

Edwin Aiwarzian (SBN 232943)
Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

WILLIAM CAMPOS; individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act; JUANITA
HERNANDEZ; individually, and on behalf of
other members of the general public similarly
situated and on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Act;

Plaintiffs,

vs.

MOTIVE ENERGY, INC., a California
corporation; MOTIVE ENERGY
TELECOMMUNICATIONS GROUP, INC., a
California corporation; ADVANCED
CHARGING TECHNOLOGIES, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 30-2016-00828352-CU-OE-CXC

Honorable William D. Claster
Department CX102

CLASS ACTION

**DECLARATION OF EDWIN
AIWAZIAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Reservation Number: 72858846

[Plaintiffs' Motion for Preliminary Approval
of Class Action Settlement; Declarations of
Proposed Class Representatives (William
Campos and Juanita Hernandez); and
[Proposed] Order filed concurrently
herewith.]

Date: August 24, 2018
Time: 9:00 a.m.
Department: CX102

Complaint Filed: January 5, 2016
FAC Filed: September 22, 2016
SAC Filed: December 2, 2016
Jury Trial: None Set

DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers for Justice, PC, attorneys of record for Plaintiffs William Campos and Juanita Hernandez. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EDUCATION

2. In May of 2004, I graduated from *Pepperdine University School of Law* with a Juris Doctor degree. I have extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, I have previously served as a *pro bono* mediator for the Los Angeles Superior Court. In October of 2000, I obtained a Litigation Paralegal Certificate from the *UCLA Extension Program*. During the summer of 2000, I studied Legal Writing at *Harvard University*. In April of 1999, I obtained a Bachelor of Arts degree in Communication with a concentration in Natural Sciences from *Pepperdine University*.

JUDICIAL EXTERNSHIPS

3. From approximately September 2002 to approximately December 2002, I served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the *United States Court of Appeals for the Ninth Circuit*. From approximately June 2002 to approximately August 2002, I served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the *California Court of Appeal for the Second Appellate District*.

LITIGATION AND CLASS ACTION EXPERIENCE

4. In December of 2004, I obtained a license to practice law from the California State Bar. From approximately December 2004 to approximately August 2008, I was employed by the law firm of *Girardi & Keese*.

5. At *Girardi & Keese*, my practice focused on class actions and other complex cases involving toxic torts and products liability. In addition, I gained substantial experience on cases

1 involving insurance bad faith, premises liability, and medical negligence. While employed by
2 *Girardi & Keese*, I argued approximately 100 motions, took or defended approximately 150
3 depositions, and prepared dozens of expert witnesses for deposition or trial.

4 6. Since its inception, in or around October of 2008, *Lawyers for Justice, PC* has
5 almost exclusively focused on the prosecution of consumer and employment class actions,
6 involving wage-and-hour claims, race discrimination, unfair business practices or consumer
7 fraud. Currently, we are the attorneys of record in over a dozen employment-related putative
8 class actions in both state and federal courts in the State of California. Our firm has successfully
9 litigated cases involving the executive, administrative, and other overtime exemptions to the
10 State of California and federal overtime compensation requirements. During this relatively short
11 time, in association with other law firms, we have recovered millions of dollars on behalf of
12 thousands of individuals in California.

13 **EXAMPLES OF CLASS ACTION RESULTS**

14 7. What follows are just a few examples of the type of results we have achieved on
15 behalf of our clients:

16 a) Our firm, in association with co-counsel, represented the plaintiffs in a
17 wage-and-hour class action against a major property management company involving
18 allegations of misclassification of various “manager” positions. On September 20, 2010, the
19 court granted final approval of the class and representative action settlement. The Los Angeles
20 County Superior Court Case Number is BC400414.

21 b) Our firm, in association with co-counsel, represented the plaintiffs in a
22 wage-and-hour class action against a national retailer involving allegations of misclassification
23 of the “Assistant Store Manager” position. On October 28, 2010, the court granted final
24 approval of the class action settlement. The Los Angeles County Superior Court Case Number
25 is BC413498.

26 c) Our firm, in association with co-counsel, represented the plaintiffs in a
27 wage-and-hour class action against a national property management company involving
28 allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court

1 granted final approval of the class and representative action settlement. The Los Angeles
2 County Superior Court Case Number is BC430918.

3 d) Our firm, in association with co-counsel, represented the plaintiffs in a
4 wage-and-hour class action against a national retailer involving allegations of misclassification
5 of the "Store Manager" position. On June 10, 2011, the court granted plaintiffs' motion for class
6 certification. On August 26, 2013, the court granted final approval of the class action settlement.
7 The Los Angeles County Superior Court Case Number is BC424012.

8 e) Our firm, in association with co-counsel, represented the plaintiffs in a
9 wage-and-hour class action against a bank, involving allegations of misclassification of the
10 "Assistant Branch Manager" position. On August 27, 2013, the court granted final approval of
11 the class and representative action settlement. The Kern County Superior Court Case Number
12 is S-1500-CV-273194-LHB.

13 f) Our firm, in association with co-counsel, represented the plaintiffs in a
14 wage-and-hour class action against a national wholesale distributor of plumbing and builder
15 supplies, involving allegations of misclassification of multiple salaried "manager" positions. On
16 May 22, 2014, the court granted final approval of the class and representative action settlement.
17 The Sacramento County Superior Court Case Number is 34-2012-00136285.

18 g) Our firm, in association with co-counsel, represented the plaintiffs in a
19 wage-and-hour class action involving allegations of misclassification of the "Operations
20 Manager" position. On September 16, 2014, the court granted plaintiffs' motion for class
21 certification. The Los Angeles County Superior Court Case Number is BC478769.

22 h) Our firm, in association with co-counsel, represented the plaintiffs in a
23 wage-and-hour class action against a national retailer of household items, on behalf of hourly-
24 paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class
25 and representative action settlement. The San Francisco County Superior Court Case Number
26 is CGC-13-532344.

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1 i) Our firm, in association with co-counsel, represented the plaintiffs in a
2 wage-and-hour class action involving allegations of misclassification of the salaried residential
3 “Property Manager” position. On September 17, 2015, the court granted plaintiffs’ motion for
4 class certification. The Los Angeles County Superior Court Case Number is BC474784.

5 j) Our firm, in association with co-counsel, represented the plaintiffs in a
6 wage-and-hour class action against a national retailer of upscale hardware and home furnishings,
7 on behalf of non-exempt employees. On April 28, 2016, the court granted final approval of the
8 class and representative action settlement. The Los Angeles County Superior Court Case
9 Number is JCCP4794.

10 k) Our firm, in association with co-counsel, represented the plaintiffs in a
11 wage-and-hour class and representative action against a national retailer of apparel and fashion
12 accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final
13 approval of the class and representative action settlement. The Los Angeles County Superior
14 Court Case Number is BC488069.

15 l) Our firm, in association with co-counsel, represented the plaintiffs in a
16 wage-and-hour class action against a national retailer of apparel, accessories, and home
17 products, involving allegations of misclassification of the “Department Manager” position. On
18 August 12, 2016, the court granted plaintiffs’ motion for class certification. The Alameda
19 County Superior Court Case Number is RG13680477.

20 m) Our firm represented the plaintiffs in a representative action under the
21 Private Attorneys General Act, against a real estate and property management company, on
22 behalf of non-exempt employees. On November 4, 2016, the court granted approval of the
23 settlement. The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-
24 CXC.

25 n) Our firm, in association with other co-counsel, represented the plaintiffs
26 in a wage-and-hour class action against a full-service bank, on behalf of non-exempt employees.
27 On November 18, 2016, the court granted final approval of the class action settlement. The San
28 Francisco County Superior Court Case Number is CJC-13-004839.

1 o) Our firm, in association with co-counsel, represented the plaintiffs in a
2 wage-and-hour class action and representative action against a consumer packaging company,
3 on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the
4 class action settlement. The Los Angeles County Superior Court Case Number is BC590429.

5 p) Our firm, in association with other co-counsel, represented the plaintiffs
6 in a wage-and-hour class action and representative action against a manufacturer of food service
7 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final
8 approval of the class action settlement. The Orange County Superior Court Case Number is 30-
9 2015-00810013-CU-OE-CXC.

10 q) Our firm represented the plaintiffs in a wage-and-hour class action and
11 representative action against a food company on behalf of non-exempt employees. On June 30,
12 2017, the court granted final approval of the class action settlement. The Sacramento County
13 Superior Court Case Number is 34-2015-00175871.

14 r) Our firm represented the plaintiffs in a wage-and-hour class action and
15 representative action against a chocolate company on behalf of non-exempt employees. On July
16 19, 2017, the court granted final approval of the class and representative action settlement. The
17 Alameda County Superior Court Case Number is RG15764300.

