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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

MAGNO PORTILLA, as an individual and
on behalf of all similarly situated
employees,

Plaintiff,

vs.

MYR GROUP, INC.; STURGEON
ELECTRIC CALIFORNIA, LLC; and
DOES 1-50, inclusive,

Defendants.

Case No. CIVDS2005484

CLASS ACTION

**STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

Assigned for all purposes to:
Hon. David Cohn, Dept. 26

Complaint Filed: February 21, 2020
Trial Date: None Yet Set

LCB

STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

IT IS HEREBY STIPULATED, by and among Plaintiff MAGNO PORTILLA and, on behalf of himself and the Settlement Class Members on the one hand, and Defendants MYR GROUP, INC. and STURGEON ELECTRIC CALIFORNIA, LLC on the other hand, and subject to the approval of the Court, that the above-captioned action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action Settlement and Release (the "Settlement" or "Agreement").

1. DEFINITIONS

Capitalized terms used in this Settlement shall have the meanings set forth below:

1.1. "Action" shall mean the lawsuit entitled *MAGNO PORTILLA v. MYR GROUP, INC. and STURGEON ELECTRIC CALIFORNIA, LLC*; and DOES 1 through 50, pending in the Superior Court of the State of California, County of San Bernardino, and designated as Case No. CIVDS2005484.

1.2. "Claims Administrator" means Phoenix Settlement Administrators.

1.3. "Claims Administration Costs" means the amount to be paid to the third-party Claims Administrator to administer the Settlement, not to exceed Five Thousand Dollars (\$5,000.00).

1.4. "Class Counsel" means Kevin Mahoney, and John A. Young of the Mahoney Law Group.

1.5. "Class Counsel Award" means reasonable attorneys' fees for Class Counsel's litigation and resolution of this Action in a maximum amount of Sixty-Five Thousand Dollars (\$65,000.00) or 1/3rd of the Gross Settlement Amount of One Hundred Ninety-Five Thousand Dollars (\$195,000.00). The Court shall determine the amount of the Class Counsel Award, and it shall be paid from the Gross Settlement Amount.

1.6. "Class Counsel Costs" means expenses incurred by Class Counsel for Class Counsel's litigation and resolution of this Action, not to exceed Eight Thousand Five Hundred Dollars (\$8,500.00). The Court shall determine the amount of the Class Counsel Costs, and it shall be paid from the Gross Settlement Amount.

1.7. "Class Information" means information regarding Settlement Class Members that Defendants MYR GROUP, INC. and STURGEON ELECTRIC CALIFORNIA, LLC will in good faith compile from its records and provide to the Claims Administrator. Class Information shall be provided as a Microsoft Excel spreadsheet and shall include: each Settlement Class Member's full name; last known address; last four (4) digits of social security number; employee identification number; and the total number of workweeks each Settlement Class Member worked during the Class Period and PAGA Period (if applicable).

1.8. "Class Period" means the period from February 21, 2016, through and including the date the Court grants Preliminary Approval of the Settlement.

1.9. "Class Representative Enhancement Award" means the amount that the Court authorizes to be paid to the Class Representative Magno Portilla not to exceed Five Thousand Dollars (\$5,000.00), in addition to the Individual Settlement Payment, for his service in connection with being the Class Representative. The Class Representative Enhancement Award shall be paid from the Gross Settlement Amount. Any portion of the requested Class Representative Enhancement Award that is not awarded to Plaintiff Magno Portilla shall be part of the Net Settlement Amount.

1.10. "Court" means the Superior Court of the State of California for the County of San Bernardino.

1.11. "Defendants" means MYR GROUP, INC. and STURGEON ELECTRIC CALIFORNIA, LLC.

1.12. "Defense Counsel" means Christopher Hoffman and Phillip Simpler of Fisher & Phillips, LLP.

1.13. "Effective Date" means the date that the Gross Settlement Amount is fully funded as agreed to in this Agreement.

1.14. "Employee Taxes" means the employee's share of any and all applicable federal, state, and local payroll taxes on the portion of Participating Class Members' Individual Settlement Payment that constitutes wages. The Employee Taxes will be paid out of the Net Settlement Amount.

1.15. "Employer Taxes" means the employer's share of any and all applicable federal, state, and local payroll taxes on the portion of Participating Class Members' Individual Settlement Payment that constitutes wages. The Employer Taxes will be paid separately by the Defendants and shall not be paid out of the Gross Settlement Amount.

1.16. "Final Approval Hearing" means the hearing held by the Court, pursuant to class action procedures and requirements, on the motion for final approval of the Settlement.

1.17. "Final Approval Date" means the date that the Court grants final approval of the Settlement.

1.18. "Final Judgment" means the Court's entry of an order of judgment in this Action following the Court's final approval of the Settlement.

1.19. "Gross Settlement Amount" means the maximum amount Defendants shall have to pay in connection with this Settlement, by way of a common fund, which shall be inclusive of all Individual Settlement Payments to Participating Class Members, Class Counsel Award, Class Counsel Costs, Claims Administrator Costs, Class Representative Enhancement Award, Employee Taxes, and PAGA Allocation. Subject to Court approval and the terms of this Settlement, the Gross Settlement Amount Defendants shall be required to pay is One Hundred Ninety-Five Thousand Dollars (\$195,000.00). No portion of the Gross Settlement Amount will revert to Defendants, and the Settlement does not require Participating Class Members to submit claims as a prerequisite to receiving their Individual Settlement Payment. This settlement sum is based on Defendants' representation that the class size is approximately sixty-one (61) individuals and 5,455 pay periods through November 17, 2020. If the number of pay periods increases by more than ten percent (10%) as of the date of preliminary approval of the Settlement, Defendants will increase the Gross Settlement Amount by a proportional amount or, if the Defendants choose, the Class Period shall be deemed to end on the date that the total number of pay periods in the Class Period exceeds 5,455 pay periods by ten percent (10%). For example, if the total number of pay periods in the Class Period increases by eleven percent (11%), then Defendants agree to increase the Gross Settlement Amount by eleven percent (11%), unless Defendants exercise the right to end the Class Period on the date that the total pay periods

increased by ten percent (10%) more than 5,455. The Parties acknowledge this is a material term.

1.20. "Individual Settlement Payment" means the amount payable to each Participating Class Member, as calculated pursuant to Paragraph 3.21 of the Settlement, from the Net Settlement Amount. Checks for Individual Settlement Payments will specifically indicate that they are void if not negotiated within one hundred eight (180) days of their issuance.

1.21. "LWDA PAGA Allocation" means Seven Thousand Five Hundred Dollars (\$7,500.00), representing seventy-five percent (75%) of the PAGA Allocation, and is the amount payable from the Gross Settlement Amount to California's Labor Workforce Development Agency.

1.22. "Net Settlement Amount" means the Gross Settlement Amount, less (i) the Class Representative Enhancement Award approved by the Court (not to exceed \$5,000.00); (ii) the Class Counsel Award approved by the Court (not to exceed \$65,000.00); (iii) the Class Counsel Costs approved by the Court (not to exceed \$8,500.00) (iv) the LWDA PAGA Allocation approved by the Court (\$7,500.00); (v) the Class Administrator Costs approved by the Court (not to exceed \$5,000.00), (vi) any other fees or expenses (other than the Class Counsel Award and Class Counsel Costs) incurred by implementing the terms and conditions of this Agreement as approved by the Court.

1.23. "Non-Participating Class Member" shall mean a Settlement Class Member who submits a complete, valid and timely request to be excluded from the Settlement pursuant to the instructions provided in the Class Notice and/or who has signed a release with Defendants to resolve any claims as alleged in the Action.

1.24. "Notice of Objection" means a written statement of objection to the Settlement made and signed by a Settlement Class Member and includes the following: (1) the full name of the Settlement Class Member; (2) the dates of employment of the Settlement Class Member; (3) the last four (4) digits of the Settlement Class Member's Social Security number and/or the Employee ID number; (4) the basis for the objection; and, (5) whether the Settlement Class Member intends to appear at the Final Approval Hearing.

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1 1.25. "Notice of Settlement" means the Notice of Class Action Settlement (substantially
2 in the form attached hereto as **Exhibit "A"**).

3 1.26. "Notice Packet" means the Notice of Class Action Settlement, Notice of Estimated
4 Individual Settlement Payment, and the Request for Exclusion.

5 1.27. "PAGA Allocation" means Ten Thousand Dollars (\$10,000.00), allocated from
6 the Gross Settlement Amount for the compromise of claims for civil penalties brought under the
7 Labor Code Private Attorneys General Act of 2004 ("PAGA"). Per California Labor Code section
8 2699(i), Seven Thousand Five Hundred Dollars (\$7,500.00), representing seventy five percent
9 (75%) of the PAGA Allocation, will be paid to California's Labor Workforce Development
10 Agency. The remaining Two Thousand Five Hundred Dollars (\$2,500.00), representing twenty
11 five percent (25%) of the PAGA Allocation, shall be part of the Net Settlement Amount to be
12 distributed to Similarly Aggrieved Employees.

13 1.28. "PAGA Period" means the period from February 20, 2019 to preliminary approval
14 of this Settlement.

15 1.29. "Participating Class Members" means all Settlement Class Members who do not
16 submit a valid and timely Request for Exclusion.

17 1.30. "Parties" means Plaintiff and Defendants collectively, and "Party" shall mean any
18 Plaintiff or any Defendants, individually.

19 1.31. "Plaintiff" means Magno Portilla.

20 1.32. "Plaintiff's General Released Claims" means, in addition to the releases made by
21 Participating Class Members, Plaintiff, on behalf of himself, his heirs, successors, assigns,
22 executors, trustees, and estates, in exchange for the terms and conditions of this Agreement,
23 including the Class Representative Enhancement Award requested or as otherwise authorized by
24 the Court, shall also, as of the Effective Date, fully and forever release the Released Parties, to
25 the fullest extent permitted by law, of and from any and all claims arising from his employment
26 with Defendants, known and unknown, asserted and unasserted, which Plaintiff had or may have
27 had against the Released Parties, including without limitation the Released Claims, whether
28 sounding in tort, in contract, in law, in equity or otherwise, and including but not limited to all

1 claims for violation of any local, state, or federal statute, rule, or regulation.

2 1.33. "Preliminary Approval Date" means the date the Court enters the Preliminary
3 Approval Order for the Settlement.

