 15 years	20 days per year	Approximately 6 hours
Less than 3 years	13 days per year	Approximately 4 hours

- B. New unit members earn vacation commencing on the first full pay period after employment. Vacation accrues during all paid time, including workdays, holidays, and paid time off. Changes to accrual rates shall occur on the anniversary of the unit member's accrual eligibility date.
- C. Use of unit member vacation time shall not be unreasonably denied, canceled, or rescheduled by FSDSI. Request requirements and considerations for vacation leave are provided in FSDSI's Personnel Manual (see Chapter 8.2.1)
- D. To the extent possible, when taking vacation time, the unit member must try to minimize and reschedule court appearances, PSI's and other case-related work. Before any scheduled leave greater than two days, unit members must discuss any case and supervisory coverage needs with their direct supervisor. It is the unit members' responsibility to handle case-related deadlines during their absence by either filing documents ahead of time or seeking a continuance that does not harm the client. The unit member may seek support from their supervisor to get coverage if a continuance is not appropriate. To seek such coverage, the unit member must draft a coverage memo that includes all the necessary information for the coverage sought. Trial attorneys will not be permitted to take leave during their pick-up week unless they have switched pick-up weeks with another unit member ahead of time, or made other supervisor approved arrangements. Unit members are required to include their direct supervisor as the emergency contact in their out-of-office reply when taking vacation leave.

### Section 21.3. Sick Leave

- A. Sick leave is paid time off for when a unit member cannot work due to an illness or injury, or if a unit member needs to attend a medical or dental appointment. Paid sick leave may be used for the diagnosis, care (including preventive care), or treatment of an existing health condition of a unit member and certain family members of the unit member. A family member includes a child, parent, spouse, domestic partner, grandparent, grandchild, or sibling. For purposes of this policy, a “child” means a biological or adopted child, a foster child, a step-child, a legal ward, or a child to whom the unit member stands *in loco parentis*. Similarly, a “parent” under this policy means a biological or adoptive parent, a foster parent, a step-parent, a unit member’s legal guardian, a legal guardian of a unit member’s spouse or domestic partner, or a person who stood *in loco parentis* when the unit member was a minor child. Unit members who are victims of domestic violence, sexual assault, or stalking also may use paid sick leave for treatment, assistance, and other purposes authorized by law.
- B. Unit members accrue approximately four (4) hours of sick leave every semi-monthly pay period that the unit member is on the payroll. There is no limit on the amount of sick leave accrual hours.
- C. Unused sick leave cannot be cashed out at the end of employment, except that any individual who leaves the office voluntarily and has completed more than twenty (20) years of combined federal and/or FDSDI service (10 years of this service must be with FDSDI to qualify) is eligible to cash out 240 hours of his/her unused sick leave at their rate of pay.
- D. Unused sick leave that was not paid out at the end of employment with FDSDI will be reinstated should a unit member become reemployed by FDSDI at a later date, not to exceed three years and not to exceed 240 hours.
- E. If a unit member takes a leave of absence for five (5) or more consecutive days, a certification from a health care provider must be submitted for the use of sick leave. The certification must state that the unit member is under the provider’s care or treatment for the days in question and that it is the provider’s recommendation that the unit member remain off work.
- F. Unit members using paid sick leave must do so in increments .5 hours. If a unit member is out more than two hours of regularly scheduled time for a sick leave purpose, the unit member shall take sick leave even if that unit member works eight or more hours that day.



Unit members will be paid for sick leave not later than the payday for the next regular payroll period after the sick leave was taken.

- G. If the need for paid sick leave is foreseeable, the unit member must provide reasonable advance notice. If foreseeable sick leave will result in an absence of more than two weeks, the unit member must provide FDSDI with as much notice as possible. If the leave is not foreseeable, the unit member must provide notice of the leave as soon as practical.
- H. In the event that any local, state, or federal law requires additional paid sick leave or expanded medical and family leave, FDSDI shall extend such leave to unit members covered by this Agreement.
- I. Unit members will not accrue sick leave during unpaid leaves of absence.

#### **Section 21.4. Bereavement Leave**

A unit member who suffers a death in their family (as defined in this Article) may use up to ten (10) days of sick leave for bereavement.

