

1 **MESSRELIAN LAW INC**

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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

18 **JOINT STIPULATION FOR APPROVAL
19 OF PAGA SETTLEMENT AND
20 RELEASE**

21 [Filed Concurrently with the Declaration of
22 Harout Messrelian; [PROPOSED] Order]
23 Department 61, Hon. Lynne M. Hobbs

24 **INTRODUCTION/FAIRNESS OF SETTLEMENT**

25 1. Plaintiff, ROBERT HERNANDEZ ("Plaintiff"), and Defendants, COLLICUTT
26 ENERGY SERVICES, INC. and STEVEN COLLICUTT (collectively "COLLICUTT" or
27 "Defendant(s)") have reached a proposed PAGA settlement to settle the above-captioned action
28 (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**

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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
16 By _____


Harout Messrelan, Esq.
Attorneys for Plaintiff,
ROBERT HERNANDEZ

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21 Dated: September 16, 2024

JACKSON LEWIS, P.C.

22
23 By _____

/s/
Cary G. Palmer
Attorneys for Defendants, COLLICUTT
ENERGY SERVICES, INC.; STEVEN
COLLICUTT