4 1.34. "Preliminary Approval Order" means the Proposed Order (filed concurrently with
5 this Settlement) for preliminary approval of the Settlement, as amended by the Court.

6 1.35. "Released Claims" means any and all known and unknown claims, debts,
7 liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, action or
8 causes of action contingent or accrued for, arising out of the allegations and claims asserted in
9 the Action, including without limitation, all wage and hour claims for unpaid wages including
10 minimum wage payments, failure to pay wages during employment, failure to pay overtime,
11 failure to pay wages upon termination, uniform maintenance costs, meal and rest break
12 violations, wage statement violations and penalties, waiting time penalties, reimbursement,
13 restitution and other equitable relief, disgorgement, conversion, unjust enrichment, civil and
14 statutory penalties, interests, liquidated damages, punitive damages, attorneys' fees and costs,
15 claims under California Labor Code sections 201-203, 204, 210, 223, 226, 226.3, 226.7, 510,
16 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2698-2699.5, 2802, Industrial
17 Welfare Commission Wage Order No. 16, claims under California Business & Professions Code
18 sections 17200-17204, penalties pursuant to the Private Attorneys General Act ("PAGA"), and
19 any other benefit claims on account of the allegations asserted in the Action. This release shall
20 apply to all claims arising at any point between February 21, 2016 through the date the Court
21 grants Preliminary Approval of the Settlement.

22 1.36. "Released Parties" means Defendants, and all of its current, former, and future
23 parents, owners, subsidiaries, predecessors and successors, and each of their respective agents,
24 employees, officers, directors, spouses, partners, shareholders, agents, and any other successors,
25 assigns, or legal representatives, as well as any other individual or entity which could be jointly
26 liable with any of the Released Claims.

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1.37. "Request for Exclusion" means a Settlement Class Member's completed request for exclusion form to opt out of the Settlement in the format substantially similar to that attached hereto as **Exhibit B**.

1.38. "Response Deadline" means the date forty-five (45) days after the Claims Administrator mails Notice Packets to Settlement Class Members, and shall be the last date on which Settlement Class Members may: (a) postmark a Request for Exclusion from the Settlement, or (b) postmark a Notice of Objection to the Settlement.

1.39. "Settlement" or "Agreement" means the terms of this Stipulation of Class Action Settlement and Release.

1.40. "Settlement Class Member(s)" or "Settlement Class" means all current and former non-exempt employees who worked for Defendants within the State of California as members of the International Brotherhood of Electrical Workers Local 11 union (the "Union") at any time from February 21, 2016 to preliminary approval of this settlement.

1.41. "Similarly Aggrieved Employees" means all current and former non-exempt employees who worked for Defendants within the State of California as members of the Union at any time from February 20, 2019 to preliminary approval of this settlement.

2. RECITALS

2.1. Class Certification. The Parties stipulate and agree to the certification of this Action for purposes of this Settlement only. Should the Settlement not become final and effective, class certification shall immediately be set aside (subject to further proceedings on motion of any party to certify or deny certification thereafter), the Settlement shall be deemed null and void, and will be of no force or effect whatsoever, and will not be referred to or utilized for any purpose whatsoever. The Parties' willingness to stipulate to class certification as part of the Settlement shall have no bearing on and shall not be admissible in or considered in connection with, the issue of whether a class should be certified in a non-settlement context in this Action, and shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in any other lawsuit.



1 2.2. Procedural History.

2 On February 21, 2020, Plaintiff filed a class action complaint against Defendants alleging:
3 (1) failure to pay wages; (2) failure to provide rest periods; (3) failure to provide meal periods;
4 ~~(4) failure to pay wages due at separation of employment; (5) failure to provide accurate and~~
5 itemized wage statements, (6) failure to indemnify for business expenditures; and (7) violation of
6 Business and Professions Code section 17200 et seq. Plaintiff's complaint is made on behalf of
7 himself and all non-exempt, hourly-paid employees currently and/or formerly employed by
8 Defendants, in the State of California during the Class Period. The Class Period is defined as four
9 (4) years prior to the filing of the complaint, through the date of class certification, or the date
10 preliminary approval of settlement is granted. On February 20, 2020, Plaintiff sent a letter to the
11 Labor Workforce and Development Agency ("LWDA") notifying them of his intent to file a
12 lawsuit on behalf of himself and all aggrieved employees. On November 18, 2020, Plaintiff filed
13 an amended complaint adding a cause of action against Defendants alleging violations of the
14 Private Attorneys General Act ("PAGA") - Labor Code section 2698, etc.

15 Defendants provide transmission and distribution of electrical construction services to
16 customers throughout California. Sturgeon Electric California, LLC employed Plaintiff and the
17 Settlement Class Members during the Class Period. Plaintiff alleges that MYR Group, Inc. was
18 the joint employer of himself and the Settlement Class Members. Plaintiff worked for Sturgeon
19 Electric California, LLC as a non-exempt hourly-paid employee from January 2019 through
20 February 2019.

21 2.3. Settlement Negotiations. On November 20, 2020, the Parties participated in a
22 private mediation session with Jill Sperber, a well-respected, experienced mediator in the field of
23 wage and hour class actions. Prior to the mediation, Class Counsel conducted informal discovery
24 and investigation during the prosecution of the Action. The informal discovery and investigation
25 included, among other things: (1) inspection and analysis of employee documents and data,
26 including personnel files, applicable collective bargaining agreements, time and payroll records,
27 employment policies and procedures, and other relevant documents; (2) evaluation of legal
28 positions taken by Defendants; (3) evaluation of potential class-wide damages and PAGA

1 penalties; and (4) review and research of applicable law with respect to the claims and potential
2 defenses brought by Defendants. Class Counsel has prosecuted this Class Action, and Defendants
3 have vigorously denied Plaintiff's allegations. The Parties have engaged in sufficient discovery
4 and investigation to assess the relative merits of the claims and contentions of the Parties. Based
5 on this information and the settlement discussions during the mediation conducted at arm's length,
6 the Parties came to an agreement on November 20, 2020. The Settlement is the result of an
7 informed and detailed evaluation of the potential liability of total exposure in relation to the costs
8 and risks associated with continued litigation of the Action.

9 2.4. Benefits of Settlement to Settlement Class Members. Plaintiff and Class Counsel
10 recognize the length of continued proceedings necessary to litigate their disputes through
11 certification, trial, and any possible appeal. Plaintiff and Class Counsel have also taken into
12 account the uncertainty and risk of the outcome of further litigation, the difficulties and delays
13 inherent in such litigation, including, but not limited to, the risks related to opposing a motion to
14 compel arbitration and strike class claims based on the collective bargaining agreement, a
15 contested motion for class certification and the risks related to liability raised by the issues in this
16 case. Plaintiff and Class Counsel are also aware of the burdens of proof necessary to establish
17 liability for the claims asserted in the Action and the difficulties in establishing damages for the
18 Settlement Class Members. Plaintiff and Class Counsel have also taken into account Defendants'
19 agreement to enter into a settlement that confers substantial relief upon Settlement Class
20 Members. Based on the foregoing, Plaintiff and Class Counsel have determined that this
21 Settlement is a fair, adequate, and reasonable, and is in the best interests of the Settlement Class
22 Members.

23 2.5. Defendants' Denial of Wrongdoing and Liability and Reasons for Settlement.
24 Defendants contend that the Settlement Class Members were properly and timely paid all wages
25 owed, including, but not limited to, all straight time and overtime, were properly reimbursed for
26 necessary business expenses, were provided any meal or rest periods required under California
27 law, and that the applicable collective bargaining agreements with the Union preclude Plaintiff
28 from litigating in court his individual claims, class action claims and representative PAGA claim.

1 However, Defendants have concluded that any further defense of this litigation would be
2 protracted and expensive for all Parties. Substantial amounts of time, energy and resources of
3 Defendants have been and, unless this Settlement is made, will continue to be devoted to the
4 defense of the claims asserted by Plaintiff and Settlement Class Members. Defendants have also
5 taken into account the risks of further litigation in reaching their decision to enter into this
6 Settlement. Defendants have concluded that further proceedings in the Action would be
7 protracted and expensive and that it is desirable that the Action be fully and finally settled in the
8 manner and upon the terms and conditions set forth in this Settlement in order to dispose of
9 burdensome and protracted litigation, to permit the operation of Defendants' business without
10 further expensive litigation and the distraction and diversion of its personnel with respect to
11 matters at issue in the Action. Defendants have also taken into account the uncertainty and risks
12 inherent in any litigation, especially in complex cases such as this Action. Defendants have
13 therefore determined that it is desirable and beneficial to them that the Action be settled in the
14 manner and upon the terms and conditions set forth in this Settlement.

15 2.6. No Admissions. The Parties understand and agree that this Settlement is the result
16 of a good faith compromise of disputed claims and allegations, and Defendants are entering into
17 this Settlement solely to resolve doubtful and disputed matters. No part of this Settlement or any
18 conduct or written or oral statements made in connection with this Settlement, whether or not the
19 Settlement is finally approved and/or consummated, may be offered as or construed to be an
20 admission or concession of any kind by any of the Parties. In particular, but without limiting the
21 generality of the foregoing, nothing about this Settlement shall be offered or construed as an
22 admission that Defendants violated any of their obligations under the California Labor Code, or
23 of liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever on the
24 part of Defendants and/or Released Parties. In addition, this Settlement shall not be offered or be
25 admissible in evidence against any of the Parties or any of the Released Parties, except in any
26 action or proceeding brought by or against Plaintiff, the Participating Class Members, or
27 Defendants to enforce its terms. The provision of this paragraph shall become effective when this
28 Settlement is signed and shall be binding on the Parties and their counsel regardless of whether

1 the Settlement is preliminarily and/or finally approved or terminated for any reason, or rendered
2 null and void.

3 2.7. Settlement Class Members' Claims. Plaintiff claims that the Released Claims
4 have merit and give rise to liability on the part of Defendants. This Settlement is a compromise
5 of disputed claims. Nothing contained in this Settlement and no documents referred to herein,
6 nor any action taken to carry out this Settlement may be construed or used as an admission by or
7 against the Settlement Class Members or Class Counsel as to the merits or lack thereof of the
8 claims asserted.

