

COHELAN KHOURY & SINGER

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Diana M. Khoury (SBN 128643)

dkhoury@ckslaw.com

Jeff Geraci (SBN 151519)

jgeraci@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Tel: (619) 595-3001/Facsimile: (619) 595-3000

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian II (SBN 146621)

sahagii@aol.com

18250 Ventura Blvd.

Tarzana, CA 91356

Tel: (818) 609-0807/Facsimile: (818) 609-0892

Attorneys for Plaintiff Manuel Gutierrez, on behalf of himself
and all others similarly situated

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF ORANGE

MANUEL GUTIERREZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

KITE ELECTRIC INCORPORATED, a
California corporation; and DOES 1 through 10,
Inclusive,

Defendants.

CASE NO. 30-2020-01133960-CU-OE-CXC
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Peter J. Wilson
Department CX 102

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
JEFF GERACI IN SUPPORT OF MOTION
FOR ORDER GRANTING FINAL
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT AND ENTERING
JUDGMENT**

(Related to ROA 144)

Date: August 4, 2022

Time: 2:00 p.m.

Dept: CX 102

Judge: Honorable Peter J. Wilson

Filed: February 24, 2020

Trial date: Not set

1 I, Jeff Geraci, declare as follows:

2 1. I am a Partner with the law firm of Cohelan Khoury & Singer, co-counsel of record for
3 Plaintiff Manuel Gutierrez. I make this Supplemental Declaration in support of Plaintiff's Motion for
4 Final Approval of Class and PAGA Action Settlement. This Declaration is based on my personal
5 knowledge and if called to testify I could and would competently testify to the matters contained in this
6 Declaration.

7 2. On July 7, 2022, the Court issued a Minute Order on Plaintiff's Motion for Order Granting
8 Final Approval of Class Action Settlement, seeking additional information and answers to question
9 posed by the Court. The Court continued the hearing to August 4, 2022, and directed supplemental
10 briefing. Attached as Exhibit 1 is a true and correct copy of the Court's July 7, 2022 Minute Order.

11 3. As of the date of this response, the Settlement Administrator has confirmed there has not
12 been a single request for exclusion, dispute or objection received. There are 100 Participating Class
13 Members, representing 100% participation rate of the 100-member Settlement Class.

14 4. The Settlement Administrator will post the Court's signed Order Granting Final Approval
15 of Class and PAGA Action Settlement and Entering Judgment on its website:
16 www.ilymgrouppclassaction.com/kite. This website / posting will remain active until after the Final
17 Accounting Hearing.

18 5. Defendant offered a Pick Up Stix payment to Plaintiff in the amount of \$2,020.00. Plaintiff
19 declined the offer, instead pursuing this Class Action. Other than the amounts for the Class
20 Representative Service Award (\$10,000 requested) and estimated Participating Settlement Class
21 Member award (estimated to be \$54.78), Plaintiff has not, and will not, receive any other payments
22 through this settlement.

23 6. Plaintiff proposes the compliance/final accounting hearing s be set for a March 31, 2023,
24 based on the settlement administration timeline.

25 ///

26 ///

27 ///

28 ///

7. On the same date the supplemental briefing materials are filed with the Court, they have been served on Defendant and provided to the LWDA via its website, using the appropriate intake form. Attached as Exhibit 2 is a true and correct copy of the LWDA confirmation of Receipt.

I declare under the penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration is executed July 21, 2022, in San Diego, California.


Jeff Geraci

EXHIBIT 1

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 07/07/2022

TIME: 02:00:00 PM

DEPT: CX102

JUDICIAL OFFICER PRESIDING: Peter Wilson

CLERK: V. Harting

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: I. Olivares

CASE NO: **30-2020-01133960-CU-OE-CXC** CASE INIT.DATE: 02/24/2020

CASE TITLE: **Gutierrez vs. Kite Electric Incorporated**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 73712561

EVENT TYPE: Motion for Final Approval

MOVING PARTY: Manuel Gutierrez

CAUSAL DOCUMENT/DATE FILED: Motion - Other For Order Granting Final Approval of Class Action Settlement, 06/14/2022

APPEARANCES

Tentative Ruling posted on the Internet.

All parties submitted on the Court's tentative ruling.

The Court confirms the tentative ruling as follows:

The hearing on the Motion for Final Approval is CONTINUED to August 4, 2022 at 2:00 p.m. in department CX102 to permit the parties to respond to the following issues. A supplemental briefing shall be filed at least 9 days before the continued hearing and respond where necessary to the points raised below:

1. The Settlement Administrator's Declaration does not state whether there were any disputes, and if so, the status of any disputes.
2. Confirm that no opt outs, objections or disputes have been filed since the last declaration by the Settlement Administrator.
3. How will notice of the judgment be provided to the class? The method for providing notice should be included in the proposed Order.
4. The caption in the proposed Order should be revised to reflect that this is also a PAGA action.
5. At page 1, line 4 in the proposed Order, the date should be corrected.
6. The proposed Order should include a definition for aggrieved employees and the time frame for the PAGA Period.
7. Plaintiff indicates he "would have received \$2,020" in May 2020 but the Settlement Administrator calculates his individual settlement payment to be \$54.78. ROA 155, Hernandez Decl., ¶14. Did Plaintiff

receive any payments, aside from the amount identified from the Settlement Administrator, as part of the Settlement?

8. Should the Settlement be approved, the Court will hold a status conference for a final accounting. Counsel shall submit a final report at least **10 days** prior to that conference regarding the status of the settlement administration. Counsel should include a date for the final accounting in the proposed order. The Court holds final accounting hearings on Fridays at 9:00 am. The final accounting should occur after the deadline for class members to cash their checks. The final report must include all information necessary for the Court to determine the total amount actually paid to class members and any amounts tendered to the State Controller's Office under Unclaimed Property law.

Plaintiff is ordered to give notice, including to the LWDA and file a proof of service at least 5 court days before the continued hearing.

EXHIBIT 2