#### **Section 21.5. Family and Medical Leave**

Consistent with FDSDI's Personnel Manual (see Chapter 8.6) FDSDI will provide unit members with family and medical leave benefits under the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Unit members will be eligible for the most generous benefits available under either law. Coordination of the two statutes will be determined on a case-by-case basis.

#### **Section 21.6. Parental, Pregnancy, and Caregiving Leave**

Unit members covered by this Agreement may take paid and unpaid leave consistent with FDSDI's Personnel Manual to bond with a child following birth or adoption/placement and for medical issues during pregnancy. See Chapter 8.7 & 8.9. With Executive Director or First Assistant approval, unit members may use accrued paid time off for these circumstances and shall not be unreasonably denied.

#### **Section 21.7. Recognition Leave**

- A. As an award to unit members who have demonstrated excellence and a years-long commitment to FDSDI, the office has developed a longevity recognition leave program. In order to be eligible for longevity recognition leave, there are several qualifications:

1. The unit member must have been continuously employed at Federal Defenders of San Diego for six years preceding the longevity recognition leave;
  2. The unit member cannot currently be on a Performance Improvement Plan (PIP), nor have been on a PIP for at least two years prior to the leave;
  3. The unit member has not taken a longevity recognition leave in the last five years;
  4. The unit member has all timekeeping and case closings up to date and verified by their supervisor 30 days prior to the start of the leave, no exceptions;
  5. The unit member has not taken extended leave (defined as three continuous weeks or more) for at least one year prior to the leave;
  6. The unit member must meet with their supervisor to schedule a plan for the coverage of cases at least 30 days prior to going on leave and then again 7 days prior;
  7. The unit member must prepare a hand-off memo for all cases to be covered in their absence;
  8. The unit member has demonstrated outstanding or superior job performance and accomplishments, special acts, special service, or provided suggestions or accomplishments that enhance FSDSI's ability to:
    - meet its critical mission,
    - achieve strategic goals, and
    - increase efficiency and productivity.
- B. There will be a sign-up system for the program, with priority given based on length of employment and time since the unit member's last longevity recognition leave. For example, a senior unit member would ordinarily have priority over a junior unit member, unless the senior unit member had taken this leave four years ago, and the junior unit member has never taken one. There will be a quarterly window for requesting this leave (January, April, July, October). If the unit member misses the window, they must wait until the next sign-up period.
- C. It is anticipated that the longevity recognition leave will begin approximately ninety days after the unit member has signed up and been approved. The exact timing will be coordinated among the trial team leaders and Chief Appellate Attorney, in order to balance the number of unit members on longevity recognition leave at the same time. There cannot be more than one unit member on a trial team or appellate unit on this leave or extended leave without prior approval from the Executive Director.
- D. In order to maintain continuous representation for clients, and to minimize the effects of extended leave on the office, the unit member seeking a longevity recognition leave will keep their case assignments. However, if a trial team leader decides it is in the best interest

of a client to reassign a particular case, the trial team leader and the unit member requesting this leave may seek permission from management to reassign the case. These types of requests should be done sparingly. In most instances, it is in the best interest of a client to maintain a relationship with the initial unit member assigned to the case.

- E. The unit member can choose to take up to five (5) consecutive weeks for the recognition leave. This time off will be unpaid unless the unit member opts to use their accrued leave. Unit members shall receive one work week (40 hours) of paid administrative leave as a time off award if they have demonstrated qualities described in section 21.7(8) above. This leave cannot be extended by using any other types of accrued leave. Nor can this leave be broken into nonconsecutive leave periods.
- F. Approving a unit member for this leave is discretionary by the Executive Director and may be denied for any reason. Approval for this leave shall not unreasonably be denied. Creation of the program does not create any enforceable legal right or benefit, and the entire program may be canceled at any time in the discretion of senior management.

#### **Section 21.8. Jury, Witness, and Party Duty**

Consistent with FSDSI's Personnel Manual (see Chapter 8.13), FSDSI will provide unit members with: 1) paid time off to serve on a jury or grand jury or as a witness; and 2) time off to appear in court or other judicial proceeding as a party.

#### **Section 21.9. Leave for Victims of Crime**

Consistent with FSDSI's Personnel Manual, (see Chapter 8.3, 8.18 and 8.19) unit members may take time off from work if the unit member or an immediate family member is a victim of a violent or serious crime. Unit members may request paid leave under such circumstances and may use vacation or sick leave for unpaid portions of leave.

