

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 Preliminary Approval of Class Action Settlement

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

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

Jeff Geraci / January 4, 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
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE, AND
SETTING FINAL APPROVAL HEARING**

Date: February 3, 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 February 3, 2022 in Department CX-102 of the above-
2 captioned Court on Plaintiff's Motion for Order Granting Preliminary Approval of Class Action
3 Settlement ("Motion").

4 The Court, having fully reviewed the Motion, the supporting memorandum of Points and
5 Authorities, Declaration of Jeff Geraci of Cohelan Khoury & Singer, Declaration of Sahag Majarian II
6 of the Law Offices of Sahag Majarian II, the Stipulation of Class and Representative Action Settlement
7 And Release ("Settlement Agreement"), the proposed Notice of Class Action Settlement ("Class
8 Notice") and Change of Address Form attached as exhibits to the Settlement Agreement, having
9 carefully analyzed the Settlement Agreement and its exhibits, and in recognition of the Court's duty to
10 make a preliminary determination as to the reasonableness of any proposed class action settlement, and
11 if preliminarily determined to be reasonable, to ensure proper notice is provided to all Class Members
12 in accordance with due process requirements, and to set a Final Approval Hearing to consider the
13 proposed Settlement as to the good faith, fairness, adequacy and reasonableness of any proposed
14 Settlement, THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:

15 1. The Court conditionally finds, for the purpose of approving this settlement only, the
16 proposed Class meets the requirements for certification under California Code of Civil Procedure
17 section 382: (a) the proposed Class is ascertainable and so numerous joinder of all members of the class
18 is impracticable; (b) there are questions of law or fact common to the proposed Class, and a well-
19 defined community of interest among members of the proposed Class with respect to the subject matter
20 of the class action; (c) the claims of the Class Representative are typical of the claims of the proposed
21 Class Members; (d) the Class Representative has and will fairly and adequately protect the interests of
22 the Class Members; (e) a class action is superior to other available methods for efficient adjudication
23 of this controversy in the settlement context; and (f) counsel of record for the Class Representative are
24 qualified to serve as counsel for the Class.

25 2. The Court finds on a preliminary basis that the Settlement Agreement, attached to the
26 Declaration of Jeff Geraci as Exhibit "1," incorporated by this reference in full, and made a part of this
27 Order of preliminary approval, appears to be within the range of reasonableness of a settlement which
28 could ultimately be given final approval by this Court.

3. It appears to the Court on a preliminary basis that: (a) the settlement amount is fair and reasonable to the Class Members when balanced against the probable outcome of further litigation relating to class certification, liability and damages issues and potential appeals; (b) significant investigation, research, and informal discovery have been conducted and counsel for the Parties are able to reasonably evaluate their respective positions; (c) settlement will avoid substantial costs, delay and risks presented by further prosecution of the Action; and (d) the proposed Settlement has been reached as the result of intensive, serious and non-collusive negotiations facilitated by an experienced mediator at mediation and between the Parties.

4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary Approval of Class Action Settlement is GRANTED, and as a part of preliminary approval, the Court accepts and incorporates the Settlement Agreement and orders the Class be conditionally certified for settlement purposes only pursuant to the terms and conditions of the Agreement.

5. For purposes of the settlement of the Action, the Class is defined as: “all persons employed by Defendant as non-exempt electricians in the State of California at any time during the period from February 24, 2016 through February 19, 2021.”

6. The Court further finds the proposed Notice of Class Action Settlement (“Class Notice”) fairly and adequately advises Class Members of a) the pendency of the Class Action; b) the conditional certification of the Class for settlement purposes only; c) preliminary Court approval of the proposed Settlement; d) the date of the Final Approval Hearing; e) the terms of the proposed Settlement and benefits available to Class Members; f) their right to receive a proportionate share of the Net Settlement Amount without the need to return a claim form; g) their right to request exclusion from the settlement and the procedures and deadline for doing so; h) their right to object to, or file documents in opposition to the Settlement, and the procedure for doing so; and i) their right to appear at the Final Approval hearing. The Court further finds that the Class Notice clearly comports with all constitutional requirements, including those of due process. Accordingly, good cause appearing, the Court APPROVES the Class Notice.

