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Attorneys for Plaintiff Michael Bravo

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

MICHAEL BRAVO, individually, and on
behalf of others similarly situated,

Plaintiff,

vs.

MICHELS PACIFIC ENERGY, INC., a
Delaware corporation; and DOES 1 through
25, inclusive,

Defendants.

Case No. 22CV403427

Honorable Theodore C. Zayner
Department 19

**SUPPLEMENTAL DECLARATION OF
JONATHAN M. GENISH IN SUPPORT OF
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: March 27, 2024
Time: 1:30 p.m.
Dept: 19

Complaint Filed: September 26, 2022
FAC Filed: November 28, 2022
Trial Date: None Set

1 **SUPPLEMENTAL DECLARATION OF JONATHAN M. GENISH**

2 I, Jonathan M. Genish, declare and state as follows:

3 1. I am an attorney duly licensed to practice law in all Courts of the State of California. I
4 am a shareholder and the founder of Blackstone Law, APC (“Class Counsel”), attorneys of record for
5 Plaintiff Michael Bravo (“Plaintiff”). I have personal knowledge of the facts contained herein, and, if
6 called to testify, I could and would competently do so.

7 2. On November 3, 2023, Plaintiff filed a Motion for Preliminary Approval of Class
8 Action and PAGA Settlement (“Motion for Preliminary Approval”) and supporting documents seeking
9 approval of the settlement reached by Plaintiff and Defendant Michels Pacific Energy, Inc.
10 (“Defendant”) (together with Plaintiff, the “Parties”).

11 3. On February 27, 2024, the Court issued a tentative ruling (“February 27, 2024 Tentative
12 Ruling”) in which it raised several points of inquiry with regards to the Motion for Preliminary
13 Approval. The February 27, 2024 Tentative Ruling is attached hereto as “**Exhibit 1.**”

14 4. On February 28, 2024, counsel for Plaintiff appeared for the hearing on the Motion for
15 Preliminary Approval to seek clarification on the points of inquiry in the February 27, 2024 Tentative
16 Ruling. The Court continued the hearing on the Motion for Preliminary Approval to March 27, 2024
17 at 1:30 p.m., and Plaintiff was ordered to file a supplemental declaration no later than March 15, 2024.

18 5. To address the issues raised in the February 27, 2024 Tentative Ruling, the Parties met
19 and conferred and took several actions. First, the Parties executed Amendment No. 1 to Joint
20 Stipulation of Class Action and PAGA Settlement (“Amendment No. 1”). Amendment No. 1 directs
21 the funds from any settlement checks which are not negotiated by the applicable deadline to be
22 distributed by the Settlement Administrator to California Rural Legal Assistance, Inc., which is the *cy*
23 *pres* recipient the Parties selected, and which is further discussed herein below. A true and correct
24 copy of Amendment No. 1, fully executed by the Parties, is attached hereto as “**Exhibit 2.**” A redline
25 version of Amendment No. 1 showing how the terms of the Original Agreement have been revised is
26 attached hereto as “**Exhibit 3.**”

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6. The Court also provided guidance and proposed changes to the Notice of Class Action Settlement (“Class Notice”) to address the information regarding appearing at the final approval hearing. Based on the Court’s guidance, the Parties have also prepared a revised Class Notice, which is attached to Amendment No. 1 as “Exhibit A” and to the [Revised Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement as “Exhibit 1.” A redline version of the revised Class Notice showing how it has been revised is attached hereto as “**Exhibit 4**.”

SCOPE OF CLASS MEMBERS AND PAGA EMPLOYEES

7. In its February 27, 2024 Tentative Ruling, the Court expressed concern regarding the definitions of the Class Members and PAGA Employees. (February 27, 2024 Tentative Ruling, pg. 4). Specifically, it appeared to the Court that the Class Members and PAGA Employees include *non*-union employees covered under the National Pipe Line Agreements, which caused confusion since the National Pipe Line Agreements are collective bargaining agreements that cover unionized employees. (*Id.*, pg. 5). Therefore, it was unclear to the Court why the definitions of the Class Members and PAGA Employees include non-union employees. (*Ibid*).

8. The Class encompasses two groups of employees:

- a. All current and former hourly-paid and/or non-exempt non-union employees employed by Defendant in the State of California at any time during the Class Period; and
- b. All current and former hourly-paid and/or non-exempt union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the Class Period.

9. Similarly, the PAGA Employees also encompasses two similarly defined groups:

- a. All current and former hourly-paid and/or non-exempt non-union employees employed by Defendant in the State of California at any time during the PAGA Period; and
- b. All current and former hourly-paid and/or non-exempt union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the PAGA Period.

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10. For clarity, the phrase “covered under the National Pipe Line Agreements” is a qualifier for “union employees,” not for “non-union employees.” Accordingly, the “non-union employees” and the “union employees covered under the National Pipe Line Agreements” are different groups of employees.

ENHANCEMENT PAYMENT

11. In its February 27, 2024 Tentative Ruling, the Court explained that the requested Enhancement Payment of Ten Thousand Dollars and Zero Cents (\$10,000.00) is more than the Court typically awards for the amount of time Plaintiff spent in connection with this action. (*Id.*, pg. 6). Additionally, the Court approved an Enhancement Payment in the total amount of Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00). (*Ibid.*)

12. Enhancement awards in wage and hour cases typically range from \$5,000.00 to \$20,000.00, although some awards are higher. Often, multiple class representatives receive awards in this range. (See e.g., *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412 [approving an enhancement request of \$10,000.00 per named plaintiff in a 188 member class]). In determining whether to make enhancement payments, courts consider the following factors: (1) the risk to the class representative in commencing the suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and efforts spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative).

