

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 151519 NAME: Jeff Geraci FIRM NAME: COHELAN KHOURY & SINGER STREET ADDRESS: 605 C Street, Suite 200 CITY: San Diego STATE: CA ZIP CODE: 92101 TELEPHONE NO.: 619-595-3001 FAX NO.: 619-595-3000 E-MAIL ADDRESS: jgeraci@ckslaw.com ATTORNEY FOR (name): Plaintiff Manuel Gutierrez	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 751 West Santa Ana Blvd. MAILING ADDRESS: 751 West Santa Ana Blvd. CITY AND ZIP CODE: Santa Ana, 92701 BRANCH NAME: Civil Complex Center	
PLAINTIFF/PETITIONER: MANUEL GUTIERREZ DEFENDANT/RESPONDENT: KITE ELECTRIC INCORPORATED OTHER:	CASE NUMBER: 30-2020-01133960
PROPOSED ORDER (COVER SHEET)	JUDICIAL OFFICER: Peter J. Wilson DEPT: CX 102

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
Plaintiff Manuel Gutierrez

2. Title of the proposed order:
Proposed Order Granting Final Approval of Class and PAGA Action Settlement and Entering Judgment

3. The proceeding to which the proposed order relates is:
 - a. Description of proceeding: Motion
 - b. Date and time: August 4, 2022; 2:00 p.m.
 - c. Place: CX 102

4. The proposed order was served on the other parties in the case.

Jeff Geraci / July 21, 2022
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:
GUTIERREZ v. KITE ELECTRIC INCORPORATED

CASE NUMBER:
30-2020-01133960

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action.**

a. My residence or business address is (*specify*):

b. My electronic service address is (*specify*):

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):

b. To (*electronic service address of person served*):

c. On (*date*):

☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

_____
(SIGNATURE OF DECLARANT)

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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

**[PROPOSED] 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 This matter came on for hearing on August 4, 2022 in Department CXC102 of the above-
2 captioned Court on Plaintiff's Unopposed Motion for Order Granting Final Approval of Class and
3 PAGA Action Settlement and Entering Judgment ("Motion") pursuant to California Rule of Court
4 3.769, the Court's Order Granting Preliminary Approval filed March 4, 2022 (ROA 137), and the
5 Stipulation of Class and Representative Action Settlement and Release filed as Exhibit 1 to the
6 Declaration of Jeff Geraci on January 4, 2022 (ROA 103) and the fully-executed Amendment to the
7 Stipulation of Class and Representative Action Settlement and Release filed as Attachment 1 to the
8 Notice of filing Fully-executed Amendment on March 1, 2022 (ROA 133) (collectively, "Settlement
9 Agreement").

10 Having received and considered the Settlement Agreement, the supporting papers filed by the
11 Parties, and the evidence and argument received by the Court in conjunction with the Motion for
12 Preliminary Approval of Class Action Settlement, and the supporting papers, and evidence and
13 argument received by the Court in conjunction with the Motion for Order Granting Final Approval of
14 Class Action Settlement and Entering Judgment, the Court grants final approval of the Settlement and
15 ORDERS AND MAKES THE FOLLOWING DETERMINATIONS:

16 1. Pursuant to the Preliminary Approval Order filed March 4, 2022, a Notice of Class
17 Action Settlement, Change of Address form, and pre-printed return envelope in both English and
18 Spanish ("Notice Packet") were sent to each Class Member by first-class United States mail. The
19 Notice informed the Class of the terms of the Settlement, their right to receive a Settlement Payment
20 without any required action, their right to comment upon or object to the Settlement, and their right to
21 appear in person or by counsel at the final approval hearing and to be heard regarding approval of the
22 Settlement. Adequate periods of time were provided for each of these procedures.

23 2. No member of the Class filed a request to be excluded from the Settlement or a written
24 objection to the proposed Settlement as part of this notice process or stated an intention to appear at the
25 final approval hearing.

26 3. The Court finds and determines this notice procedure afforded adequate protections to
27 the Class and provides the basis for the Court to make an informed decision regarding approval of the
28 Settlement based on the responses of the Class. The Court finds and determines the notice provided in

1 this case was the best notice practicable, which satisfies the requirements of law and due process.

2 4. With respect to the Class and for purposes of approving this Settlement only, this
3 Court finds and concludes that: (a) the members of the Class are ascertainable and so numerous that
4 joinder of all members is impracticable; (b) there are questions of law or fact common to the Class, and
5 there is a well-defined community of interest among members of the Class with respect to the subject
6 matter of the Action; (c) the claims of the Class Representative are typical of the claims of the members
7 of the Class; (d) the Class Representative has fairly and adequately protected the interests of the
8 members of the Class; (e) a class action is superior to other available methods for an efficient
9 adjudication of this controversy; and (f) the counsel of record for Plaintiff, the Class Representative,
10 i.e., Class Counsel, are qualified to serve as counsel for Plaintiff in his individual and representative
11 capacity for the Class.