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1 7. The Court further finds the mailing of the Class Notice, Change of Address Form, and
2 pre-printed return envelope, (collectively, "Notice Packet"), to the last known address of Class
3 Members as described in the Settlement Agreement, with the measures taken for verification of
4 addresses and skip tracing set forth, is an effective method of notifying Class Members of their rights
5 with respect to the class action and Settlement. Accordingly, it is ORDERED, that:

6 A. ILYM Group, Inc., be appointed the Settlement Administrator to administer the
7 Settlement of this matter as more specifically set forth in the Settlement Agreement.

8 B. The law firms Cohelan Khoury & Singer and Law Office of Sahag Majarian II be
9 appointed as Class Counsel.

10 C. Plaintiff Manual Gutierrez be appointed as the Class Representative.

11 D. Within fourteen (14) calendar days after entry of a Preliminary Approval Order,
12 Defendant shall transmit to the Settlement Administrator in a readable, ready to use electronic excel
13 format spreadsheet, the Class Data List.

14 E. Within ten (10) business days after receipt of the Class Data List, the Settlement
15 Administrator shall mail to each Class Member, in English and Spanish, Notice Packets by first class,
16 regular U.S. mail, using the most current mailing address information available, with measures taken
17 for updating an address as provided by the terms of the Settlement Agreement. The exterior of the
18 mailing envelope shall include the following language below the Administrator's address:

19 **IMPORTANT LEGAL DOCUMENT:**
20 **You may get Money from a Class Action**
21 **Settlement; your prompt reply to correct a**
 BAD address is required.

22 F. On or before forty-five (45) calendar days from the initial date the Settlement
23 Administrator first mails the Notice Packet to Class Members ("Response Deadline"), Class Members
24 who wish to exclude themselves from the Class must postmark and submit a written request for
25 exclusion in the manner set forth in the Class Notice by the Response Deadline. The Response Deadline
26 will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by
27 the Settlement Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case
28 the Response Deadline will be the next day on which the U.S. Postal Service is open.

1 G. On or before the Response Deadline, Class Members who dispute the number of
2 Workweeks must postmark and submit a written explanation to the Settlement Administrator describing
3 why the Workweeks are incorrect, with any supporting information, as set forth in the Class Notice.
4 The Response Deadline will be extended fifteen (15) calendar days for any Class Member who is re-
5 mailed a Notice Packet by the Settlement Administrator, unless the 15th day falls on a Sunday or
6 Federal holiday, in which case the Response Deadline will be the next day on which the U.S. Postal
7 Service is open.

8 H. On or before the Response Deadline, Class Members who wish to object to the
9 Settlement, may submit to the Settlement Administrator, a written Notice of Objection which includes
10 the specific reasons for the objection. Whether a written objection is submitted or not, Class Members
11 may appear at the time of the Final Approval Hearing to comment upon the Settlement. The Response
12 Deadline will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice
13 Packet by the Settlement Administrator, unless the 15th day falls on a Sunday or Federal holiday, in
14 which case the Response Deadline will be the next day on which the U.S. Postal Service is open.

15 8. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before the
16 undersigned at ____ p.m. on _____, 2022, in Department CX-102 of the Superior Court for the
17 State of California, County of Orange located at the Civil Complex Center located at 751 West Santa
18 Ana Blvd., Santa Ana, California 92701, to consider the fairness, adequacy and reasonableness of the
19 proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to consider the
20 application for a Service Payment award to the Plaintiff/Class Representative, for Settlement
21 Administration expenses and for Class Counsel's Attorneys' Fees and Costs Payment. All briefs and
22 materials in support of an Order Granting Final Approval and Entering Judgment, the Service Payment,
23 Settlement Administration Payment, and Class Counsel's Attorneys' fees and Costs Payment costs
24 shall be filed with this Court on or before sixteen (16) court days prior to the scheduled hearing.

25 9. All proceedings in this matter, except those contemplated by the Settlement Agreement
26 or this Order, are stayed.

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1 10. The Court expressly reserves the right to adjourn or continue the Final Approval Hearing
2 from time to time without further notice to Class Members.

3 IT IS SO ORDERED.

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5 Date: _____

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