13. The requested award for Plaintiff is reasonable given the financial and personal risk he took in commencing this action, and in light of the benefits that his actions have conferred upon the Class. (Declaration of Plaintiff Michael Bravo in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement [“Bravo Decl.”], ¶ 7; *See also Van Vranken v. Atl. Richfield Co.* (N.D.Cal. 1995) 901 F.Supp. 294, 299-300). Additionally, in considering a requested class representative enhancement award, courts take into consideration a plaintiff’s reasonable fear of retaliation. (*Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 977). Here, it is easy to see that a

1 potential future employer could expend little effort to discover Plaintiff brought the lawsuit – and
2 based thereon, decline to offer Plaintiff employment.

3 14. Plaintiff has performed considerable services on behalf of the Class during the
4 litigation. Class Counsel cannot understate the importance of the role of an employee who is willing
5 to search out an attorney and step forward to assume the risk of litigation and retaliation in order to
6 represent a class and put the interests of the class before his or her interests. Plaintiff has understood
7 that this is a class action where he is serving as the Class Representative and in that role, must pursue
8 and protect the Class Members' interests above his own. (Bravo Decl., ¶ 10). Plaintiff is the catalyst
9 to the benefit reached for the Class Members and he has actively protected the Class Members'
10 interests during the pendency of this matter and will continue to do so even if the case was required to
11 go to trial. (*Id.*, ¶ 6). Plaintiff spent time participating in this matter by searching for an attorney,
12 communicating with his attorneys on numerous occasions, searching for and producing relevant
13 documents related to his employment, responding to his attorneys' inquiries, assisting his attorneys
14 with preparation for mediation, providing necessary information for settlement discussions, reviewing
15 the settlement documents, and approving the Settlement on behalf of all Class Members. (*Id.*, ¶¶ 3-
16 8).

17 15. Plaintiff also undertook the significant risks associated with acting as a class
18 representative. He understood and accepted that he was putting himself at risk to pay costs of litigation
19 if the case was unsuccessful. (*Id.*, ¶ 7). Plaintiff also understood that that he was at risk of loss of
20 income due to missing work to fulfill any responsibilities required to participate in litigation. (*Ibid.*).
21 Plaintiff also put himself at risk for retaliation by future employers who may not approve that he sued
22 his former employer. (*Ibid.*). In contrast, without having to take on any of the risk incurred by Plaintiff
23 or time spent by Plaintiff in litigating this matter, Settlement Class Members will automatically receive
24 a payment for their claims.

25 16. Additionally, Plaintiff provided a broader individual waiver and release of claims with
26 a California Civil Code Section 1542 waiver (set forth in Paragraph 37 of the Original Agreement).
27 Plaintiff's broader individual release of claims was a material term of the settlement between the
28 Parties; Defendant specifically bargained for Plaintiff's full and complete waiver and release of claims

1 that he could have brought in his individual capacity against Defendant and the Released Parties.

2 17. Thus, in light of the time and effort he spent in spearheading this action, the fear and
3 stress associated with assuming the responsibility of serving as the Class Representative, the concrete
4 risks he assumed as the Class Representative, and his broader release of claims, an Enhancement
5 Payment of Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff is appropriate and
6 proportional to his efforts in this action and what he will be giving up by way of the settlement.
7 However, should the Court decide not to grant the full Ten Thousand Dollars and Zero Cents
8 (\$10,000.00), Plaintiff respectfully requests that the Court approve an amount that is above the Two
9 Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) indicated in the February 27, 2024
10 Tentative Ruling.

11 **CY PRES**

12 18. In its February 27, 2024 Tentative Ruling, the Court directed Plaintiff to provide a new
13 *cy pres* in compliance with Code of Civil Procedure section 384.

14 19. Accordingly, the Parties agreed on California Rural Legal Assistance, Inc. as the
15 proposed *cy pres* in accordance with California Code of Civil Procedure Section 384. (Amendment
16 No.1, ¶ A). California Rural Legal Assistance, Inc. is a nonprofit law firm that provides free civil
17 legal services to low-income residents of California's rural counties. The Parties and their counsel
18 have each represented that they do not have any financial interest in, or otherwise have a relationship
19 with, the proposed *cy pres* recipient that could create a conflict of interest. (*Ibid*).

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

22 Executed on March 15, 2024, at Beverly Hills, California

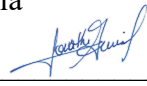
23 
24 _____
25 Jonathan M. Genish
26
27
28

EXHIBIT 1

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 1, Honorable Theodore C. Zayner Presiding

Maggie Castellon, Courtroom Clerk
191 North First Street, San Jose, CA95113
Telephone: 408.882.2310

To contest the ruling, call (408) 808-6856 before 4:00 P.M. or email department19@scscourt.org. Please state your case name, case number, the name of the attorney and contact number. It would also be helpful if you could identify the specific portion or portions of the tentative ruling that will be contested. Please also make sure you have notified the other side in a timely fashion that you are contesting the tentative ruling. (See R. Ct. 3.1308(a)(1); Local Rule 8.E.)

Court Reporters are not provided. Please consult our Court's website, www.scscourt.org, for the rules, policies, and required forms for appointment by stipulation of privately-retained court reporters.

- **Parties can appear either in person or remotely.** All remote appearances must be made through Microsoft Teams, unless otherwise arranged with the Court. Please go to https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml to find the appropriate link.
- If any party wants a Court Reporter, the appropriate form must be submitted. The Reporter can appear in person or remotely.
- Members of the public who wish to observe can do so through Microsoft Teams (using the link discussed above) or in person. Please make sure to turn your camera off and mute yourself if you are observing the proceedings remotely.
- As a reminder, state and local Court Rules prohibit recording of court proceedings without a Court order. This prohibition applies while in the courtroom and while on Microsoft Teams.

