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MERCED COUNTY

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CLERK OF THE SUPERIOR COURT
[Signature]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED

JUAN GOMEZ, individually, and on behalf of
other members of the general public similarly
situated;

Plaintiff,

v.

IHI POWER SERVICES CORP., a Delaware
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 20CV-02657

Honorable Brian McCabe
Courtroom 8

CLASS ACTION

~~PROPOSED~~ ORDER OF FINAL
APPROVAL AND JUDGMENT

Hearing Date: March 28, 2022
Hearing Time: 8:15 a.m.
Hearing Place: Courtroom 8

Complaint Filed: September 11, 2020
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Juan Gomez's ("Plaintiff") Motion
2 for Final Approval of Class Action Settlement, Attorney Fee Award, Cost Award, and Class
3 Representative Enhancement Payment, and after considering the papers submitted in support of the
4 motion, including the Joint Stipulation and Settlement Agreement ("Settlement Agreement,"
5 "Settlement," or "Agreement"), hereby FINDS AND ORDERS as follows:

6 Plaintiff and Defendant IHI Power Services Corp. ("Defendant") entered a Settlement
7 Agreement on or about October 21, 2021 to settle this class action lawsuit.

8 The Court entered an Order dated December 20, 2021 preliminarily approving the settlement
9 of this class action lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
10 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
11 Members, scheduling a Fairness Hearing for March 28, 2022, and providing Class Members with an
12 opportunity to object to the Settlement or exclude themselves from the Class.

13 The Court held a Fairness Hearing on March 28, 2022 to determine whether to give final
14 approval to the settlement of this class action.

15 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
16 ("Order and Judgment") incorporates the Agreement. Unless otherwise provided herein, all capitalized
17 terms in this Order and Judgment shall have the same meaning as set forth in the Agreement.

18 2. Jurisdiction. Because adequate notice has been disseminated, and all Class Members
19 have been given the opportunity to request exclusion from the Class, the Court has personal
20 jurisdiction with respect to the claims of all Class Members. The Court has subject matter jurisdiction
21 over this class action, including jurisdiction to approve the Settlement, grant final certification of the
22 Class, and dismiss this case.

23 3. Final Class Certification. The Court finds that the Class satisfies all applicable
24 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due process.
25 Accordingly, the Court certifies a Class consisting of all persons who worked for Defendant in
26 California as an hourly-paid or non-exempt employee during the time period from April 6, 2016
27 through September 23, 2021 ("Class," "Class Members," and "Class Period"). There are currently one
28

1 hundred eighty (180) Class Members who did not submit a valid and timely request to exclude
2 themselves from the class action Settlement (“Participating Class Members”)¹.

3 4. Adequacy of Representation. As Class Counsel, Douglas Han, Shunt Tatavos-
4 Gharajeh, and Phillip Song of the Justice Law Corporation have fully and adequately represented the
5 Class for purposes of entering and implementing the Settlement and have satisfied the requirements of
6 Code of Civil Procedure section 382.

7 5. Notice Packet. The Court finds that the Notice of Class and Representative Action
8 Settlement (“Class Notice”) and the Election Not To Participate In (Opt Out From) Class Action
9 Settlement Form (“Exclusion Form”) (collectively, known as the “Notice Packet”) and its distribution
10 to Class Members have been implemented pursuant to the Settlement Agreement and this Court’s
11 Preliminary Approval Order and that it:

12 a. constitute the best practicable notice to Class Members under the circumstances
13 of this case;

14 b. constitute notice that was reasonably calculated, under the circumstances, to
15 apprise Class Members of: (i) the pendency of this case; (ii) the material terms and provisions of the
16 Settlement and their rights under the Settlement; (iii) their right to object to any aspect of the
17 proposed Settlement (including final certification of the Class, the fairness, reasonableness and
18 adequacy of the settlement, the adequacy of the Class’s representation by Plaintiff and Class Counsel,
19 and/or the award of Plaintiff’s Class Representative Enhancement Payment, Attorney Fee Award, and
20 Cost Award); (iv) their right to exclude themselves from the Class and the Settlement; (v) their right
21 to claim an Individual Settlement Share; (vi) their right to appear at the Settlement Fairness Hearing;
22 and (vii) the binding effect of the orders and judgment in this case, whether favorable or unfavorable,
23 on all Participating Class Members;