9 2.8. Defendants' Defenses. Defendants have denied and continue to deny each and all
10 of the allegations, claims, and contentions alleged by Plaintiff in the Action. Defendants have
11 expressly denied and continue to deny all charges of wrongdoing or liability against each of them
12 arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendants
13 contend that it complied in good faith with California and federal wage-and-hour laws and has
14 dealt legally and fairly with Plaintiff and Settlement Class Members and Similarly Aggrieved
15 Employees. Defendants further deny that, for any purpose other than settling the Action, these
16 claims are appropriate for class or representative treatment and assert, without limitation, that
17 Plaintiff's class and representative claims are barred by the grievance procedures and exemptions
18 provided for in the applicable collective bargaining agreements with the Union. MYR Group, Inc.
19 further denies, for any purpose other than settling the Action, that it employed Plaintiff or the
20 alleged class member or that the Court has personal jurisdiction over it.

21 2.9. Gross Amount Payable by Defendants. Under the terms of this Settlement, the
22 gross amount payable by Defendants shall not exceed the Gross Settlement Amount of One
23 Hundred Ninety-Five Thousand Dollars (\$195,000.00) as provided by this Agreement, exclusive
24 of the employer's normal share of any payroll taxes attributable to the Individual Settlement
25 Payments allocated to wages. Defendants shall pay the employer's share of taxes separate and
26 apart from the Gross Settlement Amount.

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1 **3. TERMS OF SETTLEMENT**

2 The Parties agree as follows:

3 3.1. Binding Settlement. This Settlement shall bind the Parties and all Participating
4 Class Members, subject to the terms and conditions hereof and the Court's approval.

5 3.2. Release as to Plaintiff and All Settlement Class Members.

6 3.2.1. Release as to All Settlement Class Members. As of the Effective
7 Date, all Settlement Class Members, including Plaintiff, who do not opt out of the Settlement,
8 will be deemed to have fully, finally and forever released, settled, compromised, relinquished,
9 and discharged the Released Parties from the Released Claims for the period of February 21, 2016
10 to the Preliminary Approval Date. Settlement Class Members, including Plaintiff, who do not
11 opt out of the Settlement will be deemed to have released any further attempt, by lawsuit,
12 administrative claim or action, arbitration, demand, or other action of any kind by each and all of
13 the Settlement Class Members (including participation to any extent in any class or collective
14 action), to obtain recovery against the Defendants that are reasonably related to the Released
15 Claims for harms arising during the Class Period.

16 3.2.2. Release as to Plaintiff. As of the Effective Date, Plaintiff will be
17 deemed to have fully, finally and forever released, settled, compromised, relinquished, and
18 discharged any and all of Plaintiff's General Released Claims against the Released Parties. With
19 respect to the Plaintiff's General Released Claims only, Plaintiff shall be deemed to have, and by
20 operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest
21 extent permitted by law, the provisions, rights, and benefits of section 1542 of the California Civil
22 Code, or any other similar provision under federal or state law, which section provides:

23 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
24 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
25 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
26 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
27 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
28 **DEBTOR OR RELEASED PARTY.**



1 Plaintiff may hereafter discover facts in addition to or different from those he now knows
2 or believes to be true with respect to the subject matter of the Plaintiff's General Released Claims,
3 but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment
4 shall have, fully, finally, and forever settled and released any and all of the Plaintiff's General
5 Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-
6 contingent, which now exist, or heretofore have existed, upon any theory of law or equity now
7 existing or coming into existence in the future, including, but not limited to, conduct that is
8 negligent, intentional, with or without malice or a breach of any duty, law or rule, without regard
9 to the subsequent discovery or existence of such different or additional facts. Plaintiff agrees not
10 to sue or otherwise make a claim against any of the Released Parties for Plaintiff's General
11 Released Claims.

12 3.3. Release as to Defendants: Except as otherwise provided in this paragraph,
13 Defendants and Released Parties in consideration of the promises, assurances, and covenants set
14 forth in this Agreement, hereby fully release the Plaintiff and Plaintiff's heirs, agents,
15 representatives, assigns, executors, and/or anyone on Plaintiff's behalf from all claims or causes
16 of action by reason of any injuries and/or damages or losses, known or unknown, foreseen or
17 unforeseen, patent or latent, which the Released Parties have sustained or which may be sustained
18 as a result of any facts and circumstances arising out of or in any way related to Plaintiff's
19 employment with the Defendants. Plaintiff warrants that, with the exception of this lawsuit and
20 all matters related thereto, he has not made any disparaging statements in a public forum to date
21 about the Released Parties and upon execution of the Settlement Agreement, he will not make
22 any statements or take any action that would violate paragraph 3.50 herein ("Non-
23 Disparagement").

24 3.4. Tax Liability. The Parties understand and agree that the Parties are not providing
25 tax or legal advice. Participating Class Members will remain responsible for any Employee Taxes.
26 Participating Class Members will assume any employee tax obligations or consequences that may
27 arise from this Settlement and should consult with a tax expert if they have questions. Individual
28 Settlement Payments will be allocated as follows: twenty percent (20%) as wages (a W-2 will be

1 issued) and eighty percent (80%) as interest and penalties (a 1099 will be issued). Any required
2 payroll deductions will be based on this apportionment. The Parties agree that, in the event that
3 any taxing body determines that additional employee taxes are due from any Participating Class
4 Member, such Participating Class Member assumes all responsibility for the payment of such
5 taxes.

6 3.5. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision
7 of this Settlement, and no written communication or disclosure between or among the Parties,
8 Class Counsel or Defense Counsel and other advisers, is or was intended to be, nor shall any such
9 communication or disclosure constitute or be construed or be relied upon as, tax advice within
10 the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended);
11 (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal
12 and tax counsel for advice (including tax advice) in connection with this Settlement, (b) has not
13 entered into this Settlement based upon the recommendation of any other party or any attorney or
14 advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure
15 by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
16 acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation
17 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
18 whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax
19 treatment or tax structure of any transaction, including any transaction contemplated by this
20 Settlement.

21 3.6. Settlement Approval and Implementation Procedures. As part of this Settlement,
22 the Parties agree to the following procedures for obtaining the Court's preliminary approval of
23 the Settlement, certifying the Settlement Class, notifying Settlement Class Members of the
24 Settlement, obtaining the Court's final approval of the Settlement, and processing the Individual
25 Settlement Payments.

26 3.7. Preliminary Approval and Certification. As soon as practicable after execution of
27 this Settlement, but no later than forty-five (45) days thereafter, the Parties will jointly submit this
28 Settlement to the Court for its preliminary approval. Such submission will include this

1 Settlement, the proposed Notice Packet, the proposed Preliminary Approval Order, and any
2 memoranda and evidence as may be necessary for the Court to determine that this Settlement is
3 fair, adequate, and reasonable. The Parties agree to request the Court to enter an order
4 conditionally certifying the Settlement Class after the preliminary approval hearing, in
5 accordance with California Rules of Court, Rule 3.769(c).

6 3.8. Class Information. No more than thirty (30) calendar days after the entry of the
7 Preliminary Approval Order, Defendants shall provide the Claims Administrator with the Class
8 Information for purposes of mailing Notice Packets to Settlement Class Members, including: 1.
9 Settlement Class Member's full name; 2. Settlement Class Member's last known address; 3.
10 Settlement Class Member's social security number; 4. Settlement Class Member's employee
11 identification number; 5. Settlement Class Member's total number of workweeks in the Class
12 Period based on Defendants' payroll records; and 6. Settlement Class Member's total number of
13 workweeks in the PAGA period based on the Defendants' payroll records. The Claims
14 Administrator shall use commercially reasonable efforts to secure the data provided by
15 Defendants at all times so as to avoid inadvertent or unauthorized disclosure or use of such data
16 other than as permitted by the Settlement. The Claims Administrator shall ensure that the Class
17 Notice and any other communications to Settlement Class Members shall not include the
18 Settlement Class Members' social security number, except for the last four (4) digits, if necessary.

19 3.9. Notice by First Class U.S. Mail. Upon receipt of the Class Information, the Claims
20 Administrator will perform a search on the National Change of Address database to update the
21 Settlement Class Members' addresses. No more than ten (10) calendar days after receiving the
22 Class Information from Defendants, as provided herein, the Claims Administrator shall mail
23 copies of the Notice Packet to all Settlement Class Members by regular First-Class U.S. Mail.
24 The Claims Administrator shall exercise its best judgment to determine the current mailing
25 address for each Settlement Class Member. The address identified by the Claims Administrator
26 as the current mailing address shall be presumed to be the best mailing address for each Settlement
27 Class Member. It will be conclusively presumed that if an envelope so mailed has not been
28 returned within twenty (20) days of the mailing that the Settlement Class Member received the

1 Notice Packet.

2 3.10. Undeliverable Notices. Any Notice Packets returned to the Claims Administrator
3 as undeliverable on or before the forty-five (45) day Response Deadline shall be re-mailed to the
4 forwarding address affixed thereto.

5 3.11. For each Settlement Class Member whose Notice Packet is returned, there will be
6 one (1) skip trace performed by the Claims Administrator. If an updated mailing address is
7 identified, the Claims Administrator shall resend the Notice Packet to the Settlement Class
8 Member. One (1) supplemental Notice Packet shall be mailed to each Settlement Class Member
9 whose original Notice Packet is returned as undeliverable to the Claims Administrator. Such re-
10 mailing shall be made within five (5) business days of the Claims Administrator receiving notice
11 that the respective Notice Packet was undeliverable. Any requests by the Claims Administrator
12 for documents or information from Defendants must be responded to within a reasonable amount
13 of time by counsel for Defendants. It is the intent of the Parties that reasonable means be used to
14 locate the Settlement Class Members and apprise them of their rights.

15 3.12. Settlement Class Members to whom Notice Packets are resent after having been
16 returned undeliverable to the Claims Administrator, during the entire period before the Response
17 Deadline, shall have an additional fourteen (14) calendar days from the date of re-mailing, or until
18 the forty-five (45) day period before the Response Deadline has expired, whichever is later, to
19 mail a completed Request for Exclusion or a Notice of Objection. Notice Packets that are resent
20 shall inform the recipient of this adjusted deadline. The date of the postmark on the return
21 envelope shall be the exclusive means used to determine whether a Settlement Class Member has
22 returned his or her Request for Exclusion on or before the adjusted deadline. It will be
23 conclusively presumed that if an envelope so mailed has not been returned within twenty (20)
24 days of the mailing, that the Settlement Class Member received the Notice Packet. If a Settlement
25 Class Member's Notice Packet is returned to the Claims Administrator more than once as
26 undeliverable, then an additional Notice Packet shall not be re-mailed. Nothing further shall be
27 required of, or done by, the Parties, Class Counsel, or Defendants' Counsel to provide notice of
28 the proposed Settlement.