LAW AND MOTION TENTATIVE RULINGS

DATE: FEBRUARY 28, 2024 TIME: 1:30 P.M.

PREVAILING PARTY SHALL PREPARE THE ORDER

UNLESS OTHERWISE STATED (SEE [RULE OF COURT 3.1312](#))

LINE #	CASE #	CASE TITLE	RULING
LINE 1	21CV376397	Spencer v. Monsanto Company, et al. (WAS included in JCCP4953; assigned to Alameda)	See Line 1 for tentative ruling on motions in limine.
LINE 2	21CV391898	Gatchalian v. CKS Prime Investments, LLC, et al.	See Line 2 for tentative ruling.
LINE 3	23CV416856	Sentinelone, Inc. v. Bernard, et al.	See Line 3 for tentative ruling.
LINE 4	22CV403427	Bravo v. Michels Pacific Energy, Inc. (Class Action/PAGA)	See Line 4 for tentative ruling.
LINE 5	22CV405663	Pineda v. Super Clean Custodial, LLC, et al. (Class Action/PAGA)	See Line 5 for tentative ruling.
LINE 6			
LINE 7			
LINE 8			
LINE 9			
LINE 10			

Calendar Line 4

Case Name: Bravo v. Michels Pacific Energy, Inc. (Class Action/PAGA)

Case No.: 22CV403427

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on February 28, 2024, at 1:30 p.m. in Department 19. The court now issues its tentative ruling as follows:

III. INTRODUCTION

This is a class and representative action arising out of alleged wage and hour violations. The operative First Amended Class and PAGA Action Complaint (“FAC”), filed on November 28, 2022, sets forth the following causes of action: (1) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of Cal. Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of Cal. Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages); (5) Violation of Cal. Labor Code §§ 201, 202 and 203 (Final Wages Not Timely Paid); (6) Violation of Cal. Labor Code § 226(a) (Failure to Provide Accurate Wage Statements); (7) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Necessary Business Expenses); (8) Violation of Cal. Business & Professions Code §§ 17200, et seq.; and (9) Violation of Cal. Labor Code §§ 2699, et seq. (Private Attorneys General Act).

The parties have reached a settlement. Plaintiff Michael Bravo (“Plaintiff”) now moves for preliminary approval of the settlement. The motion is unopposed.

IV. LEGAL STANDARD

Generally, “questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (*Dunk*).)

In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.”

(*Wershba, supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com’n, etc.* (9th Cir. 1982) 688 F.2d 615, 624 (*Officers*).)

“The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case.” (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The court must examine the “proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, quoting *Dunk, supra*, 48 Cal.App.4th at p. 1801 and *Officers, supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

The burden is on the proponent of the settlement to show that it is fair and reasonable. However “a presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.”

(*Wershba, supra*, 91 Cal.App.4th at p. 245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1802.)

V. DISCUSSION

A. Provisions of the Settlement

This case has been settled on behalf of the following class:

[A]ll current and former hourly-paid and/or non-exempt non-union employees and union employees covered under the National Pipe Line Agreements employed by Defendant [Michels Pacific Energy, Inc. (“Defendant”)] in the State of California at any time during the Class Period.

(Declaration of Jonathan M. Genish in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement (“Genish Dec.”), Ex. 2 (“Settlement Agreement”),

¶ 6(a).) The National Pipe Line Agreements means the collective bargaining agreements (“CBAs”) that cover Defendant’s employees who are members of the International Union of Operating Engineers (“IUOE”), the International Brotherhood of Teamsters (“IBT”), and the Laborers’ International Union of North America (“LIUNA”). (Settlement Agreement, ¶ 6(u).)

The Class Period is defined as the period from September 26, 2018 through October 11, 2023. (Settlement Agreement, ¶ 6(f).)

The settlement also includes a subset of PAGA Employees, who are defined as “all current and former hourly-paid and/or non-exempt non-union and union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the PAGA Period.” (Settlement Agreement, ¶ 6(y).) The PAGA Period means the period from September 22, 2021 through October 11, 2023. (Settlement Agreement, ¶ 6(aa).)

According to the terms of settlement, Defendant will pay a maximum, non-reversionary settlement amount of \$1,750,000. (Settlement Agreement, ¶¶ 6(p).) The gross settlement amount includes attorney fees up to \$583,333.33 (1/3 of the gross settlement amount), litigation costs not to exceed \$13,000, a PAGA allocation of \$200,000 (75 percent of which will be paid to the LWDA and 25 percent of which will be paid to PAGA Employees), an enhancement award up to \$10,000, and settlement administration costs not to exceed \$8,500. (Settlement Agreement, ¶¶ 6(a), 6(l), 6(p), 6(t), 6(v), 6(x), 6(z), 6(ll), 9-12.) The net settlement amount will be distributed to participating class members pro rata basis. (Settlement Agreement, ¶¶ 6(s), 6(v), 14.) Checks that remain uncashed 180 days from the date the checks are dated will be void and the funds from those checks will be distributed to the State of California Unclaimed Property Fund. (Settlement Agreement, ¶ 34.)

The parties’ proposal to send funds from uncashed checks to the State of California Unclaimed Property Fund does not comply with Code of Civil Procedure section 384, which mandates that unclaimed or abandoned class member funds be given to “nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent.” Plaintiff is directed to provide a new *cy pres* in compliance with Code of Civil Procedure section 384 prior to the continued hearing date.

