

09/17/2024

David W. Slayton, Executive Officer / Clerk of Court

By: V. Trujillo Deputy

MESSRELIAN LAW INC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

(UNLIMITED JURISDICTION)

ROBERT HERNANDEZ,

Plaintiff,

vs.

COLLICUTT ENERGY SERVICES INC.;
STEVEN COLLICUTT; and DOES 1 to 25,
inclusive,

Defendants.

Case No.: 21STCV21135

**JOINT STIPULATION FOR APPROVAL
OF PAGA SETTLEMENT AND
RELEASE**

[Filed Concurrently with the Declaration of
Harout Messrelian; [PROPOSED] Order]

Department 61, Hon. Lynne M. Hobbs

INTRODUCTION/FAIRNESS OF SETTLEMENT

1. Plaintiff, ROBERT HERNANDEZ (“Plaintiff”), and Defendants, COLLICUTT ENERGY SERVICES, INC. and STEVEN COLLICUTT (collectively “COLLICUTT” or “Defendant(s)”) have reached a proposed PAGA settlement to settle the above-captioned action (the “Action”) between Plaintiff and all alleged aggrieved employees for all PAGA penalties alleged in the Action against Defendants. Plaintiff and Defendants are collectively referred to as “Parties.” The Parties have memorialized the terms of this proposed PAGA settlement in a PAGA Settlement and Release Agreement (the “Settlement Agreement”). By and through this

1 Joint Stipulation for Approval of PAGA Settlement and Release (“Joint Stipulation”), and
2 pursuant to California Labor Code § 2699(1), along with the Declaration of Harout Messrelian
3 (being concurrently filed), Plaintiff seeks an order permitting settlement on the terms outlined in
4 the Settlement Agreement. Plaintiff and Defendants are collectively referred to as the “Parties”
5 and any one of them individually may be referred to as a “Party.” The terms in this stipulation
6 are intended to be consistent with the express terms in the Settlement Agreement; the terms in
7 the Settlement Agreement control.
8

9 2. Defendants adamantly deny any liability or wrongdoing of any kind whatsoever
10 associated with the Action, and further deny that, for any purpose other than settling the Action,
11 the Action is appropriate for representative treatment. It is the desire of the Parties to fully,
12 finally, and forever compromise, and discharge all claims known or unknown related to those
13 alleged in the Action.
14

15 3. The Parties conducted investigation of the facts and law both before and after
16 the lawsuit was filed. *See* Declaration of Harout Messrelian, ¶8. Counsel for the Parties have
17 further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s
18 claims, the defenses thereto, and the Labor Code violations claimed by Plaintiff. *See* Declaration
19 of Harout Messrelian, ¶8. Based on their own independent investigations and evaluations, the
20 Parties and their respective counsel are of the opinion that the Settlement for the consideration
21 and on the terms set forth in this Stipulation are fair, reasonable and adequate and are in the best
22 interests of Plaintiff, the Aggrieved Employees, and Defendants in light of all known facts and
23 circumstances and the risks inherent in litigation, especially in this post-pandemic era when
24 most businesses are struggling to remain afloat, much less prosper and make a large profit. *See*
25 Declaration of Harout Messrelian, ¶¶8-19.
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1 **TERMS AND PROCEDURES OF THE SETTLEMENT**

2 4. The Settlement covers any and all civil penalties claims arising from Plaintiff's
3 allegations in his Complaint as provided in the Settlement Agreement.