24 c. constitute notice that was reasonable, adequate, and sufficient to all Class
25 Members; and

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28 ¹ Simpluris mailed Notice Packets to one hundred eighty-one (181) Class Members and received
one (1) request for exclusion. Consequently, there are one hundred eighty (180) Participating Class

1 d. constitute notice that fully satisfied the requirements of Code of Civil Procedure
2 section 382, California Rule of Court 3.769, and due process.

3 6. Final Settlement Approval. The terms and provisions of the Settlement Agreement
4 have been entered in good faith and are the product of arm's-length negotiations by experienced
5 counsel who have done a meaningful investigation of the claims in the dispute. The Settlement
6 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable, adequate,
7 and in the best interests of the Parties. The Parties are hereby directed to implement the Settlement
8 Agreement according to its terms and provisions.

9 7. Binding Effect. The terms and provisions of the Settlement Agreement and this Order
10 and Judgment are binding on the Participating Class Members, as well as their heirs, executors and
11 administrators, successors, and assigns, and those terms shall have res judicata and other preclusive
12 effect in all pending and future claims, lawsuits or other proceedings maintained by or on behalf of
13 any such persons, to the extent those claims, lawsuits, or other proceedings involve matters that were
14 or could have been raised in this case and are encompassed by the release of the Participating Class
15 Members' Released Claims as set forth in the Settlement Agreement. The Settlement Agreement will
16 have no binding effect upon, and provide no res judicata preclusion to, those Class Members who have
17 submitted requests for exclusion.

18 8. Released Claims. Upon Defendant's fulfillment of its payment obligations under
19 section III(H)(8)(a) of the Agreement, in exchange for the consideration set forth in the Agreement,
20 Plaintiff and the Participating Class Members release the Released Parties from the Released Claims
21 arising during the Class Period ("Released Claims").

22 a. PAGA Released Claims. Upon Defendant's fulfillment of its payment obligations
23 under section III(H)(8)(a) of the Agreement, the California Labor and Workforce
24 Development Agency ("LWDA") and each Eligible Aggrieved Employee, including
25 Plaintiff, individually and on behalf of his heirs, executors, administrators,
26 representatives, attorneys, successors and assigns voluntarily and knowingly are barred
27 from bringing any action for the Private Attorneys General Act of 2004 ("PAGA")
28

Members.

Released Claims during the PAGA Period. The release of the PAGA Released Claims is effective, regardless of whether the Eligible Aggrieved Employee submits a timely and valid request for exclusion.

b. Plaintiff's Release of Claims and General Release. Upon Defendant's fulfillment of its payment obligations under section III(H)(8)(a) of the Agreement, and in exchange for the Class Representative Enhancement Payment to the Plaintiff in amounts not to exceed \$10,000, in recognition of his work and efforts in obtaining the benefits for the Class, and undertaking the risk for the payment of costs in the event this matter had not successfully resolved, Plaintiff provides a general release of claims for himself and his spouse, heirs, successors and assigns. Plaintiff's Release of Claims also includes a waiver of Civil Code section 1542.

c. Released Parties. The Released Parties include Defendant and its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, attorneys, and any entities that may be considered joint employers ("Released Parties").

9. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude any action to enforce the terms and provisions of the Settlement Agreement.

10. Plaintiff's Class Representative Enhancement Payment. The Court finds that the Class Representative Enhancement Payment of \$10,000, to be paid by Defendant to Plaintiff out of the Maximum Settlement Amount, to be reasonable and appropriate. Plaintiff's Class Representative Enhancement Payment is to be paid pursuant to the terms and provisions set forth in the Agreement.

a. The rationale for making enhancement payment is that the class representative should be compensated for the expense and risk he has incurred in conferring a benefit on other class members. Such an enhancement payment is appropriate if it is necessary to induce individuals to participate in the suit. Criteria courts may consider include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the

1 amount of time and effort spent by the class representative; (4) the duration of the
2 litigation; and (5) personal benefit (or lack thereof) enjoyed by class representative.