In exchange for the settlement, the class members agree to release Defendant, and related entities and persons, from any and all claims which were alleged or which could have

been alleged based on the factual allegations in the FAC arising during the Class Period. (Settlement Agreement, ¶¶ 6(ff), 6(hh), 35.) PAGA Employees agree to release Defendant, and related entities and persons, from any and all claims for civil penalties under PAGA arising from any of the factual allegations in Plaintiff's PAGA letter arising during the PAGA Period. (Settlement Agreement, ¶¶ 6(gg), 6(hh), 36.) In addition, Plaintiff agrees to a comprehensive general release. (Settlement Agreement, ¶ 37.)

B. Fairness of the Settlement

Plaintiff states that the settlement was reached through discovery, analysis, and mediation with Louis Marlin, Esq. (Genish Dec., ¶¶ 11-12, 22-25.) In anticipation of mediation, Plaintiff's counsel conducted informal discovery, which included a random sampling of putative class members' time and pay records, employee handbooks, CBAs, relevant wage and hour policies, information regarding the total number of putative class members, the total workweeks worked by the putative class members, the numbers of current versus former employees, the dates of employment of the putative class members, and the average rate of pay for the putative class members. (Genish Dec., ¶¶ 11, 23.) From the information provided, Plaintiff determined that there were approximately 273 class members who worked 12,515 workweeks from September 26, 2018 through May 31, 2023. (*Id.* at ¶¶ 16, 26.) Plaintiff estimates that Defendant's maximum potential liability for the claims is approximately \$7,946,500. (*Id.* at ¶¶ 27-39.) Plaintiff provides a breakdown of this amount by claim. (*Ibid.*) Plaintiff discounted the value of the claims given Defendant's defenses, the possibility that the court could substantially reduce any PAGA penalties, and the risks and costs associated with class certification. (*Ibid.*) The gross settlement amount represents approximately 22 percent of the potential maximum recovery. The proposed settlement amount is within the general range of percentage recoveries that California courts have found to be reasonable. (See *Cavazos v. Salas Concrete, Inc.* (E.D.Cal. Feb. 18, 2022, No. 1:19-cv-00062-DAD-EPG) 2022 U.S.Dist.LEXIS 30201, at *41-42 [citing cases listing range of 5 to 25-35 percent of the maximum potential exposure].)

However, upon review of the settlement agreement, the court has concerns regarding the scope of the definitions of the class and PAGA Employees. The settlement agreement

states that the class and PAGA Employees include all current and former hourly-paid and/or non-exempt non-union and union employees covered under the National Pipe Line Agreements employed by Defendant. Thus, the class and PAGA Employees would appear to include non-union employees covered under the National Pipe Line Agreements. However, the settlement agreement further states that the National Pipe Line Agreements are CBAs that cover employees who are members of IUOE, IBT, and LIUNA. Therefore, it appears that the only employees covered by the subject CBAs are union members. In light of this apparent discrepancy, it is unclear to the court why the definitions of the class and PAGA Employees include non-union employees. Prior to the continued hearing, Plaintiff shall file a supplemental declaration explaining why the class and PAGA employees are defined to include non-union employees.

The court otherwise finds the terms of the settlement to be fair. The settlement provides for some recovery for each class member and eliminates the risk and expense of further litigation.

C. Incentive Award, Fees, and Costs

Plaintiff requests an enhancement awards in the amount of \$10,000 for the class representative.

The rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class. An incentive award is appropriate if it is necessary to induce an individual to participate in the suit. Criteria courts may consider in determining whether to make an incentive award 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 amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. These “incentive awards” to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.

(*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, quotation marks, brackets, ellipses, and citations omitted.)

Plaintiff filed a declaration generally describing his participation in the lawsuit. Plaintiff declares that he spent approximately 25 to 30 hours in connection with this action, including discussing the case with class counsel, searching for and providing documents to class counsel, answering questions from class counsel, providing information regarding

Defendant's policies and practices, and reviewing settlement documents. (Declaration of Plaintiff Michael Bravo in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement, ¶¶ 4-9.)

Moreover, Plaintiff undertook risk by putting his name on the case because it might impact his future employment. (See *Covillo v. Specialty's Café* (N.D.Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at *29 [incentive awards are particularly appropriate where a plaintiff undertakes a significant "reputational risk" in bringing an action against an employer].)

However, the requested amount of \$10,000 is more than the court typically awards for the amount of time Plaintiff spent in connection with this action. Therefore, the court approves an enhancement award in the total amount of \$2,500.

The court also has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel will seek attorney fees up to \$583,333.33 (1/3 of the gross settlement amount) and litigation costs not to exceed \$13,000. Plaintiff's counsel shall submit lodestar information (including hourly rates and hours worked) prior to the final approval hearing in this matter so the court can compare the lodestar information with the requested fees. Plaintiff's counsel shall also submit evidence of actual costs incurred as well as evidence of any settlement administration costs.

D. Conditional Certification of Class

Plaintiff requests that the class be conditionally certified for purposes of the settlement. Rule 3.769(d) of the California Rules of Court states that "[t]he court may make an order approving or denying certification of a provisional settlement class after [a] preliminary settlement hearing." California Code of Civil Procedure Section 382 authorizes certification of a class "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court" As interpreted by the California Supreme Court, Section 382 requires: (1) an ascertainable class; and (2) a well-defined community of interest among the class members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326 (*Sav-On*).)