18 s) Our firm represented the plaintiffs in a wage-and-hour class action and
19 representative action against a manufacturer of plastic containers on behalf of non-exempt
20 employees. On October 31, 2017, the court granted final approval of the class and representative
21 action settlement. The Los Angeles County Superior Court Case Number is BC577233.

22 t) Our firm, in association with co-counsel, represented the plaintiffs in a
23 wage-and-hour class action and representative action against a global provider of flexible office
24 space solutions. On February 15, 2018, the court entered an order granting final approval of the
25 class and representative action settlement. The Los Angeles County Superior Court Case
26 Number is BC498401.

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PRELIMINARY APPROVAL

8. Marked and attached hereto as “**EXHIBIT 1**” is the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiffs William Campos and Juanita Hernandez (“Plaintiffs”), individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendants Motive Energy, Inc., Motive Energy Telecommunications Group, Inc., and Advanced Charging Technologies, Inc. (“Defendants”), on the other hand (collectively, the “Parties”). The Parties and their counsel have approved the proposed Notice of Class Action Settlement (“Class Notice”), which is attached to the Settlement Agreement as “Exhibit A.” and respectfully request that the Court approve it as well.

9. Based on information provided by Defendants, as of March 16, 2018, the Class was estimated to consist of approximately five hundred (500) individuals.

10. The effectiveness of Lawyers for Justice PC (“Class Counsel”) in prosecuting this case has translated into tangible monetary benefits for the Class Members in the following respects: (1) Class Members recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly worse, result; (2) a guaranteed result that compares favorably with other similar class action settlements of this type given the strengths and weaknesses of the case; and (3) significant savings in Class Counsel’s fees and/or costs that would have only increased significantly had the case progressed through certification, trial, and/or appeals.

11. Class Counsel has actively litigated this case since it was commenced on January 5, 2016. The Parties have engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Paul Grossman, Esq., a well-respected mediator experienced in mediating complex labor and employment matters. Prior to and during the mediation and settlement discussions, the Parties exchanged class information, propounded and responded to extensive formal written discovery requests, engaged in an extensive discussion regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class

certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things. During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position. Arriving at a settlement that was acceptable to both Parties was not easy. Defendants and their counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiffs and Class Counsel believed that they would be able to obtain class certification and prevail at trial. After conducting investigations and formal and informal discovery and exchange of information, extensive settlement negotiations, and with the aid of the mediator's evaluations, the Parties have agreed that this case is well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to both sides that would attend further litigation. The Settlement is a fair, reasonable, and adequate resolution of the Released Claims of Plaintiffs and Class Members who do not timely submit a Request for Exclusion from the Settlement ("Settlement Class Members"), with respect to the Released Parties.

12. Prior to the mediation session on January 31, 2018, the Parties used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and Class Counsel was preparing the case for class certification. Prior to engaging in the mediation, Plaintiffs conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of thousands of pages of documents and data produced by Defendant. Defendant produced in excess of six thousand pages of documents and data in this matter. The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiffs and other Class Members' employment records, a detailed sampling of Class Members' time and pay data (including but not limited to, timecards, payroll records, and wage statements), Defendants' Employee Handbooks, agreements (including but not limited to the Employee Handbook Acknowledgement and Agreement), internal memoranda, job descriptions, and Defendants' operations and employment practices, forms, procedures, and policies (including but not limited to Defendants' Recording Time and Meal Period Policy and Travel Time Policy), among other

1 information and documents. Class Counsel interviewed Plaintiffs and other Class Members to
2 gather facts and to identify potential witnesses. Class Counsel propounded multiple sets of
3 formal written discovery requests on Defendant and reviewed responses thereto. Plaintiffs
4 reviewed and worked with Class Counsel to respond to multiple sets of formal written discovery
5 request propounded by Defendant. Class Counsel also took the depositions of Defendants'
6 Persons Most Knowledgeable designees and prepared for and defended the depositions of
7 Plaintiffs (including, with respect to Plaintiff Hernandez, two separate sessions of deposition).
8 The Parties also engaged in extensive motion practice in regards to the pleadings and discovery,
9 including but not limited to, multiple motions to compel, a motion for leave, and a demurrer.
10 Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues
11 relating to the pleadings, motion practice, discovery, and the production of documents and data
12 prior to the mediation. Class Counsel also drafted Plaintiffs' mediation brief, and prepared for
13 and attended court proceedings, settlement negotiations, and the mediation, among other tasks.

14 13. Counsel for the Parties have also invested time researching and investigating the
15 applicable law, which is constantly evolving as it relates to certification, representative PAGA
16 claims, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiffs'
17 claims and damages, and Defendants' defenses thereto, as well as facts discovered. Based on
18 our analysis, I submit that the result achieved in this litigation is fair, adequate, and reasonable.
19 Specifically, throughout the litigation and mediation process Plaintiffs considered the serious
20 risk of proceeding to the class certification stage, including Defendants' defenses regarding,
21 what Defendants' contended were: (1) the individualized inquiry required as to many of the
22 claims given the numerous differing positions and locations of employees; (2) the nominal
23 percentage of Class Members having ever received a non-discretionary bonus; (3) the limited
24 time-period during which certain alleged violative policies were in place; and (4) the arbitration
25 agreement Defendants' alleged was enforceable as to a significant percentage of the Class
26 Members. While the trier of fact is the ultimate arbiter as to these issues, the risks presented
27 make the settlement amount fair, adequate, and reasonable.

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14. The Settlement provides for a Maximum Settlement Amount of seven hundred fifty thousand dollars (\$750,000). The Net Settlement Amount is the Maximum Settlement Amount less the following amounts, subject to approval by the Court: Attorneys' Fees and Litigation Costs and Expenses to Class Counsel, Service Payments to Plaintiffs, to the California Labor and Workforce Development Agency's portion of the penalties allocated under the California Private Attorneys General Act, and Settlement Administration Costs to the Settlement Administrator. Assuming that the amounts allocated under the Settlement toward these payments are awarded by the Court, the Net Settlement Amount is currently estimated to be three hundred eighty-eight thousand (\$388,000). Under the Settlement Agreement, the final available Net Settlement Amount will be fully-distributed and no portion will revert to Defendants.

15. The Parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration. The Parties respectfully request that the Court appoint Simpluris to handle these procedures and serve as the Settlement Administrator. Defendants will provide Simpluris with the Class Information and Simpluris will calculate each Class Member's estimated Individual Settlement Share. Simpluris will also receive Requests for Exclusion, objections, and challenges to Workweeks; provide necessary reports and declarations; calculate, subtract, and transmit necessary taxes and withholdings; prepare and submit informational and other tax filings and documents; issue and transmit all payments provided by the Settlement, including and not limited to, mailing Individual Settlement Payment checks to the Settlement Class Members; and perform any other usual and customary duties for administering a class action settlement. Settlement Administration Costs are currently estimated not to exceed twelve thousand dollars (\$12,000) and will be paid out of the Maximum Settlement Amount, subject to approval of the Court.

16. Based on investigation and information discovered, Class Counsel believes that there is sufficient evidence to support the allegations made in this lawsuit, including the allegations that Defendants, with respect to Plaintiffs and the Class Members, *inter alia*, failed to properly pay for all hours worked, failed to provide compliant meal and rest periods and to

1 pay associated premium pay, failed to timely pay wages upon termination and during
2 employment, failed to provide complaint wage statements, failed to maintain requisite payroll
3 records, and failed to reimburse necessary business expenses, and thereby engaged in unfair
4 business practices and violated the Private Attorneys General Act of 2004 (California Labor
5 Code sections 2698, *et seq.*). Plaintiffs also asserted that Class Members were expected to
6 perform similar job duties and were subject to the same or similar operations and employment
7 policies, practices, and procedures. Additionally, Plaintiffs asserted that Defendants'
8 recordkeeping practices with respect to Plaintiffs and the Class Members were substantially the
9 same during the Class Period. As a result, Plaintiffs claim that the Class Members, were
10 uniformly not paid all of the compensation that was owed to them by Defendants during the
11 Class Period. Thus, it is clear that the outcome of this litigation would be determined by
12 Defendants' uniform operations and employment practices, policies, and procedures that applied
13 across its hourly-paid or non-exempt employees during the Class Period.