1 3.13. Compliance with the procedures specified in paragraphs 3.9-3.12 of this
2 Settlement shall constitute due and sufficient notice to Settlement Class Members of this
3 Settlement and shall satisfy the requirement of due process. In the event the procedures set forth
4 herein are followed and the intended recipient of a Notice Packet still does not receive the Notice
5 Packet, the intended recipient will be a Participating Class Member and will be bound by all terms
6 of the Settlement and the Final Judgment entered by the Court. Nothing else shall be required of,
7 or done by, the Parties, Class Counsel, and Defense Counsel to provide notice of the proposed
8 Settlement.

9 3.14. Disputes. Settlement Class Members will have the opportunity during the forty-
10 five (45) day period before the Response Deadline, should they disagree with Defendants' records
11 regarding their weeks worked during the Class Period, to provide documentation and/or an
12 explanation to show contrary weeks worked. A space will be provided on the Notice of
13 Settlement Payment for Settlement Class Members to raise such disputes. For a Settlement Class
14 Member's dispute to be considered, the Settlement Class Member must fully complete the Notice
15 and timely return it to the Claims Administrator. Settlement Class Members will have forty-five
16 (45) days after the date the Notice Packet is mailed by the Claims Administrator to mail in a
17 dispute, including any supporting evidence the Settlement Class Member may have. The date of
18 the postmark of the return mailing envelope shall be the exclusive means used to determine
19 whether a dispute has been timely submitted to the Claims Administrator. If there is a dispute,
20 the Claims Administrator will consult with the Parties' counsel to determine whether an
21 adjustment is warranted. The Claims Administrator shall determine the eligibility for, and the
22 amounts of, any Individual Settlement Payments under the terms of this Settlement. The Claims
23 Administrator's determination of the eligibility for and amount of any Individual Settlement
24 Payment shall be binding upon the Settlement Class Members and the Parties.

25 3.15. Exclusions (Opt-Outs). The Notice Packet shall state that Settlement Class
26 Members who wish to exclude themselves from the Settlement must submit a Request for
27 Exclusion Form by the Response Deadline. The Request for Exclusion: (1) must contain the
28 name, address, and the last four (4) digits of the Social Security number of the Settlement Class

1 Member requesting exclusion or the Employee Identification Number, (2) must be signed by the
2 Settlement Class Member; and (3) must be postmarked by the Response Deadline and returned
3 to the Claims Administrator at the specified address. If the Request for Exclusion does not contain
4 the information listed in (1)-(2), it will not be deemed valid for exclusion from this Settlement.
5 The date of the postmark on the return-mailing envelope shall be the exclusive means used to
6 determine whether a Request for Exclusion has been timely submitted. Any Settlement Class
7 Member who requests to be excluded from the Settlement will not be entitled to any recovery
8 under the Settlement and will not be bound by the terms of the Settlement. Settlement Class
9 Members who receive a Notice Packet, but fail to submit a valid and timely Request for Exclusion
10 on or before the Response Deadline shall be bound by all terms of the Settlement and any Final
11 Judgment entered in this Action if the Settlement is approved by the Court. At no time shall any
12 of the Parties or their counsel seek to solicit or otherwise encourage members of the Settlement
13 Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not represent
14 any Settlement Class Member with respect to any such Requests for Exclusion. Settlement Class
15 Members who submit a valid Request for Exclusion may not also submit a Notice of Objection.
16 Regardless of whether a Settlement Class Member submits a timely Request for Exclusion, if the
17 Settlement Class Member worked during the PAGA period, the Settlement Class Member shall
18 still be entitled to an Individual Settlement Payment from the PAGA allocation as a Similarly
19 Aggrieved Employee and will be bound by settlement of the PAGA claim.

20 3.16. Objections. The Notice Packet shall state that Settlement Class Members who
21 wish to remain Participating Class Members, but desire to object to the Settlement must not
22 submit a Request for Exclusion and must submit a written statement of objection ("Notice of
23 Objection") by the Response Deadline to the Claims Administrator. The Notice of Objection must
24 be signed by the Settlement Class Member and state: (1) the full name of the Settlement Class
25 Member; (2) the dates of employment of the Settlement Class Member; (3) the Settlement Class
26 Member's Social Security number or the Employee ID number; (4) the basis for the objection;
27 and (5) whether the Settlement Class Member intends to appear at the Final Approval Hearing.
28 The Notice of Objection must be postmarked by the Response Deadline and returned to the

1 Claims Administrator at the specified address. Within five (5) calendar days of receiving a notice
2 of objection from a Settlement Class Member, the Claims Administrator shall forward the Notice
3 of Objection to Class Counsel and Defense Counsel. The Parties will thereafter lodge the
4 Settlement Class Member's Notice of Objection with the Court. Settlement Class Members,
5 regardless of whether or not they submit a timely Notice of Objection, will have a right to appear
6 at the Final Approval Hearing, with or without an attorney, in order to have their objections heard
7 by the Court. At no time shall any of the Parties or their counsel seek to solicit or otherwise
8 encourage Settlement Class Members to object to the Settlement or appeal from the Final
9 Judgment. Class Counsel shall not represent any Settlement Class Members with respect to any
10 such objections or appeals.

11 3.17. Plaintiff's Participation. By executing this Settlement, Plaintiff hereby stipulates
12 he will not object to or seek to exclude himself from the Settlement in anyway.

13 3.18. Funding of the Gross Settlement. This is a non-reversionary Settlement in which
14 Defendants are required to pay the entire Gross Settlement Amount. No portion of the Gross
15 Settlement Amount will revert to Defendants. Defendants shall fully fund the Settlement within
16 twenty-one (21) calendar days after the Final Approval Date. No payments from the Gross
17 Settlement Amount shall be made before the Gross Settlement Amount is fully funded. No release
18 in this Settlement shall be effective until the Gross Settlement Amount is fully funded. If
19 Defendants default as set forth in paragraph 3.35 of this Agreement, Plaintiff and all Participating
20 Class Members will be able to pursue all claims, and the Settlement becomes null and void.

21 3.19. No more than five (5) business days after the Gross Settlement Amount is fully
22 funded, the Claims Administrator will provide the Parties with an accounting of all anticipated
23 payments from the Gross Settlement Amount. The Net Settlement Amount shall be calculated
24 by deducting from the Gross Settlement Amount payments for (1) Class Representative
25 Enhancement Award, as specified in this Settlement and approved by the Court; (2) Class Counsel
26 Award, as specified in this Settlement and approved by the Court; (3) Class Counsel Costs, as
27 specified in this Settlement and approved by the Court; (4) Claims Administration Costs, as
28 specified in this Settlement and approved by the Court; and (5) the LWDA PAGA Allocation, as

1 specified in this Settlement and approved by the Court. The Net Settlement Amount shall be
2 distributed in Individual Settlement Payments in accordance with Paragraphs 3.20 and 3.21.

3 3.20. Individual Settlement Payments. Each Participating Class Member shall be
4 eligible to receive an Individual Settlement Payment, which is a share of the Net Settlement
5 Amount, based on the number of weeks worked by the Participating Class Member during the
6 Class Period and PAGA period, as a proportion of all weeks worked by all Participating Class
7 Members during the Class Period and PAGA period. Individual Settlement Payments shall be
8 paid pursuant to the formula set forth in Paragraph 3.21 below. Individual Settlement Payments
9 shall be mailed by regular First-Class U.S. Mail to Participating Class Members' last known
10 mailing address no later than fifteen (15) calendar days after the Gross Settlement Amount is fully
11 funded. Individual Settlement Payments will specifically indicate that they are void if not
12 negotiated within one hundred eighty (180) days of their issuance. Individual Settlement
13 Payments reflect settlement of a dispute regarding wages, interest, and penalties. Individual
14 Settlement Payments will be allocated as follows: twenty percent (20%) as wages; and eighty
15 percent (80%) as interest and penalties. Employee Taxes will be deducted from the "wage"
16 portion of each Individual Settlement Payment. The Claims Administrator shall issue the
17 appropriate tax documents associated with the Individual Settlement Payments, including an IRS
18 Form W-2 for the amounts allocated as "wages" and an IRS Form 1099 for the amounts allocated
19 as "interest" or "penalties."

20 3.21. Individual Settlement Payment Formula. After deducting the Class Counsel
21 Award and Class Counsel Costs, the PAGA Allocation, Class Representative Enhancement
22 Awards, and Claims Administration Costs, the remaining funds (the "Class Settlement Amount"),
23 will be distributed as follows: The Claims Administrator shall divide the Class Settlement
24 Amount by the total number of workweeks Participating Class Members worked during the Class
25 Period in order to determine the amount each Participating Class Member is entitled to for each
26 workweek he or she worked during the Class Period (the "Class Weekly Amount"). The Claims
27 Administrator shall divide the employee portion of the PAGA Allocation (\$2,500) by the total
28 number of workweeks Similarly Aggrieved Employees worked during the PAGA Period in order

1 to determine the amount each Similarly Aggrieved Employee is entitled to for each workweek he
2 or she worked during the PAGA Period (the "PAGA Weekly Amount"). The Claims
3 Administrator will multiply the Class Weekly Amount by the estimated total number of
4 workweeks that each Participating Class Member worked during the Class Period to determine
5 the Individual Class Payment. The Claims Administrator will multiply the PAGA Weekly
6 Amount by the estimated total number of workweeks that each Similarly Aggrieved Employee
7 worked during the PAGA Period to determine the Individual PAGA Payment. The Participating
8 Class Members' gross Individual Settlement Payment is the sum of their Individual Class
9 Payment and Individual PAGA Payment. The Claims Administrator will then deduct Employee
10 Taxes attributable to wages to arrive at the net Individual Settlement Payment for each respective
11 Participating Class Member. Defendants shall have no responsibility for deciding the validity of
12 any Individual Settlement Payment or any other payments made pursuant to this Settlement, shall
13 have no involvement in or responsibility for the determination or payment of Employee Taxes,
14 and shall have no liability for any errors made with respect to such Employee Taxes.