The “community-of-interest” requirement encompasses three factors: (1) predominant questions of law or fact; (2) class representatives with claims or defenses typical of the class; and, (3) class representatives who can adequately represent the class. (*Sav-On, supra*, 34 Cal.4th at p. 326.) “Other relevant considerations include the probability that each class member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing.” (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of establishing that class treatment will yield “substantial benefits” to both “the litigants and to the court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

As explained by the California Supreme Court,
The certification question is essentially a procedural one that does not ask whether an action is legally or factually meritorious. A trial court ruling on a certification motion determines whether the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.

(*Sav-On, supra*, 34 Cal.4th at p. 326, internal quotation marks, ellipses, and citations omitted.)

Plaintiff states that there are approximately 306 class members that can be determined from a review of Defendant’s records. There are common questions regarding whether class members were subjected to common practices that violated wage and hour laws. No issue has been raised regarding the typicality or adequacy of Plaintiff as class representative. Therefore, the court finds that the proposed class should be conditionally certified for settlement purposes.

E. Class Notice

The content of a class notice is subject to court approval. “If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court.” (Cal. Rules of Court, rule 3.769(f).)

The notice generally complies with the requirements for class notice. (Settlement Agreement, Ex. A.) It provides basic information about the settlement, including the settlement terms, and procedures to object or request exclusion.

However, Section 4(C) of the class notice states that individuals must notify the court of their intention to appear in order to appear at the final approval hearing. The class notice

must make clear that class members may object to the settlement by appearing at the final fairness hearing without submitting any notice of intention to appear.

Additionally, the notice shall include the following language regarding the final approval hearing:

Class members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimize.

Notably, the language currently included in the class notice only discusses remote appearances and does not mention in person appearances. The amended notice shall be provided to the court for approval prior to the continued hearing date.

VI. CONCLUSION

The motion for preliminary approval of the class and representative action settlement is CONTINUED to March 27, 2024, at 1:30 p.m. in Department 19. Plaintiff shall file a supplemental declaration no later than March 15, 2024, identifying a new *cy pres* recipient, addressing the court's concerns regarding the scope of the definitions for the class and PAGA Employees, and including an amended class notice. No additional filings are permitted.

The prevailing party shall prepare the order in accordance with California Rules of Court, rule 3.1312.

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EXHIBIT 2

AMENDMENT NO. 1 TO
JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Amendment No. 1 to Joint Stipulation of Class Action and PAGA Settlement is entered into between Plaintiff Michael Bravo (“Plaintiff”) and Defendant Michels Pacific Energy, Inc. (“Defendant”) (together, the “Parties”) pursuant to Paragraph 45 of the Joint Stipulation of Class Action and PAGA Settlement (“Original Agreement”) entered into between the Parties on September 19, 2023.

A. Paragraph 34 of the Original Agreement is hereby amended to state as follows:

Settlement Checks. The Settlement Administrator will be responsible for undertaking appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the PAGA Employees in accordance with this Settlement Agreement. When issuing payments, the Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA Payment into one check if the intended recipient for both payments is one individual. Settlement Class Members and PAGA Employees are not required to submit a claim to be issued an Individual Settlement Payment and/or Individual PAGA Payment. Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds associated with such canceled checks shall be distributed by the Settlement Administrator to California Rural Legal Assistance, Inc. (the proposed *cy pres* recipient) in accordance with California Code of Civil Procedure Section 384. The Parties and their counsel each represent that they do not have any financial interest in, or otherwise have a relationship with, the proposed *cy pres* recipient that could create a conflict of interest. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting required under applicable local, state, and federal tax laws that are necessitated due to the cancelation of any Individual Settlement Payment and/or Individual PAGA Payment checks. To the extent that the Settlement Administrator is able to obtain or receive the return or refund of the amounts that were transmitted to taxing authorities for the employees’ share of taxes, contributions, and/or withholding associated with canceled Individual Settlement Payments, all such

1 amounts shall also be transmitted to California Rural Legal Assistance, Inc. Settlement Class
2 Members whose Individual Settlement Payment checks are canceled shall, nevertheless, be bound by
3 the Class Settlement, and PAGA Employees whose Individual PAGA Payment checks are cancelled
4 shall, nevertheless, be bound by the PAGA Settlement.

5 **B. The Notice of Class Action Settlement attached to the Original Agreement as “Exhibit**
6 **A” is hereby replaced with the revised Notice of Class Action Settlement attached**
7 **hereto as “Exhibit A.”**

8 **BLACKSTONE LAW, APC**

9 

10 Dated: March 11, 2024

11

Jonathan M. Genish
12 *Attorneys for Plaintiff Michael Bravo*

13 **EIMER STAHL LLP**

14 

15 Dated: March 11, 2024

16

Robert E. Dunn
17 *Attorneys for Defendant Michels Pacific Energy,*
18 *Inc.*

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Michael Bravo v. Michels Pacific Energy, Inc.
Superior Court of California for the County of Santa Clara, Case No. 22CV403427

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks and/or PAGA Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Michael Bravo ("Plaintiff") and Defendant Michels Pacific Energy, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Michael Bravo v. Michels Pacific Energy, Inc.*, Santa Clara County Superior Court, Case No. 22CV403427 ("Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid and/or non-exempt non-union employees and union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the period from September 26, 2018 through October 11, 2023.

"Class Settlement" means the settlement and resolution of all Released Class Claims.

"National Pipe Line Agreements" means the Collective Bargaining Agreements ("CBAs") that cover Defendant's employees who are members of the International Union of Operating Engineers ("IUOE"), the International Brotherhood of Teamsters ("IBT"), and the Laborers' International Union of North America ("LIUNA").