#### **Section 21.10. Bar Study Leave**

- A. Unit members that begin employment prior to passing the California Bar Examination may be provided up to ten (10) days of remote work to study for the bar, if needed. Eight (8) hours per workday must be allocated to bar study and entered in DefenderData as non-case related ("NCR") training time ("TRAIN"). Two (2) days of paid administrative leave will be granted to sit for the bar examination.

- B. A unit member who does not pass the bar examination shall be entitled to take the bar examination at least one (1) additional time unless:
1. The unit member knowingly failed to register to take the California Bar Examination prior to employment, or
  2. FDSDI determines that it would be negatively affected by holding the FTE for the unit member due to a loss or decrease in funding.
  3. If a unit member does not pass the bar examination under the circumstances described in this section, FDSDI reserves the right to terminate employment. FDSDI is not required to provide a unit member with paid bar study leave for more than one bar examination.
- C. Unit members may take additional unpaid leave and may use any accrued vacation leave for this purpose. If vacation leave has been exhausted, the remainder of the leave may be taken as unpaid leave. The unit member will continue to receive benefits during their leave. Unit members will not accrue leave during an unpaid leave of absence.

### **Section 21.11. Professional Development Leave**

Unit members may request a leave of absence to pursue professional enrichment opportunities outside of the office (e.g., Temporary placements with the United States Sentencing Commission, Administrative Office of the United States Courts, or Defender Services Organization). In order for such a proposal to be considered, the requesting unit member must have completed at least three years of continuous service to FDSDI.

These types of placements can benefit the office and its mission by allowing FDSDI's staff attorneys to gain unique, yet related experiences that can be put to use for the benefit of FDSDI's clients. These types of requests, however, also place a burden on the other attorneys of the office and will therefore be evaluated on a case-by-case basis. In each case, FDSDI will evaluate the needs of the office in making the determination to grant or deny the request.

All requests should be detailed in writing and submitted to the requesting unit member's direct supervisor, and FDSDI's management team. Ultimate approval of any request will be at the complete discretion of the Executive Director. If the request is denied, the Executive Director will provide a substantive response regarding the reasons for denial.

### **Section 21.12. Other Leave**

FDSDI provides unit members with other types of leave including leave for voting, military service, and unpaid personal leave, all of which are set forth in and governed by FDSDI 's Personnel Manual.

**ARTICLE 22**  
**PROFESSIONAL DEVELOPMENT AND TRAINING**

**Section 22.1. Organizational Commitment to Training, Mentorship and Professional Development**

FSDSI has a commitment to all unit members to provide ongoing opportunities for growth and development of skills and knowledge related to their work. The parties agree that the professional development, support and training of staff is a priority for the organization, as is the improvement of the organization's overall performance.

**Section 22.2. FSDSI Position Descriptions**

FSDSI will provide each regular unit member a copy of their FSDSI position description at the time of hiring and their DOCS job description.

**Section 22.3. Professional Development and Mentorship**

- A. FSDSI is dedicated to guiding unit members in their professional development efforts.
- B. Unit members shall receive annual performance reviews that contain constructive feedback and actionable guidance as described in the Personnel Manual in Chapters 4.3-Evaluation Procedures, and 9-Bench Marking – Duration of Employment.
- C. If Management determines in its discretion that a professional development plan is appropriate, the written review may suggest a development plan with the purpose of enhancing the unit member's professional knowledge, skills, and abilities, within their current job description. The professional development plan may include suggested trainings, meetings, and similar goals relevant to the unit member's work, such as litigation skills, trial experience, types of cases, committee involvement.

