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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSE MARTINEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SOUTHLAND ENERGY SYSTEMS, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 21STCV06911

*[Assigned for all purposes to the Hon. Stuart M. Rice,
Dept. SSC-1]*

**PLAINTIFF'S SUPPLEMENTAL BRIEF IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 23, 2025
Dept.: SSC-1
Time: 10:30 a.m.

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 Plaintiff Jose Martinez (“Plaintiff”), individually and on behalf of a class of similarly situated
3 individuals, hereby submit this Supplemental Brief in Support of Plaintiff’s Motion for Final Approval
4 of Class Action Settlement (the “Motion”).

5 **I. PROCEDURAL HISTORY**

6 Plaintiff filed his Motion for Final Approval of Class Action Settlement on May 30, 2025,
7 setting it for hearing on June 23, 2025.

8 On June 16, 2025, the Court posted on Case Anywhere a Tentative ruling regarding the Final
9 Approval Motion. Specifically, the Court noted as follows:

10 1. There has been a 12% increase in workweeks since Preliminary approval was granted.
11 At Preliminary approval, based on a review of its records, Defendant estimates that from February 19,
12 2017 through February 22, 2024, there are 101 Class Members who collectively worked a total of
13 ■■■■■ Workweeks, and 88 Aggrieved Employees who worked a total 6,706 PAGA Pay Periods.
14 (Settlement Agreement, ¶4.1). Now at final approval, there are 110 Settlement Class members who
15 have worked a collective total of ■■■■■ Workweeks during the Class Period and 95 Aggrieved
16 Employees who worked a total of 7,738 pay periods during the PAGA Period. (Gonzalez Decl., ¶¶10,
17 13. This is a class size increase of over 12%.

18 2. Why is the settlement still fair, adequate, and reasonable considering this workweek
19 increase? Counsel should file a supplement on this issue in advance of the scheduled hearing date.

20 Consistent therewith, Plaintiff hereby submits the instant supplemental brief to address the
21 issues identified by the Court in its June 16, 2025 Tentative ruling.

22 **II. ISSUES IDENTIFIED IN THE COURT’S TENTATIVE RULING**

23 **A. PURPORTED CLASS SIZE INCREASE IN CLASS MEMBERS AND**
24 **WORKWEEKS**

25 In the Checklist the Court states, “[t]here has been a 12% increase in workweeks since
26 Preliminary approval was granted. At Preliminary approval, based on a review of its records,
27 Defendant estimates that from February 19, 2017 through February 22, 2024, there are 101 Class
28 Members who collectively worked a total of ■■■■■ Workweeks, and 88 Aggrieved Employees who
worked a total 6,706 PAGA Pay Periods. (Settlement Agreement, ¶4.1). Now at final approval, there

1 are 110 Settlement Class members who have worked a collective total of [REDACTED] Workweeks during
2 the Class Period and 95 Aggrieved Employees who worked a total of 7,738 pay periods during the
3 PAGA Period. (Gonzalez Decl., ¶¶10, 13. This is a class size increase of over 12%.?

4 As an initial matter, a historical review of the timing of the relevant matters and the calculation
5 of the relevant class metrics will reveal that there in fact has not been any increase in workweeks or
6 class members since the time that Preliminary Approval was granted. Further, the totals of 110 class
7 members and [REDACTED] workweeks were indeed the metrics that were used to calculate estimated
8 individual awards to class members before the class notices were mailed. Thus, the class members
9 received Notice about this settlement and their estimated awards based on the increased metrics.

10 The Parties executed the original Settlement in this matter on or around September 5, 2024. At
11 that time, the end of the relevant class period in the Settlement had already passed, as the class period
12 closed on June 3, 2024. In the Settlement Agreement, it is correct that the Parties estimated that for
13 the time period of February 19, 2017 through February 22, 2024, there were approximately 101 class
14 members and [REDACTED] workweeks at issue. However, since the class period closed on June 3, 2024, the
15 Parties necessarily understood that there would be some increase in class members and workweeks
16 from the period of February 23, 2024 to June 3, 2024.

17 Plaintiff then filed his Motion for Preliminary Approval on October 8, 2024, which Motion the
18 Court granted on February 14, 2025. After the Court granted Preliminary Approval, Defendant
19 gathered the final data regarding class members and workweeks for the full class period of February
20 17, 2017 through June 3, 2024. It was then determined that the final metrics included 110 class
21 members and [REDACTED] workweeks. And, because the class period was closed as of that point, the
22 Parties were certain that there would be no increase in either number beyond that point (which is in
23 fact true and those metrics remain the same as of today).

24 After the Parties reviewed and approved the calculations, the administrator finalized the class
25 notices to be mailed which included for each class member an estimate of his or her anticipated
26 recovery. Indeed, those calculations and estimated recovery amounts were based on their being 110
27 class members and [REDACTED] workweeks. This is important because the class was provided notice based
28 on the final calculations as they were at the time preliminary approval was granted. There has been

1 absolutely no change or increase to the class metrics or estimated individual awards that were provided
2 to the actual class members.

3 Further, not a single class member opted out of the settlement or objected to it, providing
4 substantial justification that the Settlement was and remains fair and reasonable. Had there been an
5 increase in the class member and workweek metrics after the notice was mailed to the class members
6 that reduced the amounts of awards that were contained in the Notices, that would be a different issue
7 entirely. But, that is not the case. Notices that were mailed were based on the final and current
8 metrics.

9 In other words, the only “increase” that occurred was from the class member and workweek
10 estimate contained in the Settlement which was through February 22, 2024 and the actual and final
11 class member and workweek metrics which went through the end of the class period, June 3, 2024
12 (about 3.5 months later).