"PAGA Employees" means all current and former hourly-paid and/or non-exempt non-union and union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the PAGA Period.

"PAGA Period" means the period from September 22, 2021 through October 11, 2023.

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On September 22, 2022, Plaintiff provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated ("PAGA Letter"). On September 26, 2022, Plaintiff commenced a putative class action lawsuit by filing a Class Action Complaint for Damages in the Santa Clara County Superior Court, Case No. 22CV403427. On November 28, 2022, Plaintiff filed a First Amended Class Action Complaint for Damages and Enforcement Action Under the Private Attorneys General Act, California Labor Code §§ 2698 *et seq.* ("Operative Complaint"), adding a cause of action under the Private Attorneys General Act of 2004 pursuant to California Labor Code Section 2698, *et seq.* ("PAGA").

Plaintiff contends that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages upon termination of employment and associated waiting-time penalties,

provide accurate wage statements, and reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action or that it violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement").

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed ILYM Group, Inc. as the administrator of the Settlement ("Settlement Administrator"), Plaintiff Michael Bravo as representative of the Class ("Class Representative"), and the following Plaintiff's attorneys as counsel for the Class ("Class Counsel"):

Jonathan M. Genish
Miriam L. Schimmel
Joana Fang
Alexandra Rose
Blackstone Law, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks and/or PAGA Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all PAGA Employees will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Employees.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is One Million, Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) (the "Gross Settlement Amount"), subject to possible increase if it is determined that the number of workweeks exceeds a predetermined threshold. The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys' fees, in an amount not to exceed 1/3 of the Gross Settlement Amount (i.e., \$583,333.00 if the Gross Settlement Amount is \$1,750,000.00), and reimbursement of litigation costs and expenses, in an amount not to exceed Thirteen Thousand Dollars (\$13,000.00) to Class Counsel; (2) Enhancement Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to Plaintiff for his services in the Action; (3) the amount of Two Hundred Thousand Dollars (\$200,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Amount"), of which the LWDA will be paid 75% (i.e., \$150,000.00) ("LWDA Payment") and the remaining 25% (\$50,000.00) will be distributed to PAGA Employees ("PAGA Employee Amount"); and (4) Settlement Administration Costs in an amount not to exceed Eight Thousand Five Hundred Dollars (\$8,500.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of weeks each Class Member was employed by Defendant as an hourly-paid and/or non-exempt non-union or union employee covered under the National Pipe Line Agreements in California during the Class Period (“Workweeks”). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to yield an estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion (“Settlement Class Members”) will be issued their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent (20%) as wages, which will be reported on an IRS Form W-2, and eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee’s share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Shares resulting in a net payment to the Settlement Class Member (“Individual Settlement Payment”). The employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares (“Employer Taxes”) will be paid by Defendant separately and in addition to the Gross Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Employee Amount (“Individual PAGA Payment”) based on the number of weeks each PAGA Employee was employed by Defendant as an hourly-paid and/or non-exempt non-union or union employee covered under the National Pipe Line Agreements in California during the PAGA Period (“PAGA Workweeks”). The Settlement Administrator had divided the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the PAGA Workweeks of all PAGA Employees to yield the “PAGA Workweek Value,” and multiplied each PAGA Employee’s individual PAGA Workweeks by the PAGA Workweek Value to yield each PAGA Employee’s Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and PAGA Workweeks (if applicable) Based on Defendant’s Records

According to Defendant’s records:

- **From September 26, 2018 through October 11, 2023 (i.e., the Class Period), you were employed by Defendant for [REDACTED] Workweeks.**
- **From September 22, 2021 through October 11, 2023 (i.e., the PAGA Period), you were employed by Defendant for [REDACTED] PAGA Workweeks.**

If you wish to dispute the Workweeks and/or PAGA Workweeks credited to you, you must submit your dispute in writing to the Settlement Administrator (“Workweeks Dispute”). The Workweeks Dispute must: (a) contain the case name and number of the Action (*Michael Bravo v. Michels Pacific Energy, Inc.*, Case No. 22CV403427); (b) contain the your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) clearly state that you dispute the number of Workweeks and/or PAGA Workweeks credited to you and what you contend is the correct number; and (f) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before [Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Workweeks and PAGA Workweeks (if applicable) credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

"Released Class Claims" means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Operative Complaint, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for Defendant's alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages upon termination, provide accurate wage statements, and reimburse necessary business-related expenses in violation of California Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith, California Business and Professions Code sections 17200, *et seq.*, and any other claims, including claims for statutory penalties, pertaining to the Class Members.

"Released PAGA Claims" means any and all claims arising from any of the factual allegations in the PAGA Letter, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, including all claims for attorneys' fees and costs related thereto, for Defendant's alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, maintain complete and accurate payroll records, and reimburse necessary business-related expenses in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 16-2001.

"Released Parties" means Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (i.e., \$583,333.33 if the Gross Settlement Amount is \$1,750,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed Thirteen Thousand Dollars (\$13,000.00) (collectively, "Attorneys' Fees and Costs"), subject to approval by the Court. The Attorneys' Fees and Costs granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars (\$10,000.00) (“Enhancement Payment”), in recognition of his services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Eight Thousand Five Hundred Dollars (\$8,500.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims against the Released Parties as described in Section III.D above.

As a Class Member and PAGA Employee (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

[Settlement Administrator]
[Mailing Address]

A Request for Exclusion must: (a) contain the case name and number of the Action (*Michael Bravo v. Michels Pacific Energy, Inc.*, Case No. 22CV403427); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. PAGA Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion by submitting a written objection (“Notice of Objection”) to the Settlement Administrator.

