

ERIC A. GROVER (SBN 136080)
eagrover@kellergrover.com
ROBERT W. SPENCER (SBN 238491)
rspencer@kellergrover.com
KELLER GROVER LLP
1965 Market Street
San Francisco, California 94103
Telephone: (415) 543-1305
Facsimile: (415) 543-7861

SCOT BERNSTEIN (SBN 94915)
swampadero@sbernsteinlaw.com
LAW OFFICES OF SCOT D. BERNSTEIN,
A PROFESSIONAL CORPORATION
101 Parkshore Drive, Suite 100
Folsom, California 95630
Telephone: (916) 447-0100
Facsimile: (916) 933-5533

Attorneys for Plaintiff
FRANK SICA

[Additional Counsel on Following Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANK SICA, on behalf of himself, and all
others similarly situated, and all aggrieved
employees,

Plaintiff,

v.

MADISON INDUSTRIAL SERVICES TEAM,
LIMITED PARTNERSHIP; and DOES 1
through 50, inclusive,

Defendant.

Case No: 4:20-cv-08347-KAW

CLASS ACTION

**JOINT SUPPLEMENTAL MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL**

Date: March 3, 2022

Time: 1:30 p.m.

Ctrm: TBD

Judge: Kandis A. Westmore

Complaint Filed: September 30, 2020

FAC filed: November 19, 2020

Removal Date: November 25, 2020

1 THOMAS M. MCINERNEY (SBN 162055)
tmm@ogletree.com

2 **OGLETREE, DEAKINS, NASH, SMOAK & STEWART P.C.**
3 One Embarcadero Center, Suite 900
4 San Francisco, California 94111
Telephone: (415) 442-4810
Facsimile: (415) 422-4870

5 Attorneys for Defendant
6 MADISON INDUSTRIAL SERVICES TEAM, LTD.

7 SHAYNA E. DICKMAN, (CA. SBN 290844)
shayna.dickman@ogletreedekins.com

8 **OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.**
9 8117 Preston Road, Suite 500
10 Dallas, TX 75225
Telephone: (214) 313-2812
Facsimile: (214) 987-3927

11 Attorneys for Defendant
12 MADISON INDUSTRIAL SERVICES TEAM, LTD.

1 The Court issued an Order dated January 27, 2022 that requested a joint supplemental
2 brief addressing several issues. The issues are addressed below in the order presented in the
3 Court's Order.

4 **A. PAGA Claim**

5 Plaintiff inadvertently failed to send a copy of the settlement to the LWDA at the time the
6 motion was filed. The settlement was submitted to the LWDA on January 27, 2022. Filed
7 herewith is the Declaration of Robert Spencer attesting that the settlement has now been provided
8 to the LWDA.

9 **B. Proposed Deadlines**

10 The parties have filed a revised proposed order that incorporates the chart the Court
11 provided in the January 27 Order.

12 **C. Notice Plan**

13 Defendant does not maintain email addresses for its on-site non-exempt employees (i.e.,
14 the Class Members), as Defendant does not typically communicate with Class Members by email,
15 either before hire or during their employment. However, Defendant does have telephone numbers
16 for many, if not all, Class Members. In addition to the skip-tracing provisions already built into
17 the Settlement Agreement, the parties propose that the telephone numbers that Defendant has be
18 provided to the Settlement Administrator and the Settlement Administrator call any Class
19 Member whose Notice is returned by the Post Office in an effort to obtain an updated address.
20 This agreement has been incorporated in the revised proposed order.

21 The parties have also agreed that opt-outs may be submitted electronically and have added
22 that option to the Notice. A clean and redlined version of the updated proposed notice is attached
23 to the Declaration of Robert Spencer filed herewith. This agreement has also been incorporated
24 in the revised proposed order.

25 **D. Class Notice – Clerk's Office Hours**

26 The final page of the proposed Class Notice has been updated to reflect that the Clerk's
27 Office is currently open to the public until 1:00 p.m., Monday through Friday, excluding Court
28 holidays. A clean and redlined version of the updated proposed notice is attached to the

Declaration of Robert Spencer filed herewith.

E. Interested Entities

There are no counterclaims. Counsel for Plaintiff has advanced all case costs. No other person or entity is funding the prosecution of the action.

F. Other Issues

The parties have reviewed the Northern District's Procedural Guidance for Class Action Settlements and believe that the updated notice and proposed order fully comply with the same.

G. Updated Proposed Notice and Proposed Order

A clean and redlined version of the updated proposed notice is attached to the Spencer Declaration. The updated proposed order is filed herewith and a Word version will be emailed to KAWpo@cand.uscourts.gov. A clean and redlined version of the updated proposed order is also attached to the Spencer Declaration.

DATED: February 3, 2022

KELLER GROVER LLP

By: /s/ Eric A. Grover
ERIC A. GROVER
ROBERT W. SPENCER

Attorneys for Plaintiff
FRANK SICA

DATED: February 3, 2022

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

By: /s/ Thomas M. McInerney
THOMAS M. MCINERNEY
SHAYNA E. DICKMAN

Attorneys for Defendant
MADISON INDUSTRIAL SERVICES
TEAM, LIMITED PARTNERSHIP