4 5. "Covered Employees" means and includes all persons employed by Collicutt
5 California as a non-exempt employee at any time during the period from April 3, 2020 through
6 the date the Court approves the Settlement. Covered Employees will not include any person who
7 previously settled or released any claims covered by the Settlement Agreement. Covered
8 Employees are not eligible to opt out of the Settlement Agreement.
9

10 6. Defendants agrees to pay \$90,000.00 toward the Settlement (the "Gross
11 Settlement Amount" or "GSA") which will be distributed by Defendants as follows:
12

- 13 a. \$30,000.00 (33 1/3% of the GSA) in attorneys' fees to Messrelian Law Inc.;
- 14 b. \$7,706.91 in attorney litigation costs to Messrelian Law Inc.
- 15 c. \$6,000.00 in PAGA Settlement Administrator costs to CPT;
- 16 d. \$46,293.09 (the "Net Settlement Amount" or "NSA") will be divided as
17 follows:
18
- 19 i. \$34,719.82 (75% of "NSA") to the LWDA, which represents civil
20 penalties payable to the LWDA under the Labor Code Private Attorneys
21 General Act ("PAGA"), Labor Code section 2698, *et seq.*; and
- 22 ii. \$11,573.27 (25% of NSA) (the "Covered Employees Settlement
23 Proceeds") to the Covered Employees, which represents civil penalties
24 payable to the Covered Employees as compensation for civil penalties that
25 are allegedly owed on the Representative PAGA Claim for the period from
26 April 3, 2020 through Court approval, or until the escalator is triggered, if
27 applicable ("Covered Period").

28 *See* Declaration of Harout Messrelian, ¶20.7. Plaintiff and each Covered
Employee shall receive a portion of the Covered Employees Settlement Proceeds on a pro-rata
basis by the ratio of (i) the number of pay periods worked by the Covered Employee during the

1 release period and (ii) the total number of pay periods worked by all Covered Employees during
2 the Covered Period.

3 8. For purposes of computing taxes, one-hundred percent (100%) of the Aggrieved
4 Covered Employee Settlement Award shall be considered to be a civil penalty and shall not be
5 subject to withholding, unless otherwise required by law.
6

7 **PAGA SETTLEMENT ADMINISTRATION**

8 9. The Parties agree to use CPT to handle the administration of this Settlement.

9 10. Settlement Approval and Implemental Procedures.

- 10 a. On the Effective Date, which is the date the Court enters its Final Order approving
11 the Settlement and Release Agreement, all Covered Employees will: (i) be bound
12 by the terms and conditions of the Settlement and Release Agreement; (ii) be
13 deemed to have waived all objections and oppositions to the fairness,
14 reasonableness, and adequacy of this Settlement and Release Agreement and the
15 Court's Final Order; and (iii) be entitled to receive a share of the Net Settlement
16 Amount, as set forth herein.
- 17 b. Within fifteen (15) days after the Effective Date, Defendants will provide the
18 Settlement Administrator a confidential list setting forth the name, last known
19 addresses, Social Security number, and number of Eligible Pay Periods for each
20 Covered Employee. The Settlement Administrator will perform a National
21 Change of Address search on all the Covered Employees to update the addresses
22 of the Covered Employees.
- 23 c. Within thirty (30) days after the Effective Date, Defendants shall wire transfer the
24 Settlement Amount to the Settlement Administrator, who will deposit the funds
25 into the bank account of the Qualified Settlement Fund established by the
26 Settlement Administrator for purposes of this settlement. All amounts to be paid
27 to the Plaintiff, Covered Employees, Plaintiff's Counsel, Settlement
28 Administrator, and LWDA shall be paid from this Qualified Settlement Fund.
- d. After the Settlement Administrator deducts the amount of Plaintiff's Counsel's
approved Fee and Cost Award, Plaintiff's approved Individual Award, and the
Settlement Administrator Costs from the Settlement Amount, the remaining
balance will constitute the Net Settlement Amount, which will be distributed as
set forth herein.