15 3.22. Settlement Class Members are not eligible to receive any compensation other than
16 the Individual Settlement Payment, and they may only receive an Individual Settlement Payment
17 if they do not submit a valid and timely Request for Exclusion to opt out of the Settlement.
18 Plaintiff, however, is also eligible to receive a Class Representative Enhancement Award.
19 Regardless of whether a Settlement Class Member submits a timely Request for Exclusion, if the
20 Settlement Class Member worked during the PAGA period, the Settlement Class Member shall
21 still be entitled to an Individual Settlement Payment as a Similarly Aggrieved Employee for the
22 employee portion of the PAGA Allocation.

23 3.23. No benefit, including but not limited to pension benefits, shall increase or accrue
24 as a result of any payment made pursuant to this Settlement.

25 3.24. If a check for an Individual Settlement Payment is returned to the Claims
26 Administrator as undeliverable, the Claims Administrator shall promptly attempt to obtain a valid
27 mailing address by performing a skip trace search. If another address is identified, the Claims
28 Administrator shall mail the check to the newly identified address. If an Individual Settlement

1 Payment check is returned to the Claims Administrator a second time as undeliverable, the Claims
2 Administrator shall not attempt any further re-mailing of that check. Any settlement checks that
3 remain uncashed one hundred eighty (180) or more calendar days after issuance shall be voided.
4 The Claims Administrator shall forward all voided settlement checks to the California State
5 Controller's Office's Unclaimed Property Division. The Claims Administrator shall also compile
6 a list of the Participating Class Members for whom their funds were deposited with the California
7 State Controller's Office's Unclaimed Property Division. In such event, the Participating Class
8 Member shall nevertheless remain bound by the Settlement. The Parties agree that good cause
9 exists for the Court to approve this distribution because the unclaimed funds include unclaimed
10 wages of employees that will be held by the State of California for the benefit of these employees,
11 who may request receipt of payment from the California State Controller's Office's Unclaimed
12 Property Division.

13 3.25. Class Representative Enhancement Award. Defendants agree not to oppose or
14 object to any application or motion by Plaintiff for a Class Representative Enhancement Award,
15 not to exceed Five Thousand Dollars (\$5,000.00) for Plaintiff as consideration for Plaintiff's time
16 and effort in bringing and prosecuting this matter. The Class Representative Enhancement Award
17 shall be paid to Plaintiff from the Gross Settlement Amount no later than fifteen (15) calendar
18 days after the Gross Settlement Amount is fully funded. The Claims Administrator shall issue an
19 IRS Form 1099 — MISC to Plaintiff for his Class Representative Enhancement Award. Plaintiff
20 shall be solely and legally responsible for payment of all applicable taxes on his Class
21 Representative Enhancement Award and shall hold Defendants harmless from any claim or
22 liability for any employee share of taxes, penalties, or interest arising as a result of the Class
23 Representative Enhancement Award. The Class Representative Enhancement Award shall be in
24 addition to Plaintiff's Individual Settlement Payment as a Participating Class Member. In the
25 event that the Court awards a lesser amount than the Class Representative Enhancement Award
26 requested, then any portion of the requested amount not awarded to Plaintiff shall be added to the
27 Net Settlement Amount. Plaintiff shall not have the right to revoke his agreement to the
28 Settlement on the grounds the Court did not approve any or all of his request for a Class

1 Representative Enhancement Award.

2 3.26. Class Counsel Award and Costs. Defendants agree not to oppose or object to any
3 application or motion by Class Counsel for a Class Counsel Award not to exceed Sixty-Five
4 Thousand Dollars (\$65,000.00) and Class Counsel Costs not to exceed Eight Thousand Five
5 Hundred Dollars (\$8,500.00) from the Gross Settlement Amount. The Class Counsel Award and
6 Class Counsel Costs shall be paid no later than fifteen (15) calendar days after the Gross
7 Settlement Amount is fully funded. Class Counsel shall be solely and legally responsible to pay
8 all applicable taxes on the payments made pursuant to this paragraph. The Claims Administrator
9 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this
10 paragraph. This Settlement is not contingent upon the Court awarding Class Counsel any
11 particular amount in attorneys' fees and costs. Any amount requested by Class Counsel for the
12 Class Counsel Award and Class Counsel Costs and not granted by the Court shall be part of the
13 Net Settlement Amount.

14 3.27. PAGA Settlement Allocation. Subject to Court approval, the Parties shall allocate
15 a total of Ten Thousand Dollars (\$10,000.00) from the Gross Settlement Amount for the
16 compromise of claims for civil penalties brought under the PAGA (the "PAGA Allocation"). Per
17 California Labor Code section 2699(i), Seven Thousand Five Hundred Dollars (\$7,500.00),
18 representing seventy-five percent (75%) of the PAGA Allocation, will be paid to California's
19 Labor Workforce Development Agency. The remaining Two Thousand Five Hundred Dollars
20 (\$2,500.00), representing twenty-five percent (25%) of the PAGA Allocation, shall be part of the
21 Net Settlement Amount to be distributed to Similarly Aggrieved Employees as part of their
22 Individual Settlement Payments.

23 3.28. Defendants' Option to Terminate Settlement. If, after the Response Deadline and
24 before the Final Approval Hearing, ten percent (10% or 7 Settlement Class Members) or more of
25 the number of Settlement Class Members submit timely and valid Requests for Exclusion from
26 the Settlement, Defendants shall have, in its sole discretion, the option to terminate this
27 Settlement. Defendants shall exercise its option to terminate, if it wishes, prior to the Final
28 Approval Hearing. If Defendants decide to void the Settlement, then the Settlement and

1 conditional class certification shall be considered void, and neither the Settlement, conditional
2 class certification, nor any of the related negotiations or proceedings, shall be of any force or
3 effect, and the Parties shall stand in the same position, without prejudice, as if this Settlement had
4 been neither entered into nor filed with the Court. Should Defendants void the Settlement under
5 this paragraph, it shall be responsible for all Claims Administration Costs.

6 3.29. Claims Administration Costs. The Claims Administrator shall be paid for the costs
7 of administration of the Settlement from the Gross Settlement Amount. Such costs of
8 administration are not to exceed Five Thousand Dollars (\$5,000.00), unless the court approves a
9 higher amount. No fewer than twenty (20) days prior to the Final Approval Hearing, the Claims
10 Administrator shall provide the Parties with a statement detailing the costs of administration. The
11 Claims Administrator, on Defendants' behalf, shall have the authority and obligation to make
12 payments, credits and disbursements, including payments and credits in the manner set forth in
13 this Settlement, to Participating Class Members and/or Similarly Aggrieved Employees,
14 calculated in accordance with the methodology set out in this Settlement and orders of the Court.
15 The Parties agree to cooperate in the administration of the Settlement and to make all reasonable
16 efforts to control and minimize the costs and expenses incurred in administration of the
17 Settlement. The Parties each represent they do not have any financial interest in the Claims
18 Administrator or otherwise have a relationship with the Claims Administrator that could create a
19 conflict of interest. The Claims Administrator shall be responsible for: processing and mailing
20 all court-approved payments to the Plaintiff, Class Counsel, Participating Class Members and/or
21 Similarly Aggrieved Employees, and the LWDA; printing and mailing the Notice Packets to the
22 Settlement Class Members as called for in this Settlement and ordered by the Court; receiving
23 and reporting Notice of Objections and Requests for Exclusion submitted by Settlement Class
24 Members; providing declaration(s) as necessary in support of preliminary and/or final approval
25 of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Claims
26 Administrator to perform. The Claims Administrator shall keep the Parties timely apprised of the
27 performance of all Claims Administrator responsibilities. Any legally mandated tax reports, tax
28 forms, tax filings, or other tax documents required by administration of this Settlement shall be

1 prepared by the Claims Administrator. Any expenses incurred in connection with such
2 preparation shall be Claims Administration Costs. The Claims Administrator shall be paid the
3 Claims Administration Costs from the Gross Settlement Amount no later than fifteen (15)
4 calendar days after the Gross Settlement Amount is fully funded.

5 3.30. Final Approval Hearing. At a reasonable time following the Response Deadline,
6 the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the
7 Court shall determine amounts properly payable for (i) the Class Counsel Award, (ii) the Class
8 Counsel Costs, (iii) the Class Representative Enhancement Award, (iv) the PAGA Allocation;
9 and (v) the Claims Administration Costs.

10 3.31. Entry of Final Judgment. If the Court approves this Settlement at the Final
11 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the Gross
12 Settlement Amount has been fully funded, with the Court retaining jurisdiction over the Parties
13 to enforce the terms of the judgment. If the Court grants final approval to the Settlement, notice
14 of Final Approval shall be posted on the Claims Administrator's website, at
15 www.phoenixclassaction.com.

16 3.32. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Participating
17 Class Members pursuant to this Settlement will not count as earnings or compensation for
18 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendants. It is
19 expressly understood and agreed that the receipt of Individual Settlement Payment shall not entitle
20 any Participating Class Member to additional compensation or benefits under any collective
21 bargaining agreement or under any bonus, contest or other compensation or benefit plan or
22 agreement in place during the period covered by the Settlement, nor shall it entitle any
23 Participating Class Member to any increased pension and/or retirement, or other deferred
24 compensation benefits. It is the intent of the Parties that Individual Settlement Payments provided
25 for in this Settlement are the sole payments to be made by Defendants to Participating Class
26 Members in connection with this Settlement, with the exception of Plaintiff's Class
27 Representative Enhancement Award as approved by the Court, and that the Participating Class
28 Members are not entitled to any new or additional compensation or benefits as a result of having

1 received the Individual Settlement Payments. Furthermore, the receipt of Individual Settlement
2 Payments by Participating Class Members shall not, and does not, by itself establish any general,
3 special, or joint employment relationship between and among the Participating Class Member(s)
4 and Defendants.