13 It is correct that in Plaintiff’s Motion for Preliminary Approval, he asserted that “there were
14 approximately 101 Class Members as of the date of mediation, and not including the \$20,000 for 88
15 Aggrieved Employees, the average payment to participating Class Members is estimated to be
16 approximately [REDACTED]. So, even in the Motion, Plaintiff made clear that the estimates were based
17 on metrics that only went through the mediation date, not the end of the class period (June 3, 2024).
18 That is because at the time of filing, Plaintiff did not have the final and updated metrics. But, it was
19 presumed that by noting the metrics through the mediation date, that the metrics would at least slightly
20 increase through the end of the class period.

21 Accordingly, it is Plaintiff’s position that there has not been an increase in the class member
22 and workweek metrics since Preliminary Approval, but only the increase from the estimate as of
23 February 22, 2024 and the end of the class period on June 3, 2024. Furthermore, the class was only
24 notified of the preliminarily approved Settlement and the estimated awards based on the final and still
25 current metrics of 110 class members and [REDACTED] workweeks.

26 **B. CONTINUED FAIRNESS, ADEQUATENESS AND REASONABLENESS OF**
27 **THE SETTLEMENT**

28 In the Tentative Ruling the Court states, “Why is the settlement still fair, adequate, and
reasonable considering this workweek increase?”

1 As stated above, there was not any actual increase in the number of class members or
2 workweeks since the time of preliminary approval. That fact alone supports the fact that the
3 Settlement remains fair, adequate and reasonable just as the Court found at the time of preliminary
4 approval.

5 Further, because the class members received notice and the estimated individual awards
6 based on the metrics as they stood at the time of preliminary approval and as they stand now – 110
7 class members and [REDACTED] workweeks – combined with the fact that no class member either objected
8 or opted out, renders a conclusion that the class members themselves find the Settlement fair,
9 adequate and reasonable.

10 It is also relevant to note that in virtually all class settlements, a resolution is reached based
11 on the class metrics that existed at the time of a mediation. Understanding in all cases that it takes
12 time for the parties to then draft settlement documents and ultimately prepare a motion for
13 preliminary approval, it is well understood that there will naturally be an increase in the number of
14 class members and workweeks from the time the parties reached the tentative resolution and the
15 eventual end of the class period which is often the date that preliminary approval is granted. To
16 address this issue which exists in all cases, the parties tend to either agree to cut off the class period
17 at a certain point and/or agree upon an “escalator” clause. A typical escalator clause in a class
18 settlement identifies the estimated workweeks up to a certain point and then allows the defendant to
19 either pay more money in the settlement or cut off the class period if the increase in workweeks
20 meets a certain threshold. Typically, the standard threshold is a 10-15% increase. For example, a
21 typical escalator clause may say that the parties estimate that there are 10,000 workweeks during the
22 class period, but if the number of workweeks during the class period is more than 15% of 10,000
23 workweeks, the defendant would either increase the gross settlement amount by the delta difference
24 increase or cut off the class period when the increase reaches the 15% threshold. So, if in this
25 example, the workweeks increased by 16%, the defendant could agree to pay an additional 1% of the
26 gross settlement amount or cut off the class period when the increase reached 15%.

26 In this case, the Parties agreed as part of the Settlement to cut off the class period as of June
27 3, 2024. The Parties here could have agreed to end the class period as of the date of preliminary
28 approval (which would have been February 14, 2025) in which case an escalator clause would likely

1 have been necessary. Instead, however, by cutting of the class period on June 3, 2024, the Parties
2 were able to predict and anticipate that the workweeks would have increase by around 10-15%,
3 which is exactly what happened. From February 22, 2024 to June 3, 2024, the workweeks indeed
4 increased by approximately 12%. However, as explained above, this happens in virtually all class
5 actions because of the natural delay between the time a settlement is reached and the time that
6 approval is granted. And, even if the Parties had an escalator clause, the 12% increase would have
7 been within the standard range that would not even have triggered any additional payment to be
8 made.

9 In the end, the class members were provided notice and estimated awards based on the class
10 member and workweek count as they stood at the time the notices went out and as they stand here
11 today. Nothing about the Settlement has in any way substantively nor procedurally changed that in
12 any way affects the fair, adequate or reasonable nature of the Settlement. The class members are set
13 to receive on average an individual payout of approximately [REDACTED] which is a very substantial
14 payment in these types of wage and hour cases where often the awards are significantly less.
15 Further, the Settlement obtained by Plaintiff in this case is approximately 40% of the what Plaintiff
16 believed was the realistic recovery in this action had the case proceeded through class certification
and trial.

17 The Settlement in this case provides an extremely beneficial result to the class members
18 while also avoiding further litigation, the prospects of not obtaining class certification and the risks
19 of proceeding through trial. The Settlement was and remains extremely fair, adequate and
20 reasonable.
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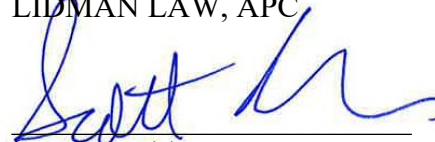
1 **III. CONCLUSION**

2 For the foregoing reasons and the reasons discussed in Plaintiff's Motion, Plaintiff respectfully
3 requests that the Court finally approve the proposed Amended Class Action Settlement Agreement,
4 certify the Settlement Class, and enter the Proposed Order and Judgment Granting Final Approval of
5 Class Action Settlement submitted concurrently with Plaintiff's moving papers.

6 Dated: June 18, 2025

Respectfully submitted,
LIDMAN LAW, APC

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8 By:



9 Scott M. Lidman
10 Attorney for Plaintiff
JOSE MARTINEZ