- 1 e. Within forty-five (45) days after the Effective Date, the Settlement Administrator
2 shall: (i) mail the settlement checks to the Covered Employees; (ii) mail a check
3 for the LWDA Settlement Proceeds to the LWDA; (iii) mail the check for the
4 approved Individual Award to Plaintiff; and (iv) pay Plaintiff's Counsel's
5 approved Fee and Cost Award in accordance with any wire transfer instructions
6 from Plaintiff's Counsel. The Individual Awards mailed to each Covered
7 Employee will be accompanied by a Notice (similar in form and content to the
8 sample form set forth in Exhibit A) explaining the Covered Employee's payment
9 and the deadline to cash his/her settlement check.
- 10 f. The Covered Employees shall have 180 calendar days after mailing to cash their
11 settlement checks. If any Covered Employee's check is not cashed within that
12 period, the check will be void and a stop-payment will be issued. In such event,
13 the Covered Employee will be deemed to have irrevocably waived any right in or
14 claim to his/her share, except that the Covered Employee may seek to claim the
15 funds from the California Department of Industrial Relations ("DIR") Unclaimed
16 Property Fund. The release nevertheless will be binding upon all Covered
17 Employees, including those who do not cash their checks within the 180-day
18 period. Any funds remaining in the Settlement Administrator's Qualified
19 Settlement Fund established for the purpose of the Settlement and Release
20 Agreement as a result of a failure to timely cash a settlement check shall be paid
21 to the DIR Unclaimed Property Fund in the name of the Covered Employee who
22 did not cash his/her check. The Settlement Administrator, Defendants,
23 Defendants' Counsel, Plaintiff, and Plaintiff's Counsel will not have any liability
24 for lost or stolen settlement checks, forged signatures on settlement checks, or
25 unauthorized negotiation of settlement checks, and will not have any duty to seek
26 any funds from the DIR Unclaimed Property Fund.
- 27 g. The Covered Employees' share of the Net Settlement Amount will be treated as
28 payments in settlement of non-wage (civil penalty) claims and, to the extent
necessary, will be reported on IRS 1099 forms.

RELEASED CLAIMS

11. Upon the approval by the Court of this Settlement, Plaintiff, the State of
California and all Covered Employees shall fully release and forever discharge Defendants and
the Released Parties from any and all claims, rights, demands, liabilities for violation of PAGA
(Labor Code § 2699, et seq.) that arose during the Covered Period as it relates to Labor Code
section 2698, et seq. for alleged violations of California Labor Code sections 200, 201, 202, 203,
204, 204b, 210, 218.5, 218.6, 226, 226.3, 226.7, 232, 246, 510, 512, 558, 1171, 1173, 1174,
1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 2698, et seq., 2699, 2699.3, 3700.5,

1 California Industrial Welfare Commission Wage Order 4-2001, Wage Order 1-2001 and all other
2 Wage Orders, and California Code of Regulations, Title 8, Section 11040 and 11010, and all
3 claims for attorneys' fees and costs and statutory interest in connection therewith ("Covered
4 Claims") during the Covered Period.

5 **CONCLUSION**

6
7 12. The Parties respectfully request the Court grant this Stipulation and enter the
8 mutually agreed-upon [Proposed] Order which is filed concurrently herewith.

9
10 Respectfully Submitted,

11
12
13 Dated: September 16, 2024

MESSRELIAN LAW INC.

14
15 By  _____
16 Harout Messreljan, Esq.
17 Attorneys for Plaintiff,
18 ROBERT HERNANDEZ

19
20
21 Dated: September 16, 2024

JACKSON LEWIS, P.C.

22
23 By _____ /s/ _____
24 Cary G. Palmer
25 Attorneys for Defendants, COLLICUTT
26 ENERGY SERVICES, INC.; STEVEN
27 COLLICUTT
28

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7 Attorneys for Plaintiff ROBERT HERNANDEZ

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

10 **(UNLIMITED JURISDICTION)**

11 ROBERT HERNANDEZ,

12 Plaintiff,

13 vs.