12 5. The Court confirms certification, for settlement purposes only, of the Class: “all
13 persons employed by Defendant as non-exempt electricians in the State of California at any time during
14 the period from February 24, 2016 through February 19, 2021 (“Class Period”).”

15 6. For settlement purposes, Aggrieved Employees are defined as: “all persons employed
16 by Defendant as non-exempt electricians in the State of California at any time during the period from
17 December 21, 2018 through February 19, 2021 (“PAGA Period”).”

18 7. The Court finds and determines the terms set forth in the Settlement Agreement are
19 fair, reasonable, and adequate and, having found that the Settlement was reached as a result of informed
20 and non-collusive arms’-length negotiations facilitated by a neutral and experienced mediator, directs
21 the Parties to effectuate the Settlement according to the terms set forth in the Settlement Agreement.
22 The Court further finds the Parties conducted extensive investigation, research, and informal discovery,
23 and that their attorneys were able to reasonably evaluate their respective positions. The Court also finds
24 that Settlement will enable the Parties to avoid additional and potentially substantial litigation costs, as
25 well as delay and risks if the Parties were to continue to litigate the case. The Court has reviewed the
26 monetary recovery and recognizes the significant value provided to the Class.

27 8. The Court further finds and determines that the terms of the Settlement are fair,
28 reasonable and adequate to the Class and to each Class Member and that the Settlement is ordered

1 finally approved, and that all terms and provisions of the Settlement Agreement should be and are
2 ordered to be consummated.

3 9. The Court finds and determines that the Settlement Payments to be paid to
4 Participating Class Members as provided for by the Settlement are fair and reasonable. The Court grants
5 final approval to and orders the payment of those amounts be made to the Participating Class Members
6 in accordance with the Agreement.

7 10. The Court finds and determines that the fees and expenses in administering the
8 Settlement incurred by ILYM Group, Inc. in the amount of \$7,500.00 are fair and reasonable. The Court
9 grants final approval to and orders that the payment of that amount in accordance with the Settlement
10 Agreement.

11 11. The Court finds and determines the Class Representative Service Payment of \$10,000
12 to Plaintiff Manual Gutierrez is fair and reasonable. The Court orders the Administrator to make this
13 payment to the Plaintiff Manual Gutierrez, in accordance with the terms of the Settlement Agreement.

14 12. The Court finds and determines the PAGA Payment in the amount of \$7,500 to be
15 paid to the California Labor and Workforce Development Agency ("LWDA") representing the 75%
16 share of the \$10,000 for civil penalties is fair, adequate and reasonable. The Court grants final approval
17 to and orders that amount be paid in accordance with the Settlement Agreement.

18 13. Pursuant to the terms of the Settlement Agreement, and the authorities, evidence and
19 argument submitted by Class Counsel, the Court awards Class Counsel attorneys' fees of \$152,997.00
20 and litigation costs of \$8,995.09. The Court finds such amounts to be fair and reasonable. The Court
21 orders the Administrator to make these payments in accordance with the terms of the Settlement
22 Agreement.

23 14. Without affecting the finality of this Order or the entry of judgment in any way, the
24 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
25 effectuation, and enforcement of this Order and the Agreement.

26 15. Neither Defendant nor any related persons or entities shall have any further liability
27 for costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as
28 provided for by the Settlement Agreement.

17. Nothing in this Order shall preclude any action to enforce the Parties' obligations under the Settlement Agreement or this Order, including the requirement Defendant make payments to the Participating Class Members in accordance with the Settlement.

18. The Parties will bear their own costs and attorneys' fees except as otherwise provided by this Court's Order awarding Class Counsels' attorneys' fees and litigation costs.

19. The Court enters final judgment in accordance with the terms of the Settlement Agreement, the Court's Preliminary Approval Order, and this Order.

20. The Court orders the Settlement Administrator to post this Order and the Judgment on its website: www.ilymgroupclassaction.com/kite. The Order and Judgment are to remain on the website until after the Final Accounting Hearing.

21. The Court sets a Final Accounting hearing for March 31, 2023 at 9:00 a.m. in Department CX-102. A final accounting declaration/report shall be filed no later than ten (10) calendar days prior to the hearing to confirm that settlement distribution efforts are complete.

22. This document shall constitute a judgment for purposes of California Rules of Court, Rule 3.769(h). In accordance with, and for the reasons stated in this Order, judgment shall be entered

1 within the meaning and for purposes of Code of Civil Procedure §§ 577 and 904.1(a), and the Plaintiff
2 / Class Representative and all Class Members shall take nothing from Defendant Kite Electric
3 Incorporated except as expressly set forth in the Settlement Agreement.

4 IT IS SO ORDERED.

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6 Date: _____

7 Hon. Peter J. Wilson
8 Judge of the Superior Court
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