The Notice of Objection must: (a) contain the case name and number of the Action (*Michael Bravo v. Michels Pacific Energy, Inc.*, Case No. 22CV403427); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, and present your objection orally, regardless of whether you have submitted a Notice of Objection.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 19 of the Santa Clara County Superior Court, located at 161 North First Street, San Jose, California 95113, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys’ Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Class Members may appear at the Final Approval Hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class Members who wish to appear remotely are encouraged to contact Class Counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimize.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action (a) online on the Superior Court of California, County of Santa Clara’s Website at <https://www.sccscourt.org/>, or (b) in person at Records, Superior Court of California, County of Santa Clara, 161 North First Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator.

You may also visit the Settlement Administrator’s website at **[redacted]** for key documents in the Action.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: **[INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.**

EXHIBIT 3

**AMENDMENT NO. 1 TO
JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

This Amendment No. 1 to Joint Stipulation of Class Action and PAGA Settlement is entered into between Plaintiff Michael Bravo (“Plaintiff”) and Defendant Michels Pacific Energy, Inc. (“Defendant”) (together, the “Parties”) pursuant to Paragraph 45 of the Joint Stipulation of Class Action and PAGA Settlement (“Original Agreement”) entered into between the Parties on September 19, 2023.

A. Paragraph 34 of the Original Agreement is hereby amended to state as follows:

Settlement Checks. The Settlement Administrator will be responsible for undertaking appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the PAGA Employees in accordance with this Settlement Agreement. When issuing payments, the Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA Payment into one check if the intended recipient for both payments is one individual. Settlement Class Members and PAGA Employees are not required to submit a claim to be issued an Individual Settlement Payment and/or Individual PAGA Payment. Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds associated with such canceled checks shall be distributed by the Settlement Administrator to California Rural Legal Assistance, Inc. (the proposed *cy pres* recipient) in accordance with California Code of Civil Procedure Section 384~~the State of California’s Unclaimed Property Fund in the name of the Settlement Class Member and/or PAGA Employee at issue.~~ The Parties and their counsel each represent that they do not have any financial interest in, or otherwise have a relationship with, the proposed *cy pres* recipient that could create a conflict of interest. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting required under applicable local, state, and federal tax laws that are necessitated due to the cancelation of any Individual Settlement Payment and/or Individual PAGA Payment checks. To the extent that the Settlement Administrator is able to obtain or receive the return or refund of the amounts that were transmitted to taxing

1 authorities for the employees' share of taxes, contributions, and/or withholding associated with
2 canceled Individual Settlement Payments, all such amounts shall also be transmitted to California
3 Rural Legal Assistance, Inc. Settlement Class Members whose Individual Settlement Payment checks
4 are canceled shall, nevertheless, be bound by the Class Settlement, and PAGA Employees whose
5 Individual PAGA Payment checks are cancelled shall, nevertheless, be bound by the PAGA
6 Settlement.

7 **B. The Notice of Class Action Settlement attached to the Original Agreement as “Exhibit**
8 **A” is hereby replaced with the revised Notice of Class Action Settlement attached**
9 **hereto as “Exhibit A.”**

10 **BLACKSTONE LAW, APC**

11
12 Dated: March __, 2024

Jonathan M. Genish
Attorneys for Plaintiff Michael Bravo

14 **EIMER STAHL LLP**

15
16 Dated: March __, 2024

Robert E. Dunn
Attorneys for Defendant Michels Pacific Energy,
Inc.

EXHIBIT 4

NOTICE OF CLASS ACTION SETTLEMENT

Michael Bravo v. Michels Pacific Energy, Inc.
Superior Court of California for the County of Santa Clara, Case No. 22CV403427

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks and/or PAGA Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Michael Bravo ("Plaintiff") and Defendant Michels Pacific Energy, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Michael Bravo v. Michels Pacific Energy, Inc.*, Santa Clara County Superior Court, Case No. 22CV403427 ("Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid and/or non-exempt non-union employees and union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the period from September 26, 2018 through [October 11, 2023 or the date on which the Court grants preliminary approval of the Settlement, whichever is earlier].

"Class Settlement" means the settlement and resolution of all Released Class Claims.

"National Pipe Line Agreements" means the Collective Bargaining Agreements ("CBAs") that cover Defendant's employees who are members of the International Union of Operating Engineers ("IUOE"), the International Brotherhood of Teamsters ("IBT"), and the Laborers' International Union of North America ("LIUNA").

"PAGA Employees" means all current and former hourly-paid and/or non-exempt non-union and union employees covered under the National Pipe Line Agreements employed by Defendant in the State of California at any time during the PAGA Period.

"PAGA Period" means the period from September 22, 2021 through [October 11, 2023 or the date on which the Court grants preliminary approval of the Settlement, whichever is earlier].

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On September 22, 2022, Plaintiff provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated ("PAGA Letter"). On September 26, 2022, Plaintiff commenced a putative class action lawsuit by filing a Class Action Complaint for Damages in the Santa Clara County Superior Court, Case No. 22CV403427. On November 28, 2022, Plaintiff filed a First Amended Class Action Complaint for Damages and Enforcement Action Under the Private Attorneys General Act, California Labor Code §§ 2698 Et Seq. ("Operative Complaint"), adding a cause of action under the Private Attorneys General Act of 2004 pursuant to California Labor Code Section 2698, *et seq.* ("PAGA").

Plaintiff contends that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages upon termination of employment and associated waiting-time penalties, provide accurate wage statements, and reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action or that it violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement").