**Section 22.4. Access to Training**

- A. In order to maintain an excellent level of representation to clients, unit members are expected to participate in training on a yearly basis. A number of considerations go into determining who will attend training programs in any given year. These considerations are described in the Personnel Manual 4.2 Training Policy. FSDSI will endeavor to make the below training opportunities, or similar alternatives, available to all unit members within their first year of employment with FSDSI:

1. Orientation Seminar for Assistant Federal Defenders.
  2. Trial Skills Academy or NLADA Appellate Defender Training.
- B. FDSDI shall have the option to make trainings mandatory except that unit members may request to defer their participation in training opportunities due to other work and/or personal commitments (i.e., family emergencies, weddings, funerals, childcare emergencies, and medical emergencies).
- C. Beginning January 2024, FDSDI will maintain a list of current unit members who have attended trainings, which trainings they have attended, and the date of their participation. This list will be available quarterly to the union representative beginning April 2024.
- D. If FDSDI elects to send unit members to a particular training, notice of that training will be provided to all unit members.

### **Section 22.5. Presentation at Trainings**

- A. FDSDI values and prioritizes training to ensure that FDSDI attorneys provide excellent representation to our clients. To that end, FDSDI organizes in-house trainings throughout the year. Unit members are expected to participate on the FDSDI office training committees. In addition, unit members are expected to participate as trainers at internal FDSDI training events.
- B. Unit members may request opportunities to provide training at in-house training events or local CJA trainings. A unit member seeking an opportunity to be a presenter must: (1) suggest a particular topic they are interested in or meet with the Training Director to brainstorm topics; (2) demonstrate a strong interest of the topic; (3) demonstrate the necessary skills to be an effective presenter; (4) not be on a performance improvement plan; and (5) be in compliance with their case-related work and administrative responsibilities. The unit member's supervisor will be consulted for feedback. If the supervisor believes the unit member is too busy with other case-related work or has some other reasonable work-related concerns about the unit member, then management reserves the right to deny the request.
- C. In addition to the requirements listed in 22.5(A), FDSDI will implement Diversity, Equity, and Inclusion principles in soliciting and recommending speakers for trainings. Unit members with comparable experience and skills will be given equitable opportunities to train.

- D. Beginning in January 2024, FDSDI will maintain a list of current unit members who have presented at trainings hosted by FDSDI or for which FDSDI provided funding, which trainings they have presented at, the topic and/or title of their presentation, and the date of their participation. To the extent possible, FDSDI will also include a list of current unit members who have presented at non-FDSDI hosted trainings. This list will be available quarterly to the Union Representative beginning April 2024.
- E. If a unit member is selected to present at a training seminar, the unit member will comply with all deadlines set by the seminar coordinator. If deadlines are not met, or the quality of the presentation does not meet expectations, Management reserves the right to take that into consideration in future training requests and may deny future requests based on these deficiencies.
- F. FDSDI will continue to promote and encourage unit members to participate as faculty in national training seminars sponsored by Defender Services Organization or other Federal Defender offices. Unit members who are invited to participate as faculty at a non-FDSDI training event, must receive prior approval from Executive Director. If the request is denied, Management shall provide an explanation.

#### **Section 22.6. Internal Recognition**

Senior Status: Unit members who have significant and broad federal experience, shall be considered for title of Senior Trial Attorney or Senior Appellate Attorney. In deciding whether to grant unit members such status, Management will consider several factors including:

1. The length of the unit members' federal practice and commitment to FDSDI. Unit members must have at least seven years at FDSDI as an attorney.
2. Whether the unit member has significant trial experience. To be eligible for the position of Senior Trial Attorney, a unit member must have tried (a) ten (10) cases of varying types, excluding bench trials, as first or second chair; or (b) seven (7) cases of varying types, excluding bench trials, as first chair.
3. Whether the unit member has significant appellate experience. To be eligible for the position of Senior Appellate Attorney, the unit member must have filed numerous opening briefs, participated in many oral arguments, litigated petitions for rehearing and certiorari over government opposition, written amici briefs and conducted appellate trainings.
4. Whether the unit member has ever been on a Performance Improvement Plan (PIP) and how they performed on the PIP. Unit members within one year of completing a PIP are not eligible.



5. Whether the unit member has been steady and consistent in their administrative responsibilities.
6. The unit member's contribution to FDSDI, including whether the unit member has served as mentor, meaningfully participated at brainstorming sessions, and participated in training.
7. Whether the unit member has generally received good reviews.

“Senior Attorneys” will have the opportunity to take on different responsibilities. Caseload permitting, their caseloads may be adjusted to facilitate a meaningful mentorship role with the newer attorneys. “Senior Attorneys” may be given the opportunity to (1) become a liaison, including but not limited to diversion; (2) chair or co-chair committees; and (3) attend management training.