14 17. Class Counsel is aware of the defenses and position of Defendants, but believe
15 that Plaintiffs could potentially obtain class certification despite many obstacles. Plaintiffs have
16 also taken into account the uncertainty and risk of the outcome of further litigation, and the
17 difficulties and delays inherent in such litigation, including those involved in class certification
18 and/or representative adjudication. Plaintiffs further recognize the burdens of proof necessary
19 to establish liability for the claims asserted in the lawsuit, Defendants' defenses, and the
20 difficulties in establishing entitlement to monetary recovery. Plaintiffs have also considered the
21 Parties' settlement discussions, as well as the evaluations and proposal of the mediator, who is
22 experienced and well-regarded in complex labor and employment matters.

23 18. Defendants, on the other hand, denied and continue to deny any liability and
24 wrongdoing of any kind associated with the claims alleged in the lawsuit, and further deny that
25 the lawsuit is appropriate for class treatment or representative adjudication for any purpose other
26 than this Settlement. Defendants believe that it would ultimately succeed in the action.
27 Plaintiffs have had the opportunity to interview witnesses and review documents and
28 information relating to Plaintiffs' and the Class Members' employment with Defendants, and

1 Defendants' operations and employment policies, practices, and procedures. The Parties also
2 reviewed and analyzed thousands of pages of documents and data, including but not limited to
3 a detailed sampling of Class Members' time and pay information, to determine the potential
4 value and strength of the claims. The available information enabled Class Counsel to estimate
5 the potential claims of the Class and prepare damages/valuation models. Accordingly, the
6 Parties have conducted adequate investigation and discovery to be sufficiently informed of the
7 nature and extent of the Class Members' claims, and to enable both sides to fully evaluate the
8 Settlement for its fairness, adequacy, and reasonableness. The Parties have agreed that the case
9 is well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well
10 as the costs and risks to both sides that would attend further litigation. The Settlement takes into
11 account the strengths and weaknesses of each side's position and the uncertainty of how the case
12 might have concluded at certification, trial, and/or appeals.

13 19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
14 in an amount of up to thirty-five percent (35%) of the Maximum Settlement Amount (i.e.,
15 \$262,500) and reimbursement of litigation costs and expenses in an amount not to exceed fifty
16 thousand dollars (\$50,000), which will be paid out of the Maximum Settlement Amount, subject
17 to approval by the Court. It should be noted that Class Counsel has borne all of the risks and
18 costs of litigation and will not receive any compensation until recovery is obtained.

19 20. The Settlement Agreement provides for a Service Payment of up to eight thousand
20 dollars (\$8,000) to Plaintiff Campos and of up to seven thousand dollars (\$7,000) to Plaintiff
21 Hernandez, to be paid out of the Maximum Settlement Amount, subject to approval by the Court.
22 Plaintiffs spent considerable time and effort to produce relevant documents and past
23 employment records and to provide the facts and evidence necessary to attempt to prove the
24 allegations. Plaintiffs were available whenever Class Counsel needed them and actively tried
25 to obtain information that would benefit the Class. For instance, both Plaintiffs prepared for and
26 attended at least full day of deposition (with Plaintiff Hernandez being deposed on two days)
27 and reviewed a transcript of their deposition thereafter. Plaintiffs also reviewed and responded
28 to multiple sets of formal written discovery requests propounded by Defendants, consisting of

1 form interrogatories, special interrogatories, requests for production of documents, and requests
2 for admission. Accordingly, it is appropriate and just for Plaintiffs to receive a reasonable
3 Service Payment in addition to their Individual Settlement Payment.

4 21. Class Counsel submit that the Settlement is fair, reasonable, and adequate, and is
5 in the best interest of the Class. Class Counsel further submit that the Settlement is within an
6 acceptable range of recovery for this type of litigation given the strengths and weaknesses of
7 this action, the inherent costs and risks of further litigation, and the costs and risks associated
8 with class certification, representative adjudication, trial, and/or appeals.

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

11 Executed on this 27th day of July 2018, at Glendale, California.

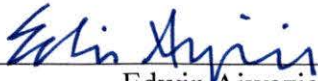
12 
13 Edwin Aiwan

EXHIBIT 1

1 Mona Z. Hanna (SBN 131439)
2 Marc R. Jacobs (SBN 185924)
3 Amanda K. Pawlyk (SBN 276063)
4 Allison Aguirre (SBN 312544)
5 **MICHELMAN & ROBINSON, LLP**
6 17901 Von Karman Ave., 10th Floor
7 Irvine, California 92614
8 Telephone: (714) 557-7990 / Facsimile: (714) 557-7991
9 *Attorneys for Defendants*

7 Edwin Aiwazian (SBN 232943)
8 Arby Aiwazian (SBN 269827)
9 Joanna Ghosh (SBN 272479)
10 **LAWYERS for JUSTICE, PC**
11 410 West Arden Avenue, Suite 203
12 Glendale, California 91203
13 Telephone: (818) 265-1020 / Facsimile: (818) 265-1021
14 *Attorneys for Plaintiffs*

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ORANGE**

14 WILLIAM CAMPOS; individually, and on behalf
15 of other members of the general public similarly
16 situated and on behalf of other aggrieved
17 employees pursuant to the California Private
18 Attorneys General Act; JUANITA HERNANDEZ;
19 individually, and on behalf of other members of
20 the general public similarly situated and on behalf
21 of other aggrieved employees pursuant to the
22 California Private Attorneys General Act;

20 Plaintiffs,

21 vs.

22 MOTIVE ENERGY, INC., a California
23 corporation; MOTIVE ENERGY
24 TELECOMMUNICATIONS GROUP, INC., a
25 California corporation; ADVANCED CHARGING
26 TECHNOLOGIES, INC., a California corporation;
27 and DOES 1 through 100, inclusive,

27 Defendants.

Case No.: 30-2016-00828352-CU-OE-CXC

Honorable William D. Cluster
Department CX102

CLASS ACTION

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

Complaint Filed:	January 5, 2016
FAC Filed:	September 22, 2016
SAC Filed:	December 2, 2016
Trial Date:	None Set

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE**

2 This Joint Stipulation of Class Action and PAGA Settlement and Release (hereinafter,
3 “Agreement”) is made and entered into by and between Plaintiffs William Campos and Juanita Hernandez
4 (collectively, the “Named Plaintiffs”), individually and as class representatives on behalf of all individuals
5 defined in Paragraph 9 of this Agreement (collectively, with the Named Plaintiffs, the “Settlement Class”),
6 on the one hand, and Defendants Motive Energy, Inc., Motive Energy Telecommunications Group, Inc.,
7 and Advanced Charging Technologies, Inc. (collectively, “Defendants”), on the other hand, and is subject
8 to the terms and conditions hereof and the approval of the Court. The Named Plaintiffs and Defendants
9 will be referred to collectively herein as the “Parties.”

10 **I. DEFINITIONS**

11 1. “Class Counsel” refers to Edwin Aiwazian, Arby Aiwazian, and Joanna Ghosh of Lawyers
12 *for Justice*, PC.

13 2. “Class Period” refers to the period from January 5, 2012 to March 16, 2018.

14 3. “Defendant’s Counsel” refers to the law firm of Michelman & Robinson, LLP.

15 4. “Parties” refers to the Named Plaintiffs and Defendants, collectively.

16 5. “Class” or “Class Member(s)” refers to all current and former hourly-paid or non-exempt
17 employees who worked for any of the Defendants within the State of California at any time during the
18 Class Period.

19 6. “Released Parties” refers to Defendants, and each of its past, present, and future parent
20 companies, subsidiaries, shareholders, lenders, officers, partners, directors, employees, insurers,
21 predecessors, accountants, attorneys, plan administrators, heirs, trustees, successors, and assigns, and each
22 and all of their respective past, present, and future shareholders, lenders, officers, partners, directors,
23 employees, insurers, predecessors, accountants, attorneys, plan administrators, heirs, trustees, successors,
24 and assigns, and all persons acting under, by, through or in concert with any of them.

25 7. “Settlement” refers to the collective terms and conditions set forth by way of this
26 Agreement.

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1 8. “Settlement Administrator” refers to Simpluris, Inc. the third-party company selected by
2 the Parties to handle the administration of the settlement set forth in this Agreement, subject to approval
3 by the Court.

4 9. “Settlement Class” or “Settlement Class Member(s)” refers to Class Members who have
5 not submitted a timely and valid Request for Exclusion pursuant to the time restrictions and instructions
6 contained herein, in the Notice, and the Preliminary Approval Order.

7 10. “Workweeks” means the number of weeks that a Class Member was employed by
8 Defendants in an hourly-paid or non-exempt position in California during the Class Period, which shall
9 be calculated using each individual Class Members start and termination dates as applicable.