5 3.33. Nullification of Settlement. In the event: (i) the Court does not enter the
6 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of the
7 Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided herein;
8 or (iv) the Settlement does not become final for any other reason, this Settlement shall be null and
9 void and any order or judgment entered by the Court in furtherance of this Settlement shall be
10 treated as void from the beginning. In such a case, the Parties and any funds to be awarded under
11 this Settlement shall be returned to their respective statuses as of the date and time immediately
12 prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this
13 Settlement had not been executed, except that any costs and fees already incurred by the Claims
14 Administrator shall be paid jointly by the Parties. In the event an appeal is filed from the Court's
15 Final Judgment, or any other appellate review is sought, administration of the Settlement shall be
16 stayed pending final resolution of the appeal or other appellate review, and any other payments
17 required hereunder by Defendants will not be paid pending the completion and final resolution of
18 the appeal, and any payment thereafter will: (1) occur only if the Final Judgment is upheld after
19 all appeals; and (2) be in a manner that is provided for in the Settlement and in the Final Judgment.

20 3.34. No Admission by the Parties. Defendants deny any and all claims alleged in this
21 Action and deny all wrongdoing whatsoever. Neither this Settlement, nor any of its terms and
22 conditions, nor any of the negotiations connected with it, is a concession or admission, and none
23 shall be used against Defendants as an admission or indication with respect to any claim of any
24 fault, concession, or omission by Defendants or that class certification is proper under the standard
25 applied to contested certification motions. The Parties stipulate and agree to the certification of
26 the proposed class for settlement purposes only. The Parties further agree that this Settlement will
27 not be admissible in this or any other proceeding as evidence that either: (i) a class action should
28 be certified or (ii) Defendants or the Released Parties are liable to Plaintiff or any Settlement

1 Class Member, other than according to the terms of this Settlement.

2 3.35. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
3 the interpretation, calculation or payment of settlement claims, or other disputes regarding
4 compliance with this Settlement shall be resolved as follows:

5 3.35.1. If Plaintiff or Class Counsel, on behalf of Plaintiff or any Settlement Class
6 Members, or Defendants, at any time believe that the other Party or Parties have
7 breached or acted contrary to the Settlement, that Party shall notify the other Party
8 or Parties through counsel in writing of the alleged violation. Upon receiving
9 notice of the alleged violation or dispute, the responding Party shall have ten (10)
10 calendar days to correct the alleged violation and/or respond to the initiating Party
11 through counsel with the reasons why the Party disputes all or part of the
12 allegation.

13 3.35.2. If the response does not address the alleged violation to the initiating
14 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10)
15 calendar days to resolve their differences.

16 3.35.3. If thereafter, the Parties still cannot resolve the dispute, the Parties shall
17 utilize the services of Jill Sperber (Mediator) in a good-faith attempt to mediate
18 and resolve the dispute.

19 3.35.4. If the Parties are unable to resolve their differences after twenty (20)
20 additional calendar days, either Party may file an appropriate motion for
21 enforcement with the Court.

22 3.36. Exhibits and Headings. The terms of this Settlement include the terms set forth in
23 Exhibits A and B, which are attached to this Settlement and incorporated by this reference as
24 though fully set forth in this paragraph. Any Exhibits to this Settlement are an integral part of the
25 Settlement. The descriptive headings of any paragraphs or sections of this Settlement are inserted
26 for convenience of reference only and do not constitute a part of this Settlement.

27 3.37. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
28 Action and thereafter implement and complete the Settlement.

1 3.38. Amendment or Modification. This Settlement may be amended or modified only
2 by a written instrument signed by all the Parties and counsel for all Parties or their successors-in-
3 interest.

4 3.39. Entire Settlement. This Settlement and any attached Exhibits constitute the entire
5 agreement among these Parties, and no oral or written representations, warranties or inducements
6 have been made to any Party concerning this Settlement or its exhibits, other than the
7 representations, warranties and covenants contained and memorialized in the Settlement and its
8 exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding
9 on the Parties with respect to the matters resolved herein.

10 3.40. Authorization to Enter into Settlement. Counsel for all Parties warrant and
11 represent they are expressly authorized by the Parties whom they represent to negotiate this
12 Settlement and to take all appropriate actions required or permitted to be taken by such Parties
13 pursuant to this Settlement to effectuate its terms, and to execute any other documents required
14 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each
15 other and use their best efforts to affect the implementation of the Settlement. In the event the
16 Parties are unable to reach agreement on the form or content of any document needed to
17 implement the Settlement, or on any supplemental provisions that may become necessary to
18 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
19 such disagreement. The person signing this Settlement on behalf of Defendants, represents and
20 warrants that he or she is authorized to sign this Settlement on behalf of Defendants. Plaintiff
21 represents and warrants that he is authorized to sign this Settlement and that he has not assigned
22 any claim, or part of a claim, covered by this Settlement.

23 3.41. Binding on Successors and Assigns. This Settlement shall be binding upon, and
24 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

25 3.42. No Prior Assignments. The Parties and their counsel represent, covenant, and
26 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
27 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
28 action, cause of action or right herein released and discharged.

1 3.43. California Law Governs. All terms of this Settlement and the exhibits hereto shall
2 be governed by and interpreted according to the laws of the State of California.

3 3.44. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
4 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
5 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
6 present and potential.

7 3.45. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
8 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,
9 implementation, and enforcement of the terms of this Settlement and all orders and judgments
10 entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction
11 of the Court for purposes of interpreting, implementing, and enforcing this Settlement and all
12 orders and judgments entered in connection therewith.

13 3.46. Invalidity of Any Provision. Before declaring any provision of this Settlement
14 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent
15 possible, consistent with applicable precedents.

16 3.47. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
17 class certification for purposes of this Settlement only.

18 3.48. Cooperation. The Parties agree to cooperate fully with one another to accomplish
19 and implement the terms of this Settlement. Such cooperation shall include, but not be limited
20 to, execution of such other documents and the taking of such other action as may be reasonably
21 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their best
22 efforts, including all efforts contemplated by this Settlement and any other efforts that may
23 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

24 3.49. Publicity. Plaintiff and Class Counsel agree that they will not issue any press
25 releases, initiate any contact with the press, respond to any press inquiry, or have any
26 communication with the press about the Action and/or the fact, amount, or terms of the
27 Settlement. However, for marketing purposes, Class Counsel may refer to the settlement amount
28 and the nature of the case without identifying any of the Parties directly or indirectly. Before the



1 date of the filing of the motion for preliminary approval of the Settlement, Plaintiff and Class
2 Counsel will not initiate any contact with Settlement Class Members about the Settlement, except
3 that: (a) Class Counsel, if contacted by a Settlement Class Member, may respond that a settlement
4 has been reached and that the details will be communicated in a forthcoming Court-approved
5 notice; and (b) Plaintiff, if contacted by a Settlement Class Member, may respond only that the
6 Settlement Class Member should contact Class Counsel. Neither Plaintiff nor Class Counsel shall
7 hold a press conference or otherwise seek to affirmatively contact the media about the Settlement.
8 If contacted by the media regarding the Settlement, Class Counsel shall state, "It is a fair
9 settlement, and we are happy with the results." Additionally, no Party or their counsel shall
10 disparage the Settlement. Nothing in this paragraph shall prevent Class Counsel from carrying
11 out their duties.

12 3.50. Non-Disparagement. Plaintiff agrees and promises that he will not undertake or
13 engage in any harassing or disparaging conduct directed at Released Parties and that he will
14 refrain from making any negative, detracting, derogatory, or unfavorable statements about
15 Released Parties. Plaintiff further agrees he will not act in any manner that damages the operation
16 or reputation of Released Parties. To the extent permitted by law, Plaintiff agrees that he will not
17 counsel or assist any attorneys or clients in the presentation or prosecution of any disputes and/or
18 differences by any third party against Released Parties unrelated to this Action unless pursuant to
19 a lawfully issued subpoena or other order by a court or agency of competent jurisdiction.

20 Plaintiff acknowledges that a breach of any of the covenants set forth in this paragraph
21 will cause substantial harm to the Released Parties, including but not limited to, the cost of
22 prosecuting any claims against Plaintiff. Plaintiff also acknowledges that it is impracticable to
23 accurately calculate such harm. Therefore, Plaintiff agrees that any breach by him of the
24 obligations under this paragraph shall entitle the Released Parties to reasonable liquidated
25 damages in the sum of One Thousand Five Hundred Dollars (\$1,500.00) for each breach. Plaintiff
26 agrees this provision is fair and reasonable because the actual damages that would be suffered as
27 the result of any such breach would be difficult to ascertain. In order to recover under this section,
28 it must be proven in a Court of competent jurisdiction in California that Plaintiff breached this

1 provision by way of a judicial finding. Nothing in this paragraph is intended to or shall prevent
2 Plaintiff from carrying out his duties as the class representative in this Action.

3 3.51. Neutral Employment Reference. Plaintiff agrees to direct any employment
4 references to the Sturgeon's Human Resources Department. In response to any such inquiry,
5 Sturgeon agrees to direct its Human Resources to provide the following information: (i) dates of
6 employment; and (ii) last position held.

7 3.52. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
8 and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly
9 against one party than another merely by virtue of the fact that it may have been prepared by
10 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
11 between the Parties, all Parties have contributed to the preparation of this Settlement.

12 3.53. Representation by Counsel. The Parties acknowledge that they have been
13 represented by counsel throughout all negotiations that preceded the execution of this Settlement,
14 and that this Settlement has been executed with the consent and advice of counsel, and reviewed
15 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
16 Settlement Agreement.

17 3.54. All Terms Subject to Final Court Approval. All amounts and procedures described
18 in this Stipulation are subject to final Court approval.

19 3.55. Notices. Unless otherwise specifically provided, all notices, demands or other
20 communications in connection with this Settlement shall be: (1) in writing; (2) deemed given on
21 the third business day after mailing; and (3) sent via United States registered or certified mail,
22 return receipt requested, addressed as follows:
23
24
25
26
27
28



To Plaintiff:

Kevin Mahoney, Esq.
kmahoney@mahoney-law.net
John Young, Esq.
jyoung@mahoney-law.net
MAHONEY LAW GROUP, APC
249 East Ocean Boulevard, Suite 814
Long Beach, CA 90802
Telephone: (562) 590-5550
Facsimile: (562) 590-8400

To Defendants:

Christopher C. Hoffman
E-Mail: choffman@fisherphillips.com
Phillip G. Simpler
E-Mail: psimpler@fisherphillips.com
FISHER & PHILLIPS LLP
4747 Executive Drive, Suite 1000
San Diego, California 92121
Telephone: (858) 597-9600
Facsimile: (858) 597-9601

3.56. Execution by Settlement Class Members. It is agreed that it is impossible or impractical to have each Settlement Class Member execute this Settlement. The Notice of Settlement will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if each Settlement Class Member executed this Settlement.