3 b. The Court has reviewed Plaintiff's declaration outlining his involvement in the lawsuit.

4 Given the risks inherent in serving as the Class Representative, the duration of the case
5 and time involved, and benefits created for the Class, the Court approves the Class
6 Representative Enhancement Payment in the sum of \$10,000 to Plaintiff.

7 11. Attorney Fee Award and Cost Award. The Court finds an award of an Attorney Fee
8 Award of \$122,500, to be paid out of the Maximum Settlement Amount by Defendant to Class
9 Counsel, to be reasonable and appropriate. The Court further finds that an award of a Cost Award for
10 the reimbursement of actual litigation costs in the sum of \$12,629.85, to be paid by Defendant to Class
11 Counsel out of the Maximum Settlement Amount, to be reasonable and appropriate. Such fees and
12 costs are to be paid pursuant to the terms and provisions set forth in the Settlement. Defendant shall
13 not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
14 Class Counsel or any other counsel representing Plaintiff or Class Members, or incurred by Plaintiff or
15 Class Members, in connection with or related in any manner to this case, the Settlement, the
16 administration of the Settlement, and/or the Participating Class Members' Released Claims.

17 a. The Court has an independent right and responsibility to review the requested Attorney
18 Fee Award and only award so much as it determines reasonable. (See *Garabedian v.*
19 *Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The
20 Attorney Fee Award requested by Class Counsel in the sum of \$122,500 is thirty-five
21 percent (35%) of the common fund created for the benefit of the Class Members and is
22 supported by use of the percentage-fee method. (See *Laffitte v. Robert Half*
23 *International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the excellent results
24 achieved for the Class, the financial risk taken by Class Counsel, the novel and difficult
25 nature of this litigation, the skill required to deal with these issues, percentage fees
26 award in other cases, and the contingent fees charged in private marketplace, the Court
27 finds the request for the Attorney Fee Award is consistent with the legal marketplace, is
28 reasonable, and is approved.

1 b. The Court has reviewed the Declaration of Douglas Han regarding the costs expended
2 in the prosecution of this litigation. Under the terms of the Settlement, Plaintiff may
3 seek reimbursement of up to \$20,000 in litigation costs. The Court finds that Plaintiff
4 has expended \$12,629.85 in litigation costs and that such costs were reasonable. Thus,
5 the Court approves the payment of the Cost Award in the amount of \$12,629.85 for the
6 reimbursement of Class Counsel's litigation costs.

7 12. Administration Costs. The Court finds that the Administration Costs in the amount of
8 \$5,800, to be paid by Defendant to the Settlement Administrator out of the Maximum Settlement
9 Amount, to be reasonable and appropriate. The Administration Costs are to be paid pursuant to terms
10 and provisions set forth in the Settlement Agreement.

11 a. The Court has reviewed the declaration of Christina Fowler from Simpluris, Inc.
12 ("Simpluris"), the Court-approved Settlement Administrator. The Court finds that
13 notice was provided to the Class pursuant to the Preliminary Approval Order, that the
14 notice constitute the best practicable notice to the Class, and that the notice satisfied
15 due process. Simpluris has discharged its duties to provide notice to the Class. Thus,
16 the Court approves a payment for Administration Costs in the amount of \$5,800 for
17 Simpluris' services in administering this settlement, including the mailing of Individual
18 Settlement Shares according to the terms of the Agreement.