14 COLLICUTT ENERGY SERVICES INC.;

15 STEVEN COLLICUTT; and DOES 1 to 25,

16 inclusive,

17 Defendants.

Case No.: 21STCV21135

**[PROPOSED] ORDER APPROVING
PAGA SETTLEMENT AND RELEASE;
AND JUDGMENT**

Department 61, Hon. Lynne M. Hobbs

18 **[PROPOSED] ORDER AND JUDGMENT**

19 Pursuant to the terms of the PAGA Settlement and Release Agreement (the “Settlement

20 Agreement”), and the Joint Stipulation for Approval of PAGA Settlement and Release (“Joint

21 Stipulation”), between Plaintiff ROBERT HERNANDEZ (“Plaintiff”) and Defendants

22 COLLICUTT ENERGY SERVICES INC. and STEVEN COLLICUTT (“COLLICUTT” or

23 “Defendants”) (collectively Plaintiff and Defendants are “Parties”), and pursuant to California

24 Labor Code § 2699(1)(2), and the Declaration of Harout Messrelian, the Court finds good cause

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1 appearing, and hereby finds and approves the Settlement Agreement, and HEREBY ORDERS
2 AS FOLLOWS.

3 1. Under Labor Code section 2699(1)(2) of the Private Attorneys General Act of 2004
4 ("PAGA"), the Parties submitted a Joint Stipulation for Approval of Settlement Agreement under
5 PAGA. The terms in this Order are intended to be consistent with the express terms in the
6 Settlement Agreement.
7

8 2. Plaintiff's Complaint, filed on or around June 7, 2021, seeks civil penalties on
9 behalf of the State of California and similarly situated aggrieved employees (the "Aggrieved
10 Employees"), as authorized by PAGA under Labor Code § 2699, in relation to alleged violations
11 of the predicate statutes set forth in Plaintiff's Complaint and the letter to the Labor Workforce
12 and Development Agency ("LWDA") dated March 3, 2021 (the "LWDA Letter"), on behalf of
13 all current and former non-exempt employees of Defendants from April 3, 2020 through the date
14 of Court approval.
15

16 3. The Court finds the instant Action presents a good-faith dispute of the claims alleged;
17

18 4. "Covered Employees" means and includes all persons employed by Collicutt
19 California as a non-exempt employee at any time during the period from April 3, 2020 through
20 the date the Court approves the Settlement, or until the escalator clause is triggered, if
21 applicable ("Covered Period"). Covered Employees will not include any person who
22 previously settled or released any claims covered by the Settlement Agreement. Covered
23 Employees are not eligible to opt out of the Settlement and Release Agreement.
24

25 5. "Released Parties" as referenced herein and as released in the Settlement and
26 Release Agreement shall collectively mean: (i) Collicutt Energy Services, Inc. and Steven
27 Collicutt ("Defendants"); (ii) Defendants' past and present (and regardless of tier) parents,
28

1 predecessors, successors, subsidiaries, related entities and affiliates, (iii) the past and present
2 board members, directors, officers, agents, employees, attorneys, insurers, members,
3 managers, agents, representatives, administrators, fiduciaries, benefit plans, transferees,
4 predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity
5 which could be jointly liable with any of the foregoing.

6
7 6. The claims and causes of action released with prejudice by the Covered
8 Employees include all claims and causes of action against Defendants and the Released Parties
9 for civil penalties, arising out of or reasonably related to the factual allegations in the Action
10 operative complaint and/or Plaintiff's letter to the California Labor and Workforce
11 Development Agency for the entirety of the Covered Period. Such released claims and causes
12 of action include Labor Code sections 200, 201, 202, 203, 204, 204b, 210, 218.5, 218.6, 226,
13 226.3, 226.7, 232, 246, 510, 512, 558, 1171, 1173, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
14 1198, 2800, 2802, 2698, et seq., 2699, 2699.3, 3700.5, California Industrial Welfare
15 Commission Wage Order 4-2001, Wage Order 1-2001 and all other Wage Orders, and
16 California Code of Regulations, Title 8, Section 11040 and 11010, and all claims and causes
17 of action for interest, costs, expenses and attorney's fees alleged in the Action ("Covered
18 Claims") during the Covered Period. Each Covered Employee will be deemed to have made
19 the foregoing release as if by manually signing the Settlement Agreement.