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed ILYM Group, Inc. as the administrator of the Settlement ("Settlement Administrator"), Plaintiff Michael Bravo as representative of the Class ("Class Representative"), and the following Plaintiff's attorneys as counsel for the Class ("Class Counsel"):

Jonathan M. Genish
Miriam L. Schimmel
Joana Fang
Alexandra Rose
Blackstone Law, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks and/or PAGA Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all PAGA Employees will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Employees.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is One Million, Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) (the "Gross Settlement Amount"), subject to possible increase if it is determined that the number of workweeks exceeds a predetermined threshold. The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys' fees, in an amount not to exceed 1/3 of the Gross Settlement Amount (i.e., \$583,333.00 if the Gross Settlement Amount is \$1,750,000.00), and reimbursement of litigation costs and expenses, in an amount not to exceed Thirteen Thousand Dollars (\$13,000.00) to Class Counsel; (2) Enhancement Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to Plaintiff for his services in the Action; (3) the amount of Two Hundred Thousand Dollars (\$200,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Amount"), of which the LWDA will be paid 75% (i.e., \$150,000.00) ("LWDA Payment") and the remaining 25% (\$50,000.00) will be distributed to PAGA Employees ("PAGA Employee Amount"); and (4) Settlement Administration

Costs in an amount not to exceed Eight Thousand Five Hundred Dollars (\$8,500.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of weeks each Class Member was employed by Defendant as an hourly-paid and/or non-exempt non-union or union employee covered under the National Pipe Line Agreements in California during the Class Period (“Workweeks”). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to yield an estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion (“Settlement Class Members”) will be issued their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent (20%) as wages, which will be reported on an IRS Form W-2, and eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee’s share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Shares resulting in a net payment to the Settlement Class Member (“Individual Settlement Payment”). The employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares (“Employer Taxes”) will be paid by Defendant separately and in addition to the Gross Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Employee Amount (“Individual PAGA Payment”) based on the number of weeks each PAGA Employee was employed by Defendant as an hourly-paid and/or non-exempt non-union or union employee covered under the National Pipe Line Agreements in California during the PAGA Period (“PAGA Workweeks”). The Settlement Administrator had divided the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the PAGA Workweeks of all PAGA Employees to yield the “PAGA Workweek Value,” and multiplied each PAGA Employee’s individual PAGA Workweeks by the PAGA Workweek Value to yield each PAGA Employee’s Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and PAGA Workweeks (if applicable) Based on Defendant’s Records

According to Defendant’s records:

- From September 26, 2018 through ~~October 11, 2023~~ **or the date on which the Court grants preliminary approval of the Settlement, whichever is earlier** (i.e., the Class Period), you were employed by Defendant for [] Workweeks.
- From September 22, 2021 through ~~October 11, 2023~~ **or the date on which the Court grants preliminary approval of the Settlement, whichever is earlier** (i.e., the PAGA Period), you were employed by Defendant for [] PAGA Workweeks.

If you wish to dispute the Workweeks and/or PAGA Workweeks credited to you, you must submit your dispute in writing to the Settlement Administrator (“Workweeks Dispute”). The Workweeks Dispute must: (a) contain the case name and number of the Action (*Michael Bravo v. Michels Pacific Energy, Inc.*, Case No. 22CV403427); (b) contain the your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) clearly state that you dispute the number of Workweeks and/or PAGA Workweeks credited to you and what you contend is the correct number; and (f) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before** **[Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Workweeks and PAGA Workweeks (if applicable) credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

“Released Class Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Operative Complaint, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for Defendant’s alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages upon termination, provide accurate wage statements, and reimburse necessary business-related expenses in violation of California Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders, and all claims for attorneys’ fees and costs and statutory interest in connection therewith, California Business and Professions Code sections 17200, *et seq.*, and any other claims, including claims for statutory penalties, pertaining to the Class Members.

“Released PAGA Claims” means any and all claims arising from any of the factual allegations in the PAGA Letter, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, including all claims for attorneys’ fees and costs related thereto, for Defendant’s alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, maintain complete and accurate payroll records, and reimburse necessary business-related expenses in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 16-2001.

“Released Parties” means Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (i.e., \$583,333.33 if the Gross Settlement Amount is \$1,750,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed Thirteen Thousand Dollars (\$13,000.00) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. The Attorneys’ Fees and Costs granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars (\$10,000.00) (“Enhancement Payment”), in recognition of his services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Eight Thousand Five Hundred Dollars (\$8,500.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims against the Released Parties as described in Section III.D above.

As a Class Member and PAGA Employee (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

[Settlement Administrator]
[Mailing Address]

A Request for Exclusion must: (a) contain the case name and number of the Action (*Michael Bravo v. Michels Pacific Energy, Inc.*, Case No. 22CV403427); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. PAGA Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion by submitting a written objection (“Notice of Objection”) to the Settlement Administrator.

The Notice of Objection must: (a) contain the case name and number of the Action (*Michael Bravo v. Michels Pacific Energy, Inc.*, Case No. 22CV403427); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, and present your objection orally, provided you notify the Court of your intention to do so regardless of whether you have submitted a Notice of Objection.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 19 of the Santa Clara County Superior Court, located at 161 North First Street, San Jose, California 95113, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys’ Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Class Members may appear at the Final Approval Hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class Members who wish to appear remotely are encouraged to contact Class Counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimize.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action (a) online on the Superior Court of California, County of Santa Clara’s Website at <https://www.sccourt.org/>, or (b) in person at Records, Superior Court of California, County of Santa Clara, 161 North First Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator.

You may also visit the Settlement Administrator’s website at **[redacted]** for key documents in the Action.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: **[INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.**