19 13. PAGA Payment. The Court finds that PAGA Payment in the amount of \$25,000,
20 seventy-five percent (75%) of which (\$18,750) will be paid by Defendant to the LWDA out of the
21 Maximum Settlement Amount and twenty-five percent (25%) of which (\$6,250) shall be distributed to
22 Eligible Aggrieved Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA
23 Payment is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

24 14. Funding of the Settlement. No later than fourteen (14) calendar days after the
25 execution of the Agreement, Defendant shall fund one-third (1/3) of the Maximum Settlement Amount
26 of \$350,000 into the Qualified Settlement Fund ("QSF") set up by the Settlement Administrator by
27 wiring the funds. No later than fourteen (14) calendar days after the court grants final approval,
28 Defendant shall fund another one-third (1/3) of the Maximum Settlement Amount of \$350,000 into the

QSF. Finally, within one hundred eighty (180) days after the court grants final approval, Defendant shall: (a) fund the remaining one-third (1/3) of the Maximum Settlement Amount into the QSF, including any share of its payroll taxes; and (b) provide any tax information that the Settlement Administrator may need to calculate each Participating Class Members' Individual Settlement Share. Within fourteen (14) calendar days after the deadline to fund the Settlement, the Settlement Administrator shall calculate and disburse all payments due under the Agreement, including all Individual Settlement Shares, Individual PAGA Payments, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs.

15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the Settlement is entitled to a presumption of fairness. In his moving papers, Plaintiff contend that the proposed Settlement was the product of arm's-length negotiations following extensive litigation, discovery, and exchange of documentation relating to Plaintiff's claims. The negotiations were facilitated with the assistance of mediator Jeffrey Krivis, an experienced and well-respected class action mediator.

a. With respect to the benefit to the Class Members, Plaintiff's moving papers indicate the *highest* Individual Settlement Share will be approximately \$2,060.30, and the *average* Individual Settlement Share will be approximately \$1,001.78 under the proposed allocation, which is based on the number of weeks worked during the Class Period.

b. There were no objections to the Settlement and only one (1) request for exclusion from the Settlement. This is further proof of the fairness of the Settlement.

16. Uncashed Checks. Participating Class Members and Eligible Aggrieved Employees must cash or deposit their Individual Settlement Share and Individual PAGA Payment checks within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share or Individual PAGA Payment (as applicable) to the California State Controller's Office.

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1 17. Modification of Settlement Agreement. The Participating Class Members are hereby
2 authorized, upon approval of the Court, to agree to and adopt amendments to or modifications of the
3 Settlement Agreement, by a written instrument signed by counsel for all Parties or their successor in
4 interest. Such amendments or modifications shall be consistent with this Order and Judgment and
5 cannot limit the rights of Participating Class Members under the Settlement Agreement.

6 18. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and Judgment.
7 This Court expressly retains jurisdiction for the administration, interpretation, effectuation, and/or
8 enforcement of the Settlement Agreement and of this Order and Judgment, and for any other necessary
9 purpose, including, without limitation:

- 10 a. enforcing the terms and provisions of the Settlement Agreement and resolving any
11 disputes, claims, or causes of action in this case that, in whole or in part, are related to
12 or arise out of the Settlement Agreement or this Order and Judgment;
- 13 b. entering such additional orders as may be necessary or appropriate to protect or
14 effectuate this Order and Judgment approving the Agreement, and permanently
15 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the fair
16 and orderly administration of this Settlement; and
- 17 c. entering any other necessary or appropriate orders to protect and effectuate this Court's
18 retention of continuing jurisdiction.

19 For the reasons set forth above, the Motion for Final Approval of Class Action Settlement,
20 Attorney Fee Award, Cost Award, and Class Representative Enhancement Payment is GRANTED.
21 The Settlement Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

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1 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF THE
2 SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT 3.769, THE
3 COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS ORDER
4 AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE FINALITY OF THIS
5 MATTER, RETAINS EXCLUSIVE AND CONTINUING JURISDICTION TO ENFORCE THIS
6 ORDER, THE SETTLEMENT AGREEMENT, AND THE JUDGMENT THEREON.

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8 IT IS SO ORDERED.

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10 DATED: 3 / 28 / 2022


HONORABLE BRIAN MCCABE
SUPERIOR COURT JUDGE

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On March 30, 2022, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Gomez v. IHI Power Services Corp.**
LWDA/Court Case No.: **LWDA Case No.: CM- 804632-20**
Court Case No.: 20CV-02657
Merced County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on March 30, 2022, at Pasadena, California.



Mariah Anderson