**ARTICLE 23**  
**SPANISH LANGUAGE TASKED-BASED ASSESSMENT**

**Section 23.1. July 2023 Assessment Implementation**

- A. The passing score shall be set at General Professional Proficiency Plus on the ILR Scale (Level “3+”).
- B. The Stewards will receive a breakdown of scores received by unit member test-takers (produced anonymously).
- C. Any unit member who took the assessment while on parental or other leave will be compensated for the time to attend the orientation, taking the assessment and 8 hours for time spent preparing for the assessment.

**Section 23.2. Future Assessments**

- A. The format of the assessment is set by the assessors. If there are any significant changes to the format of the assessment, FDSDI will notify the Stewards.
- B. New unit member hires will be notified that a Spanish assessment will be offered. Newly hired unit members will not be assessed until they are picking up cases.
- C. Unit members will be notified at least two months prior about the date set for the assessment.
- D. Unit members will be notified at least one month prior to the assessment taking place, the contents and format of the assessment.
- E. Workload and budget permitting, “Lunch and Learn” sessions will be organized by FDSDI for the betterment of all attorneys. “Lunch and Learn” sessions are not a substitute for individual study and practice.
- F. Any unit member who chooses to take the assessment while on leave shall be compensated for the time spent attending the orientation, taking the assessment, and 8 hours for preparing for the assessment.
- G. An assessment will be offered every year from the date of the initial assessment.

**Section 23.3. Implementation of Results**

- A. Every unit member shall use the services of an interpreter to conduct client visits that involve the waiver of a constitutional or statutory right, unless the unit member scored a General Professional Proficiency, Plus (3+) on the assessment.
- B. Every unit member shall use the services of an interpreter for client visits (in person, phone, and video) that go further than introductory remarks, greetings, or scheduling, unless the unit member scored a General Professional Proficiency (3) on the Spanish Language Assessment.

- C. Every unit member shall use the services of an interpreter for witness preparation, other than trial preparation, (in person, phone, and video) that goes further than introductory remarks, greetings, or scheduling, unless the unit member scored a General Professional Proficiency (3) on the assessment. This includes material witness interviews.
- D. Any unit member who scored a Limited Working Proficiency, Plus (Level “2+”) and above may handle NUKES interviews and answer Help Calls without the assistance of an interpreter.
- E. Unit members may continue to review Spanish-language discovery, including post-arrest statements, telephone downloads, text messages, and voicemails without the assistance of an interpreter unless they are being reviewed with the client.
- F. Unit members may attend in-house training during work hours to improve language acquisition. Management will solicit feedback regarding training ideas from the union representative.
- G. Every unit member must use the services of an interpreter for testimony preparation regardless of score.
- H. Every unit member who uses the services of an interpreter described in the sections above must include the name of the interpreter in DefenderData.

#### **Section 23.4. Retaking Assessment**

Attorneys may visit an ILR testing site, at their own expense and own time, to take an exam in lieu of waiting for the next assessment.

#### **Section 23.5. ILR Assessment for New Unit Members**

New unit members may visit an ILR testing site, at their own expense and own time, to take an exam in lieu of the assessment.

**FDSDI ARTICLE 24**  
**DEFENDING A FEDERAL CRIMINAL CASE**

- A. The parties recognize that periodic publication of *Defending a Federal Criminal Case* (DFCC) furthers the mission of Federal Defenders of San Diego, Inc.
  
- B. Updating editions of the DFCC requires volunteers. The Union will encourage members to volunteer to author, edit, and copy read when FDSDI updates the DFCC. Insufficient volunteerism from unit members will result in FDSDI suspending the benefits or partial benefits listed in this Article. If this should occur, FDSDI will provide the Union a thirty-day notice. Volunteer participation in updating the DFCC will be in addition to standard employment obligations.
  
- C. The following will be provided to unit members from the proceeds of the DFCC:
  - 1. Payment of annual State Bar dues for California;
  - 2. Payment of annual dues for two (2) professional organization, association or institution that has a direct bearing upon the work of FDSDI;
  - 3. Reimbursement of up to \$50 for snacks purchased for case brainstorming;
  - 4. An annual holiday party and gift;
  - 5. Gifts or florals for staff celebrations and condolences.
  