10 **II. BACKGROUND AND RECITALS**

11 11. On January 5, 2016, Plaintiff William Campos commenced the action entitled *William*
12 *Campos v. Motive Energy, Inc., et al.* (the “Action”) in the Superior Court of the State of California for
13 the County of Orange, Case Number 30-2016-00828352-CU-OE-CXC. On September 22, 2016, Plaintiff
14 Juanita Hernandez was added as a named plaintiff by way of the First Amended Class Action Complaint
15 for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et
16 Seq. On December 2, 2016, the Named Plaintiffs filed the Second Amended Class Action Complaint for
17 Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et
18 Seq. (“Operative Complaint”).

19 12. The Named Plaintiffs’ Operative Complaint alleges violations of the California Labor
20 Code, applicable Wage Order(s) promulgated by the California Industrial Welfare Commission, and
21 California Business and Professions Code, and includes causes of action against Defendants for alleged:
22 (a) non-compliant meal periods and associated premiums; (b) non-compliant rest periods and associated
23 premiums; (c) failure to pay minimum and overtime wages; (d) failure to timely pay final wages and
24 associated waiting time penalties; (e) failure to timely pay wages during employment; (f) non-compliant
25 wage statements; (g) failure to keep requisite payroll records; (h) unreimbursed business expenses; (i)
26 unfair business practices; and (j) penalties under the Private Attorneys General Act (“PAGA”). The
27 Named Plaintiffs’ claims were asserted in their individual capacities and on behalf of all current and
28

1 former hourly-paid or non-exempt employees who worked for Defendants within the State of California
2 at any time during the period from January 5, 2012 to final judgment.

3 13. On May 8, 2017 Defendants filed a First Amended Answer to the Operative Complaint
4 denying all allegations, denying that class certification is appropriate, and denying that any of the Class
5 Members, including and not limited to the Named Plaintiffs, was entitled to any relief.

6 14. Named Plaintiffs conducted formal and informal discovery in the Action, including and
7 not limited to requesting and obtaining class data, the payroll, time, and employment records of various
8 Class Members, as well as documents and information regarding Defendants' employment and operations
9 policies, practices, and procedures. Defendants also conducted formal and informal discovery as to the
10 Named Plaintiffs regarding their claims.

11 15. On November 8, 2016, November 9, 2016, February 17, 2017, and on March 22, 2017 the
12 Named Plaintiffs took the deposition of Defendants' Person Most Qualified, the then-current Director of
13 Human Resources, Daniel Ponzo. On January 30, 2017, the Named Plaintiffs additionally took the
14 deposition of Mr. Ponzo in his personal capacity. The Named Plaintiffs also took the deposition of
15 Defendants' Person Most Qualified, Jason McCombie, on November 9, 2016. Mr. Ponzo and Mr.
16 McCombie were questioned at length regarding Defendants' employment and operations policies,
17 practices, and procedures.

18 16. Defendants took the deposition of Named Plaintiff William Campos on January 13, 2017,
19 and the deposition of Named Plaintiff Juanita Hernandez on January 12, 2017 and March 31, 2017.

20 17. On January 31, 2018, the Parties mediated before Mr. Paul Grossman, a well-regarded
21 mediator who is highly experienced with wage and hour class action litigation. At the mediation, the
22 Parties agreed to the terms of a class-wide settlement after arms-length negotiations by and among the
23 Parties, to resolve the Action and Released Claims in their entirety and to the fullest extent of the law.
24 The Parties now enter into this Agreement to submit to the Court for approval in accordance with their
25 agreement.

26 18. The Named Plaintiffs believe the Action is meritorious and appropriate for class
27 certification under California law. The Named Plaintiffs and Class Counsel have considered the expense
28 and length of continued proceedings necessary to continue the Action against Defendants through pre-

1 trial motions, trial, and any possible appeals. The Named Plaintiffs and Class Counsel have also taken into
2 account the uncertainty and risk of the outcome of further litigation, and the difficulties inherent in such
3 litigation. The Named Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to
4 establish liability for the claims asserted in the Action, Defendants' defenses thereto, and the difficulties
5 in establishing entitlement to monetary recovery. The Named Plaintiffs and Class Counsel have also
6 considered the settlement negotiations conducted by the Parties and the recommendations of the mediator.

7 19. Based on the foregoing, the Named Plaintiffs and Class Counsel have determined that the
8 Settlement is fair and reasonable, and in the best interests of the Named Plaintiffs and the Settlement Class.

9 20. Defendants vigorously dispute the merits of the Action and deny all liability or wrongdoing
10 of any kind associated with the Action or Released Claims. Defendants contend, *inter alia*, that at all
11 times it fully complied with all state, federal, and local wage and hour laws, regulations, and ordinances,
12 including all California Labor Code and Wage Order requirements, and all regulations applicable to the
13 Named Plaintiffs and the Class in connection with the services performed for Defendants. In reaching
14 this Settlement, Defendants have taken into consideration the potential expense and length of this Action
15 should it proceed further. Nothing contained in this Agreement, nor any documents referred to herein, nor
16 any action taken to carry out and/or consummate the Settlement is, or may be construed as, or may be
17 used as, an admission of liability, culpability, negligence, or wrongdoing by or against Defendants as to
18 the merits or lack thereof of the claims being settled by this Agreement.

19 21. This Agreement shall become effective upon the "Effective Date," as set forth in Section
20 III.E below. The Parties hereby agree to do all things and to engage in all procedures reasonably necessary
21 and appropriate to obtain preliminary and final approval of this Agreement by the Court, in consideration
22 for the payment by Defendants of the consideration described herein, subject to the terms, conditions and
23 limitations of this Agreement.

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1 **III. SETTLEMENT TERMS**

2 NOW, THEREFORE, in consideration of the mutual covenants, promises, and warranties set forth
3 herein, the Parties agree, subject to approval by the Court, as follows:

4 22. The Parties intend to fully, finally and forever settle and compromise the Action and
5 Released Claims. In addition, the Named Plaintiffs agree to enter into a general release, in an individual
6 capacity, of all claims as more particularly set forth below.

7 23. In the event that judgment is not entered, or in the event that this Agreement is modified in
8 any material respect, or in the event that the Effective Date, as defined herein, does not occur, this
9 Agreement shall be deemed null and *void ab initio* and shall be of no force or effect whatsoever, and shall
10 not be referred to or utilized for any purpose whatsoever.

11 **A. SEEKING PRELIMINARY AND FINAL APPROVAL OF THE SETTLEMENT.**

12 24. **Obtaining Preliminary Approval of the Settlement:** This Agreement shall be promptly
13 submitted by Named Plaintiffs to the Court in support of a request for preliminary approval of the
14 Settlement and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly
15 upon execution of this Agreement, Named Plaintiffs will apply to the Court for the entry of an order of
16 preliminary approval ("Preliminary Approval Order"), providing for the following:

17 (a) The scheduling of a hearing on the question of whether the Settlement should be
18 finally approved as fair, reasonable and adequate as to the Settlement Class (the "Final Approval
19 Hearing");

20 (b) Certifying the Class in the Action, for settlement purposes only, under California
21 Code of Civil Procedure section 382 and Rule 3.760 *et seq.* of the California Rules of Court;

22 (c) Approving as to form and content the proposed Class Notice, as defined below;

23 (d) Preliminarily appointing the Settlement Administrator, Class Representatives, and
24 Class Counsel; and

25 (e) Directing the Settlement Administrator to mail the Class Notice by first-class mail
26 to the Class Members; and

27 (f) Preliminarily approving the Settlement subject only to the objections of Class
28 Members and final review by the Court.

1 25. **Obtaining Final Approval of the Settlement:** In advance of the Final Approval Hearing,
2 Class Counsel will file a motion for final approval of the Settlement and submit a [proposed] order
3 granting final approval of the Settlement and judgment based thereon ("Final Approval Order and
4 Judgment"), providing for the following:

5 (a) Final approval of the Settlement, adjudging the terms thereof to be fair, reasonable
6 and adequate, and directing consummation of its terms and provisions;

7 (b) Approval and award of Attorneys' Fees and Litigation Costs and Expenses to Class
8 Counsel;

9 (c) Approval and award of Service Payments, as defined below, to Plaintiffs;

10 (d) Approval and award of Settlement Administration Costs, as defined below, to the
11 Settlement Administrator;

12 (e) Barring all Settlement Class Members from instituting, commencing, prosecuting,
13 or pursuing, either directly or in any other capacity, any Released Claims, as defined below, including,
14 but not limited to, filing any claims for monetary relief before any court of law, administrative agency, or
15 any other forum whatsoever;

16 (f) Approving notice of entry of the Final Approval Order and Judgment by way of
17 posting on the Settlement Administrator's website as opposed to individualized notice to each Settlement
18 Class Member.