3.57. Execution by Plaintiff and Defendants. Plaintiff and Defendants, by signing this Settlement, are bound by the terms herein.

3.58. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

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3.59. Counterparts. This Settlement shall become effective upon its execution by all of the undersigned. Plaintiff, Class Counsel, Defendants, and Defense Counsel may execute this Settlement in counterparts, and execution of counterparts shall have the same force and effect as if each had signed the same instrument. Copies of the executed Settlement shall be effective for all purposes as though the signatures contained therein were original signatures.

2/8/2021

Dated: January _____, 2021

DocuSigned by:

679468E7F5AF45A
By: _____
Magno Portilla

~~Dated: January~~ FEB. 10, 2021

By: 
Name: KEVIN NELSON
Title: OPERATIONS MANAGER

Defendant STURGEON ELECTRIC
CALIFORNIA, LLC

~~Dated: January~~ Feb 11, 2021

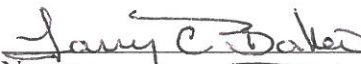
By: 
Name: Larry C Baker
Title: Group Vice President
Defendant MYR GROUP, INC.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

If you have worked for Sturgeon Electric California, LLC or MYR Group, Inc. as an Hourly Non-Exempt Employee in California as members of the International Brotherhood of Electrical Workers Local 11 union at any time from February 21, 2016, to [DATE OF PRELIMINARY APPROVAL], you could receive money from a proposed class action settlement.

A Court authorized this Notice. This is not a solicitation from a lawyer.

- A proposed settlement has been reached in a class and representative action lawsuit that affects your rights.
- The settlement resolves a class and representative action lawsuit against Sturgeon Electric California, LLC and MYR Group, Inc. (“Defendants”) alleging that Defendants failed to all pay minimum and overtime wages, failed to authorize and permit meal and rest periods, failed to pay all wages timely and upon termination, failed to keep accurate records, failed to reimburse business expenditures, and failed to provide accurate wage statements.
- The Court has not decided whether to finally approve the settlement. Payments will be made only after the Court approves the settlement and, in case of an appeal, when the appeal is resolved.
- The decision whether to participate in, request to be excluded from, or object to the settlement is entirely yours. Defendants will not retaliate against anyone for participating (or not participating) in the settlement.

YOUR RIGHTS AND OPTIONS REGARDING THE SETTLEMENT	
DO NOTHING AND RECEIVE YOUR SHARE OF THE SETTLEMENT AWARD	Do nothing. Automatically receive your settlement award. Release the wage and hour claims referenced herein. See Sections 24-25 below for more information about your settlement award. See Section 26 below for more information about the release.
REQUEST TO BE EXCLUDED FROM THE SETTLEMENT	Ask to be excluded. Receive no payment. See Section 11 below.
OBJECT TO THE TERMS OF THE SETTLEMENT	Serve an objection that the settlement is unfair or inadequate. See Section 12 below.

Please read this Notice carefully. It describes your rights, and the steps you have to take, if any, to receive money from the settlement or to exclude yourself from the settlement.

BASIC INFORMATION

1. Why did I receive this Notice?

Defendants' employment records show that you were employed as an hourly non-exempt employee and have worked at least one shift for Defendants since February 21, 2016. A settlement has been reached in a class and representative action lawsuit against Defendants that affects your rights. The Superior Court of California, County of San Bernardino, which is overseeing this class action, ordered that you be sent this Notice.

2. What is this class and representative action about?

This putative class and the Labor Code Private Attorneys General Act ("PAGA") representative action, known as *Portilla v. MYR Group, Inc., et al.*, Case No. CIVDS2005484 ("Lawsuit"), alleges that Defendants did not pay wages owed, did not authorize and permit meal and rest periods, did not pay all wages on time during employment or at termination, did not keep accurate and complete records, engaged in unfair business practices, failed to reimburse for necessary business expenditures, and did not provide accurate wage statements.

3. What do Defendants contend?

Defendants deny all of the allegations in the Lawsuit. Defendants contend that it has complied with all of its legal obligations. Defendants also contend that the Lawsuit could not be maintained as a class action or representative action if it was litigated.

4. What is a class action and who is involved?

In a class and representative action lawsuit, one or more people called "Class Representatives" sue on behalf of other people who have similar claims. The Class Representative in this lawsuit is Magno Portilla. The employees he represents are the "Class Members." MYR Group, Inc. and Sturgeon Electric California, LLC are called the "Defendants." One Court resolves the issues for everyone in the Class, except for those people who request to exclude themselves from the Class.

5. Why is this lawsuit being settled?

After settlement negotiations with a neutral mediator and the exchange of information and documents, the Class Representative and Defendants have agreed to settle this case. The settlement represents a compromise of disputed claims and is not an admission that Defendants

violated the law. The Class Representative and his attorneys believe the settlement is in the best interests of the Class given the risks and expense.

6. Has the Court decided who is right?

No. The Court has not decided anything yet, only that you should get a copy of this Notice so that you can review the settlement and determine whether you want to participate in the settlement, object to it, or exclude yourself from the settlement.

7. Who is the Settlement Administrator?

The Settlement Administrator is a third party appointed by the Court to send this Notice, process and issue settlement checks, and otherwise administer the settlement. You may contact the Settlement Administrator to provide updated contact information, make corrections regarding your employment information at Defendants, or ask questions regarding the processing of settlement awards. You may contact the Settlement Administrator at:

Phoenix Settlement Administrators

Attn: Portilla v. MYR Group, Inc. and Sturgeon Electric California, LLC Class Action
Settlement

P.O. Box 7208

Orange, California 92863

Telephone No: 800-784-2174

YOUR RIGHTS AND OPTIONS

8. Am I part of this Class?

In preliminarily approving the settlement, the Court has defined the Class to include all current and former non-exempt employees who worked for Defendants within the State of California as members of the International Brotherhood of Electrical Workers Local 11 union at any time from February 21, 2016 to [Date of Preliminary Approval], and who do not otherwise opt-out of the lawsuit. Records indicate that you are a “Class Member.” (If you do not want to be part of this case, read Section 11 below).

“PAGA Member” means all current and former non-exempt employees who worked for Defendants within the State of California as members of the International Brotherhood of Electrical Workers Local 11 union at any time from February 20, 2019 to [Date of preliminary approval]

9. What does the settlement provide?

The parties have agreed to create a settlement fund to be divided among all Class Members, as discussed below. In return, Class Members who do not timely request to be excluded from the Class will release wage and hour claims they might have against Defendants that were or could have been raised based on the allegations in the lawsuit. For more information about your estimated payment out of the settlement fund and the way it was calculated, see Sections 24-25 below. For more information about the claims being released as part of the settlement, see Section 26 below.

10. How do I participate in the settlement?

You do not need to do anything to participate. You will automatically receive a settlement payment and release claims against Defendants and other released parties unless you request to be excluded from the settlement.

11. How do I request to be excluded from the settlement?

If you wish to be excluded from the settlement, you must write the Settlement Administrator at the address specified above in Section 7 and request to be excluded. Your request must include: (1) your name, (2) the last four digits of your social security number or Employee ID number, (3) your address, (4) your telephone number, (5) your written statement that you request to be excluded from the Settlement, and (6) your dated signature. An optional Request to be Excluded from Settlement form is enclosed. **To be effective, your request must be postmarked or received by the Settlement Administrator via facsimile no later than <<date>>.**

If you do not complete and timely mail a valid request to be excluded from the settlement, you will be bound by all terms and conditions of the settlement, including its release of claims. If you do submit a timely and valid request to be excluded, you will not receive any money from the settlement and will not be bound by its release of claims.

If you are a PAGA Member, you will, however, receive your portion of the PAGA Member Payment.

12. May I object to the settlement?

If you believe the settlement is unfair or inadequate, you may object, personally or through an attorney at your own expense, by mailing a copy of your objection to the Settlement Administrator at the address set forth above in Section 7. You cannot object to the settlement **and** exclude yourself from the settlement.

Your objection must include: (1) your name; (2) your dates of employment with Defendants; (3) the last four digits of your social security number or Employee ID number; (4) all factual and legal reasons why you object to the settlement; (5) a list of any documents or witnesses you contend support your objection, (6) your dated signature, and (7) whether you intend to appear

at the Final Approval Hearing. **To be effective, your objection must be postmarked or received by the Settlement Administrator via facsimile no later than <<date>>.**

If the Court rejects your objection, you will be bound by the terms of the settlement and you will not be able to exclude yourself from the settlement.

PAGA Members cannot opt-out or object to the release and or settlement amount received as a PAGA Member.

13. When is the final approval hearing?

A final approval hearing on the fairness and adequacy of the proposed settlement will be held on _____, at ____:00 __.m. in Department 26 of the Superior Court of California for the County of San Bernardino, located at 247 West Third Street, San Bernardino, CA 92415. The final approval hearing may be continued without further notice. If the settlement is not approved, the lawsuit will continue, and the proposed settlement will be void in its entirety.

14. When will I receive my payment?

Payments will be sent after the Court gives the settlement its final approval, unless an appeal is filed. If an appeal is filed, payments will be delayed until all appeals are finally resolved in favor of the settlement.

Defendants shall fully fund the Gross Settlement Amount within twenty-one (21) days after the Final Approval Date. The Claims Administrator shall mail the individual settlement payments fifteen (15) calendar days after the Gross Settlement Amount is fully funded.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

The Court has determined that Kevin Mahoney and John Young of the Mahoney Law Group are qualified to represent you and all Class Members. Lawyers for this firm are called "Class Counsel." They are experienced in handling similar cases. Their contact information is at the end of this Notice.

16. May I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. Nonetheless, you may hire your own lawyer if you wish. If you hire your own lawyer, however, you are responsible for paying that lawyer.

17. How will Class Counsel be paid?

You do not have to pay Class Counsel's fees and costs. The fees and costs that the Court approves will be paid out of the gross settlement amount. More information about the attorneys' fees and costs is contained in Section 20 below.