- D. The Union and Management will meet to discuss how to spend up to \$5,000 of unused DFCC funds at the end of each publishing cycle in the Union/Management meetings.
  
- E. The Parties recognize that the above benefits are dependent on the DFCC generating sufficient funds. If FDSDI has reason to believe the funds from the DFCC will not cover the above benefits, FDSDI will promptly notify the Union.

**ARTICLE 25**  
**BULLETIN BOARDS**

FDSDI will designate a place(s) in the facility that is readily accessible to unit members for the purpose of posting Union notices. The bulletin board shall be limited to the posting of official notices of meetings and similar matters relating to official Union business. The Union and unit members shall not post any matter on the bulletin board that is derogatory to FDSDI, non-bargaining unit FDSDI employees, or FDSDI Board members.

**ARTICLE 26**  
**CAPTIONS AND TERMS**

Captions or Article Titles of this Agreement are for convenience only and do not in any way limit or augment the terms and provisions thereof.

**ARTICLE 27**  
**SAVINGS CLAUSE**

If any local, state or federal legislation, court decision or government regulation invalidates any article or section of this Agreement, all other articles and sections not invalidated will remain in full force and effect. At the request of either party, FDSDI and the Union will meet to negotiate new contract language to replace the article or sections which have been invalidated.

**ARTICLE 28  
RATIFICATION AND DURATION**

**Section 28.1. Ratification**

This Agreement shall take effect once it is ratified by the IFPTE Local 20 membership, approved by the IFPTE Local 20 Executive Board, and approved by the Executive Director.

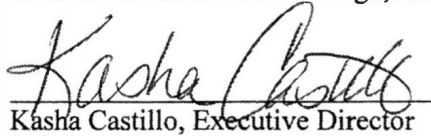
**Section 28.2. Duration of Agreement**

This Agreement will be in full force and effect for a period of three (3) years beginning on the date of ratification by the bargaining unit, December 19, 2023, and ending at 12 midnight three years later on December 18, 2026. This Agreement will continue in full force and effect each year after that unless written notice of the desire to terminate or modify this Agreement is served by either party upon the other, at least sixty (60) days prior to the expiration of this Agreement or any automatic extension of this Agreement.

Engineers & Scientists of California  
Local 20 IFPTE AFL-CIO & CLC

Federal Defenders of San Diego, Inc.

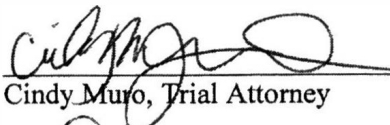
  
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John Mader, President                      Date                      1/28/2024

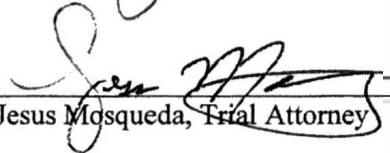
  
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Kasha Castillo, Executive Director                      Date                      1/19/24

  
\_\_\_\_\_  
Maggie Ta, Chief Negotiator                      Date                      01/23/2024


  
\_\_\_\_\_  
Paul Bar, Appellate Attorney                      Date                      01/11/24

  
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Marc Levinson, Trial Attorney                      Date                      1/11/24

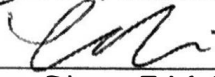
  
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Cindy Muro, Trial Attorney                      Date                      1/11/24

  
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Jesus Mosqueda, Trial Attorney                      Date                      1-12-24

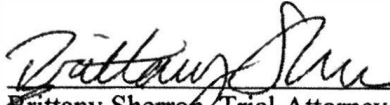


  
Jessica Oliva, Trial Attorney

1/12/24  
Date

  
Carmen Rivera, Trial Attorney

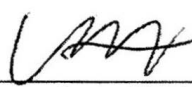
1/12/24  
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Brittany Sherron, Trial Attorney

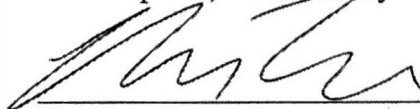
1/11/24  
Date

  
Armilla Staley-Ngomo, Appellate Attorney

1/11/24  
Date

  
Nora Stephens, Trial Attorney

1/11/24  
Date

  
Theodore Torres, Trial Attorney

1/11/24  
Date