19 **B. CERTIFICATION OF THE CLASS.**

20 26. For settlement purposes only, and subject to Court approval, the Parties conditionally
21 stipulate and agree that the requisites for establishing class certification are met with respect to the Class,
22 and stipulate to certification under California Code of Civil Procedure section 382 of this Class for
23 purposes of effectuating this settlement only. As set forth above, the Class is defined as follows: "All
24 current and former hourly-paid or non-exempt employees who worked for any of the Defendants within
25 the State of California at any time during the Class Period."

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1 27. Subject to the Court's approval, the Parties hereby stipulate to the Court's appointment of
2 Edwin Aiwazian, Arby Aiwazian, and Joanna Ghosh of Lawyers *for* Justice, PC, located at 410 West
3 Arden Avenue, Suite 203, Glendale, California 91203, as Class Counsel with respect to all members of
4 the Class, with the exception of those who elect to exclude themselves from the Settlement.

5 28. Defendants do not waive, and instead expressly reserve, their rights to challenge the
6 propriety of class certification for any purpose should the Court not approve the Settlement.

7 29. In connection with the proposed certification of the Class, the Parties shall cooperate and
8 present to the Court for its consideration any additional competent evidence, as may be requested by the
9 Court, under the applicable due process requirements and standards for class certification.

10 30. The certification of the Class, the Parties' settlement of the Action, and their rights and
11 obligations hereunder, are contingent upon final approval by the Court of this Agreement as to the
12 Settlement Class.

13 **C. NOTICE TO CLASS MEMBERS.**

14 31. Within fifteen (15) business days after the Court enters an order granting preliminary
15 approval of the Settlement, and to the extent possible based on the presence of information in their records,
16 Defendants will provide the Settlement Administrator with the following information for each Class
17 Member in a reasonable format requested by the Settlement Administrator: (a) full name; (b) last known
18 address and telephone number(s); (c) Social Security number; (d); and (e) dates of employment as a non-
19 exempt or hourly-paid employee of Defendants in California (collectively, the "Class Information").

20 32. Defendants shall cooperate and provide any additional information which the Settlement
21 Administrator may request that is reasonable and necessary for the purpose of mailing the Class Notice,
22 as defined below, allocating and distributing the Maximum Settlement Amount, and otherwise
23 administering this Agreement.

24 33. Within fifteen (15) business days after the Settlement Administrator receives the Class
25 Information from Defendants, the Settlement Administrator will mail the Notice of Class Action
26 Settlement ("Class Notice"), in substantially the form attached hereto as "**Exhibit A**," subject to approval
27 by the Court, to each Class Member, by first-class U.S. mail. Before mailing the Class Notice, the
28 Settlement Administrator will perform address updates and verifications, as necessary, prior to the first

mailing, by searching the United States Postal Service's National Change of Address database. The date on which the Settlement Administrator first mails the Class Notice to the Class Members will be referred to as the "Initial Mailing Date." The Settlement Administrator will perform one skip-trace on any Class Notice that is returned as undeliverable before the Response Deadline, and undertake a single re-mailing of the Class Notice to any updated address that is located by way of the skip trace search, within five (5) calendar days of receipt of the returned Class Notice. The Settlement Administrator shall document all efforts under this Section III.C, and retain such documentation for a period of four (4) years from the date of the Court's entry of the Final Approval Order and Judgment. The Response Deadline for a Class Member to whom a Class Notice has been re-mailed will be the later of the Response Deadline or fifteen (15) calendar days from the date on which the Class Notice is re-mailed ("Extended Response Deadline").

34. The Class Notice shall contain, among other things, the release and waiver of claims contained in Section III.I of this Agreement, and an easily understood statement alerting members of the Class that, if they do not submit a Request for Exclusion, they will be bound by the release and waiver of claims as provided in this Agreement.

D. PROCEDURE FOR DISPUTES REGARDING WORKWEEKS, REQUESTS FOR EXCLUSION (OPT OUTS), AND OBJECTIONS TO SETTLEMENT.

35. **Disputes Regarding Workweeks:** A Class Member may challenge the number of Workweeks credited to him or her, based on Defendants' records, as stated in the Class Notice, by mailing a separate written statement to the Settlement Administrator that is postmarked on or before the date that is thirty (30) calendar days after the Initial Mailing Date ("Response Deadline"). The written dispute must contain the following: the Class Member's full name, address, signature, telephone number, and last four digits of his or her Social Security number; the case name and number of the Action; a clear statement indicating that the Class Members disputes the number of Workweeks credited to him or her; and facts supporting the Class Member's dispute along with any supporting documents. The Settlement Administrator will forward all disputes that it receives to the Parties within three (3) calendar days of receipt and meet and confer with the Parties within a reasonable time thereafter to determine the number of Workweeks to be properly credited to a Class Member. Defendants shall provide the Settlement Administrator with additional information to facilitate the Settlement Administrator's determination of

1 the dispute, and Defendants' records will be given the presumption of accuracy unless a Class Member
2 presents a credible basis for determining that Defendants' records are not accurate with respect to the
3 number of Workweeks that the disputing Class Member should be credited with under the Settlement.

4 **36. Requests for Exclusion:** Any Class Member, other than the Named Plaintiffs, may elect
5 to seek exclusion from the Settlement by mailing a written request for exclusion from the Settlement
6 ("Request for Exclusion") to the Settlement Administrator, postmarked on or before the Response
7 Deadline. The Request for Exclusion must contain the following: the Class Member's full name, address,
8 signature, and last four digits of his or her Social Security number; the case name and number of the
9 Action; a clear statement indicating that the Class Member seeks to be excluded from the Settlement. The
10 date of the postmark on the mailing envelope will be the exclusive means to determine whether a Request
11 for Exclusion is timely. Any Class Member who submits a timely and valid Request for Exclusion in
12 compliance with these requirements will not have any rights under this Agreement, will not be entitled to
13 receive any payment under the Settlement, will not be entitled to submit an objection to Settlement, and
14 will not be bound by this Agreement or Final Approval Order and Judgment.

15 **37. Objections:** Any Class Member who does not submit a Request for Exclusion, may object
16 to the Settlement, in writing, that is mailed or hand delivered to the Settlement Administrator, postmarked
17 by no later than the Response Deadline. The Settlement Administrator will promptly provide Defendants'
18 Counsel and Class Counsel with complete copies of all objections received, including the postmark dates
19 for each objection, and will include the objections in its declaration filed with the Court with respect to
20 final approval of the Settlement. A written objection must include: objector's full name, address,
21 signature, telephone number, and last four digits of his or her Social Security number; the case name and
22 number of the Action; a clear statement indicating that he or she wishes to object to the Settlement and
23 the basis for any objection; identification of the name and address of the objector's counsel, if he or she
24 is represented by counsel; and a statement of whether or not he or she intends to appear at the Final
25 Approval Hearing, either in person or through his or her counsel, to present argument. Any Class Member
26 who fails to comply with these requirements will be deemed to have waived any right to object and any
27 and all objections to the Agreement. Any attorney who represents an individual objecting to the
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1 Settlement must file a Notice of Appearance with the Court and timely serve counsel for all parties with
2 the same.

3 38. Class Members may file an objection to the Settlement or submit a Request for Exclusion;
4 a Class Member who has submitted a valid and timely Request for Exclusion shall have no right to object
5 to the Settlement. If a Class Member timely submits both an objection and a valid and timely Request for
6 Exclusion, the Request for Exclusion will be processed, and the objection will be ignored.

7 39. On a weekly basis, the Settlement Administrator will advise Class Counsel and
8 Defendants' Counsel regarding the number of Requests for Exclusion and objections that have been
9 submitted by Class Members.

10 40. Within five (5) calendar days of the Response Deadline (and if applicable, Extended
11 Response Deadline), the Settlement Administrator will provide Class Counsel and Defendants' Counsel
12 with a declaration regarding its due diligence in undertaking its responsibilities with respect to the notice
13 administration process, for filing by Class Counsel with the Court at or before the Final Approval Hearing,
14 as follows:

15 (a) Certifying that Class Notice was mailed to each Class Member in accordance with
16 Section III.C of this Agreement and the Preliminary Approval Order;

17 (b) Setting out the number of Class Notices that were returned as undeliverable, and
18 any subsequent efforts to deliver those Class Notices to the intended recipient(s), with regard to the same;
19 and;

20 (c) Reporting the number of disputes regarding Workweeks, Requests for Exclusion,
21 and objections that have been submitted by Class Members, and reporting metrics regarding participation
22 in the Settlement and the contemplated average amounts to be paid to Settlement Class Members.

23 41. After entry of the Final Approval Order and Judgment, and before the Effective Date, as
24 defined below, the Settlement Administrator shall also provide Class Counsel and Defendants' Counsel
25 with a report listing the amount of all payments to be made to each Settlement Class Member.