TERMS OF THE SETTLEMENT

18. What have Defendants agreed to do?

Defendants have agreed to pay a total of \$195,000.00 (the "Gross Settlement Amount"), which includes the payments to the Class Members, the Class Representative Payment, Class Counsel's Attorney's Fees and Costs, the Labor Code Private Attorneys General Act Payment ("PAGA Payment"), and the Settlement Administrator's fees and costs incurred in administering the settlement. The "Net Settlement Fund" that will be distributed to the Class Members is the amount of the Gross Settlement Amount, minus the Class Representative Payment, the Class Counsel's Fees and Costs Payment, 75% of the PAGA Payment to be paid to California's Labor and Workforce Development Agency ("LWDA"), and the Settlement Administrator's Payment.

19. What is a "Class Representative Payment"?

In class and representative actions such as this one, a Court may provide the class representative a "Class Representative Payment" in recognition of the time, effort, and risks the class representative took to prosecute the class action. In the present case, the settlement provides that Plaintiff Magno Portilla will request the Court approve a Class Representative Payment to him of up to \$5,000.00.

20. How much will the attorneys get?

Class Counsel will ask the Court to receive up to \$65,000.00 or one-third of the Gross Settlement Amount to pay for their attorneys' fees incurred in connection with their work in this case, together with up to \$8,500.00 in reasonable costs incurred. Class Members are not personally liable for any fees and costs.

21. How much will it cost to administer the Settlement?

It is estimated that it will cost approximately up to \$5,000.00 to fully administer the settlement. All settlement administration costs will be paid from the Gross Settlement Amount.

22. How will the Settlement Fund be distributed to Class Members?

The Net Settlement Fund will be distributed to Class Members as follows:

- The Net Settlement Fund will be distributed to all Participating Class Members "pro rata" in proportion to the number of workweeks each Class Member worked

on or from February 21, 2016, through the [date of preliminary approval] (the “Class Period”) in relation to the total number of workweeks of all Participating Class Members during the Class Period.

- If any settlement checks are not cashed within 180 calendar days after mailing, that money will be paid to the California State Controller in the name of the Class Member who did not cash his or her settlement check.

PAGA Members will receive an additional amount based on a pro rata per workweek basis from February 20, 2019 to [Date of preliminary Approval] (“PAGA Period”). The Claims Administrator will add the number of workweeks worked by PAGA members and distribute the PAGA allocation amount to each PAGA Member based on the workweeks worked during the PAGA Period to arrive at the gross Individual Settlement Payment for each PAGA Member. PAGA Members cannot opt-out or object to the release and or settlement amount received as a PAGA Member.

23. Will I have to pay taxes on my award?

Twenty percent (20%) of your settlement payment, aside from the PAGA payment, will be considered to be wages and will be reported on an IRS Form W-2 with all appropriate taxes withheld. The remaining eighty percent (80%) of your settlement payment and PAGA payment will be reported on an IRS Form 1099 representing payment of interest and penalties.

You should consult a tax professional for more information about your own specific situation.

24. How will my share of the settlement be calculated?

Your share of the settlement will be calculated pro-rata based on the number of workweeks you worked as a Class Member on and from February 21, 2016, through the [date of preliminary approval]. See Section 22 above.

According to Defendants records:

- You worked ____ workweeks between February 21, 2016, and the [date of preliminary approval] during the Class Period.

If the information above is incorrect and you wish to correct the information, you must submit a signed, written statement explaining why you dispute this information. Attach copies (not originals) of any relevant documents supporting your dispute. You must mail the signed and completed statement to the Settlement Administrator at the address set forth above in Section 7 no later than <<date>>. **If your signed and completed statement is not postmarked by this date, you will not be able to dispute the calculation of your settlement share.** After consultation with you and Defendants, the Settlement Administrator will make a final determination that you will not be able to appeal.

25. What is my estimated share of the settlement?

Based on the records supplied to the Settlement Administrator, your **estimated** settlement award is \$ _____. Please note that this amount may change depending on various factors, including the number of Class Members, if any, who request to be excluded from the settlement.

RELEASE OF CLAIMS

26. What claims are being released as part of the settlement?

Upon final approval of the settlement by the Court, if you do not validly opt out, then you and your heirs, spouses, executors, administrators, attorneys, agents, representatives, predecessors, successors and assigns will forever release, acquit, and discharge, and covenant not to sue Defendants, including its past and present divisions, affiliates, affiliated entities, related entities, parents, subsidiaries, joint ventures, predecessors, successors, members, assigns, and their respective shareholders, owners, officers, managers, employees, consultants, directors, employees, agents, trustees, attorneys, insurers, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies, (collectively the “Released Parties” and each a “Released Party”) from liability for the following claims, which are being released for the time period February 21, 2016, through [date of preliminary approval]: All claims and causes of action alleged or that could have been alleged based on the facts set forth in the Lawsuit against Defendants. These claims include, but are not limited to: (1) Any claims for unpaid wages or untimely payment of wages - including minimum wages, overtime wages, unreimbursed business expenses, and claims for interest, penalties (including, but not limited to, waiting time penalties), or premiums in connection therewith, as well as any claims under the California Labor Code, California Wage Orders, alleged or which could have been alleged under the facts pleaded in the Lawsuit; (2) Any claims for failure to comply with the employee itemized wage statement provision under California Labor Code section 226; (3) Any claims for failure to keep accurate payroll records; (4) Any claims for failure to provide or make available rest periods as required under California Labor Code section 512 and applicable IWC Wage Orders; (5) Any claims for failure to provide or make available meal periods as required under California Labor Code section 512 and applicable IWC Wage Orders; (6) Any claims for failure to reimburse for necessary business expenditures; (7) Any claims under California Business and Professions Code section 17200, *et seq.*; (8) Any claims for penalties under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.* (“PAGA”); and (9) Any and all other claims under California or federal common law, the California Labor Code, California Wage Orders, the California Business and Professions Code, or any related federal laws or regulations asserted in or that could have been asserted based on the facts set forth in Lawsuit, as well as any and all damages, restitution, disgorgement, civil penalties, statutory penalties, taxes, interest or attorneys’ fees resulting therefrom (“Released Claims”). Your release will be effective when the Gross Settlement Amount is fully funded by Defendants.

Note, because the PAGA Members will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims, upon approval of the PAGA Payment, the PAGA Members shall be deemed to have released the PAGA Claims for the civil and statutory penalties, interest, liquidated damages, attorney’s fees and costs under PAGA.

This release does not apply to claims for workers' compensation benefits, unemployment insurance benefits, or any other claim or right that as a matter of law cannot be waived or released.

FINAL SETTLEMENT APPROVAL HEARING

27. When will the Court consider whether to finally approve the settlement?

The Court will hold a hearing in Department 26 of the Superior Court of California for the County of San Bernardino, located at 247 West Third Street, San Bernardino, CA 92415, on _____, at _:00_.m., to decide whether to finally approve the settlement. At that time, the Court will also decide whether to approve Class Counsel's request for attorneys' fees and reimbursement of costs, the Class Representative Payment, the PAGA Payment, and the Settlement Administrator's payment.

It is not necessary for you to appear at this hearing. You may appear and speak at the hearing if you want to do so, remotely or in-person. You can arrange for a remote appearance through the San Bernardino County Superior Court website. Any attorney who will represent you must file a notice of appearance with the Court and serve the notice of appearance on Class Counsel and counsel for Defendants on or before _____, (one week before the hearing). You will be solely responsible for the fees and costs of your own attorney.

The Final Settlement Approval hearing may be postponed without further notice to the Class. If the settlement is not approved, the lawsuit will continue. Notice of the final judgment will be posted on the Settlement Administrator's website.

FURTHER INFORMATION

28. How do I get more information?

This notice summarizes the Settlement. More details are in the Settlement Agreement. In order to view documents related to this case and Settlement Agreement, please make an appointment at the Clerk's Office and comply with all social distancing requirements in effect at the Courthouse, if you choose to appear in person. In addition, you may contact Class Counsel or the Claims Administrator for more information. If your address changes, or is different from the one on the envelope enclosing this Notice, please promptly notify the Claims Administrator at (INSERT ADMINISTRATOR'S PHONE NUMBER).

If you have more questions about this Notice or the lawsuit, you can contact Class Counsel at:

Kevin Mahoney
John Young
MAHONEY LAW GROUP, APC
249 E. Ocean Boulevard, Suite 814
Long Beach, California 90802
Telephone: (562) 590-5550

Fax: (562) 590-8400

Email: kmahoney@mahoney-law.net
jyoung@mahoney-law.net

**PLEASE DO NOT TELEPHONE OR WRITE THE COURT, THE OFFICE OF THE
CLERK, DEFENDANT OR ITS COUNSEL FOR INFORMATION REGARDING THIS
SETTLEMENT.**

[ENVELOPE FOR MAILING CLASS NOTICE]

(Name of Settlement
Administrator
Street Address
City, State, Zip)

«Name»
«Address»
«City»,«State»
«Zipcode»

**Court-Ordered Class Action Notice Inside
Your Rights Could Be Affected by a Class Action
Settlement in *Magno Portilla v. MYR Group, Inc.*
and *Sturgeon Electric California LLC*.**

EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MAGNO PORTILLA, as an individual, and
on behalf of all similarly situated employees,

Plaintiff,

v.

MYR GROUP, INC.; STURGEON
ELECTRIC CALIFORNIA, LLC; and
DOES 1-50, inclusive,

Defendants.

CASE NO. CIVDS2005484
[Hon. David Cohn, Dept. 26]

**REQUEST TO BE EXCLUDED FROM
SETTLEMENT¹**

**ONLY COMPLETE THIS FORM IF YOU *DO NOT* WANT TO RECEIVE RECOVERY
FROM THE SETTLEMENT**

Name: _____

Address: _____

Telephone: _____

Last 4 Digits of SSN or Employee ID Number: _____

I wish to be excluded from the Settlement of the case *Portilla v. MYR Group, Inc., et al.*, Case No. CIVDS2005484, currently pending in the Superior Court of the State of California, County of San Bernardino. I understand by signing below I will not receive any payment from this Settlement and will not be releasing any claims at issue in this action.

Dated: _____

(signature)

If you wish to be excluded from the Settlement, please complete and sign this Request for Exclusion form and mail it to *Portilla v. MYR Group, Inc., et al.*, Case No. CIVDS2005484, c/o Phoenix Class Action Administration at P.O. Box 7208, Orange, CA 92863 no later than **[DATE set by Court]**.

¹ **DO NOT SUBMIT THIS FORM IF YOU WISH TO RECEIVE A SETTLEMENT PAYMENT.**