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22 7. The Court finds the Settlement Agreement is in the best interests of the Covered
23 Employees, and therefore approves Settlement of the Action, as set forth in the Settlement Agreement,
24 and each of the releases and other terms, as fair, just, reasonable, and adequate;

25
26 8. The Court finds further that Plaintiff, acting on behalf of himself, the Covered
27 Employees, and the State of California, by operation of this Order and Judgment hereby releases and
28

1 forever discharges Defendants and the Released Parties (as defined in the Settlement Agreement)
2 from any and all PAGA Released Claims (as defined in the Settlement Agreement) including
3 penalties asserted in Plaintiff's Complaint, including any and all known and unknown claims for civil
4 penalties under the Private Attorneys General Act, California Labor Code §§ 2698, *et seq.*, that arise;

5 9. The Court finds further that the foregoing release shall be with prejudice, and shall be
6 binding on Plaintiff and the State of California, and all Covered Employees, and shall bar any claim
7 under PAGA brought by any person, including the Covered Employees, on behalf of the State of
8 California, as to the PAGA Released Claims and Released Parties;

9
10 10. If the escalator is triggered under Section 25(b) the Settlement Agreement,
11 Defendants have the right to elect between increasing the Gross Settlement Amount by the
12 agreed-upon escalator, or alternatively, capping the number of pay periods by adjusting the
13 Covered Period to a point in time so that the escalator clause is not triggered and not increasing
14 the Settlement Amount.

15
16 11. The Parties are directed to comply with all terms of the Settlement Agreement, and
17 Defendants are directed to make all payments required by the Settlement Agreement;

18
19 12. Under the Settlement Agreement, Defendants agree to pay an all-in gross amount of
20 Ninety Thousand Dollars (\$90,000.00) (the "Gross Settlement Amount"). The Gross Settlement
21 Amount is inclusive of payments to the LWDA and Covered Employees, Settlement Administrator
22 Costs, and Attorney's Fees and Costs. No portion of the Gross Settlement Amount will revert to
23 Defendant. Plaintiff's Counsel requests an award of attorney's fees of Thirty Thousand Dollars and
24 Zero cents (\$30,000.00) and costs of Seven Thousand Seven-Hundred Six Dollars and Ninety-One
25 cents (\$7,706.91). The settlement administrator CPT requests administration costs of Six Thousand
26 Dollars and Zero Cents (\$6,000.00). Defendants do not oppose these requests. The Court finds the
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1 Gross Settlement Amount is fair, reasonable and adequate, and approves each of these payments, and
2 directs the Settlement Administrator to make the above payments to payments from the Gross
3 Settlement Amount as follows:

- 4 (a). \$30,000.00 in attorney's fees to Messrelian Law Inc;
5 (b). \$7,706.91 in costs to Messrelian Law Inc;
6 (c). \$6,000.00 in administration costs to CPT;
7

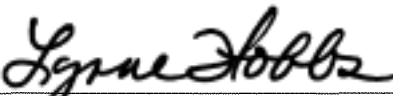
8 13. After deducting the foregoing payments, the estimated remainder of approximately
9 \$46,293.09 shall form the Net Settlement Amount ("NSA"). Pursuant to Labor Code section 2699(i),
10 the NSA will then be distributed 75 percent (\$34,719.82) to the LWDA, and the remaining 25 percent
11 (\$11,573.27) to the Covered Employees on a pro rata basis, as set forth in the Settlement Agreement.
12 The Court approves these payments, and directs the Settlement Administrator to issue checks to the
13 LWDA and Covered Employees, along with the Notice of PAGA Settlement, as set forth in the
14 Settlement Agreement, and to otherwise carry out its duties as set forth in the Settlement Agreement;
15 and
16
17

18 14. Pursuant to the terms of the Settlement Agreement, the Settlement is approved in all
19 respects, all claims are released, and judgment is hereby entered, as provided in the Settlement
20 Agreement. The Court reserves exclusive and continuing jurisdiction over the Action and the Parties
21 under Code of Civil Procedure § 664.6 for the purpose of supervising implementation, enforcement,
22 construction, administration, and interpretation of the Settlement Agreement.
23

24 **IT IS SO ORDERED.**

25
26 09/17/2024

27 DATED

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HON. LYNNE M. HOBBS