26 **E. EFFECTIVE DATE.**

27 42. This Agreement shall become final and effective on the following date (the "Effective
28 Date"):

1 (a) If no objections to the Settlement are filed pursuant to the deadlines set forth herein
2 the fifth (5th) calendar day after entry of the Final Approval Order and Judgment; or

3 (b) If any objections are filed, but no appeal or review is sought from those objections
4 and/or the Final Approval Order and Judgment, sixty-five (65) days after entry of the Final Approval
5 Order and Judgment; or

6 (c) If an appeal or other review is sought by a member of the Settlement Class from
7 the Final Approval Order and Judgment, the day after the trial court's judgment is affirmed or the appeal
8 or other review is dismissed or denied, and the judgment is no longer subject to judicial review or other
9 challenge.

10 **F. DISTRIBUTION OF PAYMENTS.**

11 43. Distribution of Payments: Within ten (10) calendar days of the Effective Date, Defendants
12 will transmit the Maximum Settlement Amount to a qualified settlement account established by the
13 Settlement Administrator for the purposes of this Settlement. Within ten (10) calendar days of the
14 Settlement Administrator's receipt of the Maximum Settlement Amount from Defendants, the Settlement
15 Administrator will make all required distributions in accordance with this Settlement and the Final
16 Approval Order and Judgment, including, to the extent ordered, all Individual Settlement Payments, as
17 defined in Paragraph 51 below, to Settlement Class Members, the LWDA Payment to the LWDA, and
18 Court-approved payments for Attorneys' Fees and Litigation Costs and Expenses to Class Counsel,
19 Service Payments to Named Plaintiffs, and Settlement Administration Costs to the Settlement
20 Administrator.

21 **G. PAYMENTS.**

22 44. **Maximum Settlement Amount:** Subject to Court approval, and the provisions of this
23 Agreement, Defendants shall pay an amount not to exceed Seven Hundred and Fifty Thousand Dollars
24 (\$750,000.00) ("Maximum Settlement Amount") to effectuate the Settlement. The Maximum Settlement
25 Amount is the maximum amount that Defendants shall be required to pay for settlement of the Action and
26 shall be inclusive of the Net Settlement Amount, Settlement Administration Costs, Attorneys' Fees and
27 Litigation Costs and Expenses, Service Payments, and PAGA Penalties. Defendants will be responsible
28 for paying its employer's share of payroll taxes and contributions with respect to the wage portion of

1 Individual Settlement Shares, as defined in Paragraph 48 below, separately and in addition to the
2 Maximum Settlement Amount. The Settlement Administrator shall not disburse any portion of the
3 Maximum Settlement Amount funds until *after* the Effective Date.

4 **45. Net Settlement Amount:** The amount available for distribution to Settlement Class
5 Member ("Net Settlement Amount") will be the Maximum Settlement Amount less all of the following
6 (which are subject to the approval of the Court): Settlement Administration Costs, Attorneys' Fees and
7 Litigation Costs and Expenses, Service Payments, and the LWDA Payment. The Net Settlement Amount
8 will be distributed in accordance with the terms of this Agreement.

9 **46. Individual Settlement Shares and Individual Settlement Payments:** Class Members
10 may be eligible to receive a *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"),
11 which will be calculated as follows:

12 (a) The Net Settlement Amount shall be divided by the total of all Workweeks of all
13 Class Members ("Total Workweeks") to derive the "Workweek Rate." The Workweek Rate is multiplied
14 by each Class Member's Workweeks, which equals the pre-tax estimated Individual Settlement Share that
15 each Class Member is eligible to be receive if he or she does not submit a timely and valid Request for
16 Exclusion.

17 (b) Each Individual Settlement Share will be allocated as follows for tax purposes:
18 thirty-three percent (33%) will be classified as wages (to be reported on IRS Form W-2 and its state and
19 local equivalents) and sixty-seven percent (67%) shall be classified as interest and penalties (to be reported
20 on IRS Form 1099 and its state and local equivalents, as required).

21 **47.** After final approval of this Settlement, and according to the deadlines and procedures set
22 forth in this Agreement and approved by the Court, Class Members who have not submitted timely and
23 valid Requests for Exclusion ("Settlement Class Members") will be entitled to payment of their Individual
24 Settlement Share, which is to be calculated in conformity with Paragraph 48 above, using the total of all
25 Workweeks worked by the Settlement Class Members to derive the Workweek Rate.

26 **48.** Each Settlement Class Member's Individual Settlement Share will be subject to reduction
27 for legally-required employee's share of taxes and withholding with respect to the wage portion of the
28 Individual Settlement Share, as required under local, state, and federal law. Each Settlement Class

1 Member shall assume full responsibility and liability for correctly characterizing the Individual Settlement
2 Share that he or she receives for tax purposes and for the payment of any other taxes owing on that amount.
3 The net payment of an Individual Settlement Share will be referred to as "Individual Settlement Payment."

4 **49. PAGA Penalties:** The amount of Thirty Thousand dollars (\$30,000.00) will be paid from
5 the Maximum Settlement Amount, subject to approval by the Court, toward penalties under PAGA in
6 connection with the Settlement ("PAGA Penalties"), of which seventy-five percent (75%) or \$22,500 will
7 be paid to the LWDA ("LWDA Payment") and twenty-five percent (25%) or \$7,500 will be paid and
8 distributed to the Settlement Class Members as a part of the Net Settlement Amount.

9 **50. Attorneys' Fees and Litigation Costs and Expenses:** The Action includes a request for
10 attorneys' fees and costs pursuant to, *inter alia*, the California Labor Code and California Code of Civil
11 Procedure section 1021.5. The Parties agree that any and all such claims for attorneys' fees and costs have
12 been settled by way of this Agreement. To that end, Defendants recognize that Class Counsel will apply
13 to the Court for an award of: (i) attorney's fees in an amount up to thirty-five percent (35%) of the
14 Maximum Settlement Amount; and (2) reasonable and necessary costs and expenses up to Fifty-Thousand
15 Dollars (\$50,000). Defendants will not oppose Class Counsel's application for attorneys' fees in an
16 amount not to exceed Two Hundred Sixty-Two Thousand and Five Hundred Dollars (\$262,500.00), which
17 is thirty-five percent (35%) of the Maximum Settlement Amount, and reimbursement of actual litigation
18 costs and expenses in an amount not to exceed Fifty Thousand Dollars (\$50,000.00) (collectively,
19 "Attorneys' Fees and Litigation Costs and Expenses"), in order to compensate and reimburse Class
20 Counsel for all of the costs incurred in this case, work performed in this case, all of the work remaining
21 to be performed by Class Counsel in documenting the Settlement, securing Court approval of the
22 Settlement, making sure that the Settlement is fairly administered and implemented, and obtaining final
23 approval of this Settlement. The Parties acknowledge and understand that Class Counsel's attorneys' fees
24 and litigation costs and expenses will be paid from the Maximum Settlement Amount, and that should the
25 Court approve a lesser amount than set forth herein, the unapproved amount will be a part of the Net
26 Settlement Amount for distribution to Settlement Class Members according to the terms of this
27 Agreement. Class Counsel's application under this Paragraph, for Attorneys' Fees and Litigation Costs
28 and Expenses to Class Counsel, shall be scheduled for determination at the Final Approval Hearing.

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2 **51. Service/Enhancement Payments:** Defendants recognize that, at the same time the
3 application under Paragraph 50 is made, an application will also be made to the Court for a service
4 payment to each of the Named Plaintiffs. Defendants will not oppose an application for payments totaling
5 up to Fifteen Thousand Dollars (\$15,000.00), of which Named Plaintiff William Campos will receive an
6 amount not to exceed Eight Thousand Dollars (\$8,000.00) and Named Plaintiff Juanita Hernandez will
7 receive an amount not to exceed Seven Thousand Dollars (\$7,000.00) ("Service Payment(s)"). It is
8 understood that the Service Payments are in addition to the Named Plaintiffs' Individual Settlement
9 Payments. Defendants or the Settlement Administrator will issue an IRS Form 1099 for Service Payments
10 to the Named Plaintiffs. The Named Plaintiffs assume full responsibility and liability for correctly
11 characterizing this compensation on their personal income tax returns for tax purposes and for paying any
12 taxes on the amounts received. The Parties acknowledge and understand that the Service Payments will
13 be paid from the Maximum Settlement Amount, and that should the Court approve a lesser amount than
14 set forth herein, the unapproved amount will be a part of the Net Settlement Amount, for distribution to
15 Settlement Class Members according to the terms of this Agreement. The application under this
16 Paragraph, for Service Payments to Named Plaintiffs, shall be scheduled for determination at the Final
17 Approval Hearing.

18 **52. Settlement Administration Costs:** The Settlement Administrator has agreed to perform
19 all necessary notice and settlement administration duties, and the Settlement Administrator's fees and
20 costs are estimated not to exceed Twelve-Thousand Dollars (\$12,000) ("Settlement Administration
21 Costs"). The Settlement Administrator will also be responsible for, among other things: (a) establishing
22 and maintaining a qualified settlement account for the Maximum Settlement Amount; (b) mailing the
23 Class Notice to Class Members; (c) performing necessary skip traces on Class Notices returned as
24 undeliverable and re-mailing Class Notices as necessary; (d) calculating, processing, and distributing
25 payments under the Settlement; (e) handling tax withholding, contributions, reporting and filings; (e)
26 answering questions from the Class Members; (f) reporting on the status of the Settlement to the Parties
27 and their attorneys; (g) preparing declaration(s) regarding its due diligence in the notice and settlement
28 administration process, and (h) any other normal and ordinary duties associated with carrying out the

1 settlement administration functions under this Settlement as may be jointly requested by counsel for the
2 Parties or as directed by the Court. The Settlement Administration Costs will be paid from the Maximum
3 Settlement Amount, and any unapproved or unused portion below the amount allocated herein shall be a
4 part of the Net Settlement Amount, for distribution to Settlement Class Members according to the terms
5 of this Agreement. The application under this Paragraph, for payment of Settlement Administration Costs
6 to the Settlement Administrator, shall be scheduled for determination at the Final Approval Hearing.

7 53. The Settlement Administrator will report the Individual Settlement Shares to all required
8 taxing and other authorities and withhold all employee's share of taxes and withholding required by local,
9 state, and federal law with respect to the wage portion of the Individual Settlement Shares and remit the
10 same to the appropriate government agencies. Upon completion of administration of the Settlement and
11 distribution of payments under the Settlement, the Settlement Administrator will provide written
12 certification of such completion to the counsel for all Parties and, if required by the Court, to the Court.

13 54. Individual Settlement Payments checks issued to Settlement Class Members will remain
14 negotiable for one hundred and eighty (180) calendar days, and will be cancelled if not cashed or deposited
15 within the 180-day period. Funds associated with Individual Settlement Payment checks that have not
16 been cashed or deposited within this timeframe will be transmitted in accordance with California Code of
17 Civil Procedure section 384, as follows: twenty-five percent (25%) to the State Treasury for deposit in the
18 Trial Court Improvement and Modernization Fund and seventy-five percent (75%) to the State Treasury
19 for deposit into the Equal Access Fund of the Judicial Branch.

20 **H. EFFECT OF NON-APPROVAL OF THE SETTLEMENT, FAILURE OF THE**
21 **EFFECTIVE DATE TO OCCUR, AND REQUESTS FOR EXCLUSION (OPT**
22 **OUTS) IN EXCESS OF FIVE PERCENT.**

23 55. If the Court denies, with prejudice, either preliminary approval or final approval of the
24 Settlement, or anyone of the events specified in Section III.A above does not occur, this Agreement shall
25 be void, and the Maximum Settlement Amount deposited with the Settlement Administrator shall
26 immediately be returned to Defendants.

1 56. The Settlement Administrator shall provide written notice to the Parties no later than five
2 (5) calendar days after the Response Deadline (or if applicable, Extended Response Deadline) with a
3 complete list of all Class Members who have submitted valid and timely Requests for Exclusion.

4 57. Defendants, in their sole and independent discretion, shall have the right, but not the
5 obligation, to revoke this Agreement if more than five percent (5%) of the Class, measured on a headcount
6 or Workweek basis, submit timely and valid Requests for Exclusion.

7 58. Defendants must exercise their option under Paragraph 57 if at all, within ten (10) calendar
8 days after receipt of the list of all excluded Class Members referenced in Paragraph 56.

9 59. In the event that the Agreement is voided pursuant to Paragraph 57 or if the Court denies
10 with prejudice either preliminary approval or final approval of this Settlement, then the following shall
11 apply:

12 (a) Nothing in this Agreement shall be construed as a determination, admission or
13 concession of any substantive or procedural issue in the Action, and nothing in this Agreement may be
14 offered into evidence in any hearing or trial, or in any subsequent pleading or in any subsequent judicial,
15 arbitral, or administrative pleading;

16 (b) The Parties expressly reserve their rights with respect to the prosecution and
17 defense of the Action as if this Agreement never existed; and

18 (c) If the Agreement is voided because the Court denies with prejudice final approval
19 of the Settlement, the Named Plaintiffs and Defendants shall each bear half (50%) of any costs for notice
20 and settlement administration incurred by the Settlement Administrator through the date of termination;
21 or, if the Agreement is voided because Defendants exercised their option to terminate under Paragraph 57,
22 Defendants shall bear all costs for notice and settlement administration incurred by the Settlement
23 Administrator through the date of termination.

24 **I. RELEASES.**

25 60. **Settlement Class Members' Release of Claims:** Other than the rights created by this
26 Agreement, upon the Effective Date, and in exchange for the consideration, undertakings, and covenants
27 undertaken by Defendants in this Agreement, including but not limited to the provisions of Paragraphs 45
28 and 46, and to the fullest extent permitted by law, the Settlement Class Members hereby release, discharge,

1 and covenant not to sue Released Parties from and with respect to any and all individual, class, or
2 representative claims, actions, disputes, debts, liabilities, demands, obligations, guarantees, costs,
3 expenses, attorneys' fees, penalties, damages (including and not limited to, liquidated damages, exemplary
4 damages, and punitive damages), restitution, equitable relief, injunctive relief, or causes of action,
5 penalties, of any nature whatsoever, whether known or unknown, that were pled or could have been pled
6 based on the factual allegations in the Operative Complaint and arising during the Class Period, which the
7 Settlement Class Members have had or hereafter may claim to have, against the Released Parties, or any
8 of them, including, without limitation: (a) claims for violation of the California Labor Code and applicable
9 Wage Order(s) promulgated by the California Industrial Welfare Commission, for failure to pay minimum
10 wages, the failure to pay overtime wages or other premium pay, the failure to provide compliant meal
11 periods, the failure to provide compliant rest periods, failure to provide compliant wage statements, failure
12 to reimburse for necessary business expenditures; (b) claims for unfair, unlawful, and fraudulent business
13 practices under the California Business and Professions Code sections 17200, *et seq.* and/or any other
14 unfair competition law; (c) related or derivative claims for penalties, including, but not limited to, wage
15 statement penalties and/or any other penalties set forth in California Labor Code or Wage Orders; (d) all
16 violations of the Private Attorneys General Act of 2004 (including, but not limited to, all claims arising
17 under California Labor Code sections 2698, 2699, and 2699.3); and (e) any additional claims for penalties,
18 damages or wages predicated on the same (collectively, the "Released Claims"). Settlement Class
19 Members acknowledge and/or are deemed to acknowledge that they may hereafter discover claims or facts
20 in addition to or different from those which they now know or believe to exist with respect to the subject
21 matter of this Agreement and/or this release, and which, if known or suspected at the time of executing
22 this Agreement, may have materially affected this release. Nevertheless, the Settlement Class Members
23 will be deemed to waive any right, claim or cause of action that might arise as a result of such different or
24 additional claims or facts.

25 **61. Named Plaintiffs' General Release of All Claims:** Other than the rights created by this
26 Agreement, upon the Effective Date, and in exchange for the consideration, undertakings, and covenants
27 undertaken by Defendants in this Agreement, including but not limited to the provisions of Paragraphs 45
28 and 46, and to the extent permitted by law, the Named Plaintiffs, individually and on behalf of their

1 executors, administrators, representatives, attorneys, successors and assigns - and in addition to the
2 releases set out in Paragraphs 60 and 62 of this Agreement – further hereby knowingly and voluntarily
3 release and forever discharge Defendants and the Released Parties, to the full extent permitted by law, of
4 and from any and all claims, charges of discrimination, demands, liens, agreements, contracts, covenants,
5 actions, suits, causes of action, disputed wages, obligations, debts expenses, attorneys’ fees, damages,
6 penalties interests, judgments, orders and liability of whatever kind or nature in law, equity or otherwise,
7 known or unknown, asserted and unasserted, suspected or unsuspected, and whether or not concealed or
8 hidden, which each Named Plaintiff now owns or holds or have at any time heretofore owned or held,
9 arising out of or in any way connected with each Named Plaintiff’s employment, separation of
10 employment, or any other relationship with the Released Parties, or any other transactions, occurrences,
11 acts or omissions or any loss, damage or injury whatsoever, known or unknown, suspected or unsuspected,
12 resulting from any act or omission by or on the part of the Released Parties, or any of them, committed or
13 omitted prior to the date of the Court’s order granting final approval (collectively, “Named Plaintiffs’
14 Claims”). The Parties intend the Named Plaintiffs’ release to be general and comprehensive in nature and
15 to release all of Named Plaintiffs’ Claims to the maximum extent permitted by law. Named Plaintiffs’
16 Claims being released include specifically, by way of description, but not by way of limitation, any and
17 all claims arising out of or in any way related to: (i) any interactions between any or all of the Named
18 Plaintiffs and the Released Parties, or any of them; (ii) Named Plaintiffs’ employment, separation of
19 employment, contractual and/or quasi-contractual relationship with the Released Parties, or any of them;
20 (iii) any allegations as to disputed wages, remuneration and/or other compensation, due by operation of
21 statute, ordinance, contract or quasi-contract; (iv) any federal, state, or local law or ordinance prohibiting
22 discrimination or retaliation on the basis of age, race, color, ancestry, religion, disability, sex, national
23 origin or citizenship, including, without limitation, claims under Title VII of the Civil Rights Act of 1964,
24 the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, the Age Discrimination in
25 Employment Act of 1967, the Family and Medical Leave Act, the Equal Pay Act, the California Family
26 Rights Act – Cal. Gov’t Code § 12945.2, the California Fair Employment and Housing Act – Cal. Gov’t
27 Code § 12900, *et seq.*, the Employment Retirement Income Security Act, the California IWC Orders, the
28 California Labor Code, the California Equal Pay Law – Cal. Lab. Code § 1197.5, or any other federal,

1 state or local civil or human rights law or any other federal, state or local law, regulation or ordinance; (v)
2 any public policy, contract, tort or common law; (vi) any transactions, occurrences, acts, statements,
3 disclosures, or omissions occurring prior to the date of the Court's order granting final approval; and (vii)
4 any basis for fees or other expenses including attorneys' fees incurred in these matters.

5 **62. Named Plaintiffs' Waiver of California Civil Code Section 1542.** Named Plaintiffs
6 intend that this Agreement should be effective as a bar to any and all of their claims released by Paragraphs
7 62 and 63. In furtherance of this intention, Named Plaintiffs expressly waive and relinquish all rights and
8 benefits conferred on each of them by the provisions of the California Civil Code section 1542 and do so
9 understanding and acknowledging the significance and consequence of specifically waiving Section 1542.
10 California Civil Code section 1542 provides as follows:

11 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
12 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
13 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**
14 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS**
15 **OR HER SETTLEMENT WITH DEBTOR.**

16 Named Plaintiffs each understand fully the statutory language of California Civil Code section
17 1542, and, with this understanding, assume all risks for claims released hereunder that have already arisen
18 or may in the future arise, whether known or unknown, suspected or unsuspected, and specifically waive
19 all rights they each may have under California Civil Code section 1542. Named Plaintiffs each understand
20 that, if any of the facts relating in any manner to the Action, or to the release as provided in this Agreement,
21 are hereafter found to be other than or different from the facts now believed to be true, they have each
22 expressly accepted and assumed that risk and agree that this Agreement and the release of claims contained
23 herein shall nevertheless remain effective.

24 **J. ADDITIONAL TERMS AND CONDITIONS.**

25 **63. Settlement Fair and Reasonable:** Class Counsel has considerable experience in litigating
26 and settling complex wage-and-hour class action and representative actions of this type, and is sufficiently
27 familiar with the facts of this case and the applicable laws and regulations to make an informed judgment
28 as to the fairness of this Settlement. In light of this experience, and for reasons that will be more fully
explained in motion for preliminary approval of the Settlement, Class Counsel and the Named Plaintiffs

1 believe that the settlement terms herein are fair, reasonable, and adequate and in the best interests of the
2 Class.

3 **64. Settlement Resulted from Arm's Length Bargaining:** The terms of the settlement of
4 the Action resulted after arm's length negotiations of the Parties.

5 **65. Parties' Authority:** The signatories hereto hereby represent that they are fully authorized
6 to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

7 **66. Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to
8 accomplish the terms of this Agreement, including but not limited to, execution of such documents and to
9 take such other action as may reasonably be necessary to implement the terms of this Agreement. The
10 Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement
11 and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this
12 Agreement and the terms set forth herein. As soon as practicable after execution of this Agreement, Class
13 Counsel shall, with the assistance and cooperation of Defendants and its counsel, take all necessary steps
14 to secure the Court's final approval of this Agreement.

15 **67. No Prior Assignments and Binding on Assigns:** The Parties hereto represent, covenant,
16 and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
17 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
18 cause of action or rights herein released and discharged except as set forth herein. This Agreement shall
19 be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
20 administrators, successors, and assigns.

21 **68. No Admissions with Respect to Liability:** Nothing contained herein, nor the
22 consummation of this Agreement, is to be construed or deemed an admission with respect to liability,
23 culpability, negligence, or wrongdoing on the part of Defendants. Defendants expressly deny that it has
24 violated the law in any manner and affirmatively asserts that its wage and hour practices, and any other
25 acts related to its employees, are and have been in full compliance with all applicable statutes and
26 regulations. This Agreement is a settlement document and shall, pursuant to California Evidence Code
27 section 1152, be inadmissible as evidence in any proceeding except a proceeding to enforce its terms.
28 Each of the Parties hereto has entered into this Agreement with the intention to avoid further disputes and

1 litigation with the attendant inconvenience and expenses. To this end, the settlement of the Action, the
2 negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to
3 or in furtherance of this Agreement or the settlement: are not, shall not be deemed to be, and may not be
4 used as, an admission or evidence of any wrongdoing or liability on part of Defendants, or any of them,
5 or of the truth of any of the factual allegations in the Operative Complaint or any of the complaints; and
6 are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or
7 omission on part of the Defendants, or any of them, in any civil, criminal or administrative proceeding in
8 any court, administrative agency or tribunal.

9 **69. Construction and Integration:** This Agreement, including its Exhibit, constitute the
10 entire agreement and understanding between the parties, and supersedes any previous agreements or
11 understandings between the Parties. No representations, warranties or inducements have been made to
12 any party concerning the subject matter of this Agreement and/or related Exhibit other than the
13 representations, warranties and covenants contained in such documents. This Agreement and related
14 Exhibit shall be construed each as a whole, and with reference to one another, according to their fair
15 meaning and intent. Each of the Parties represents that its/their counsel has participated and cooperated
16 in the drafting and preparation of this Agreement and related Exhibit; hence, in any construction to be
17 made of this Agreement and/or the Exhibit, the same shall not be construed against any party on the basis
18 that said party was the drafter.

19 **70. Captions and Interpretations:** Paragraph titles or captions contained herein are inserted
20 as a matter of convenience and for reference, and in no way, define, limit, extend, or describe the scope
21 of this Agreement or any provision hereof. Each term of this Agreement is contractual and not merely a
22 recital.

23 **71. Governing Law:** This Agreement and the Exhibit hereto shall be deemed to have been
24 negotiated, executed and delivered, and to be wholly performed, in the State of California. The rights and
25 obligations of the Parties under the Agreement shall be construed and enforced in accordance with, and
26 be governed by, the substantive and procedural laws of the State of California without regard to
27 California's choice of law principles.

28 ///

1 72. **Modification by Writing Only:** This Agreement may not be changed, altered, or
2 modified, except in writing, signed by counsel for the Parties hereto, and approved by or otherwise ordered
3 by the Court. This Agreement may not be discharged except by performance in accordance with its terms
4 or by a writing signed by counsel for the Parties hereto and approved by or otherwise ordered by the Court.

5 73. **Signatories:** It is agreed that because of the large number of Class Members, it is
6 impossible or impractical to have each Class Member execute this Agreement. The Class Notice will
7 advise all Class Members of the binding nature of the release on those Class Members who do not submit
8 timely and valid Requests for Exclusion (i.e., Settlement Class Members), and such shall have the same
9 force and effect as if this Agreement were executed by each Class Member.

10 74. **No Public Comment:** The Parties and their counsel agree that they will not issue any press
11 releases, initiate any contact with the press, respond to any press inquiry or have any communication with
12 the press about the facts, amounts, or terms of this Settlement. In addition, the Parties and their counsel
13 agree that they will not engage in any advertising or distribute any marketing materials relating to the
14 settlement of this case in any manner that identifies the Defendants. Neither the Named Plaintiffs nor
15 Class Counsel will discuss the terms or the fact of the settlement with third parties other than: (a) their
16 immediate family members; (b) their respective accountants or lawyers as necessary for tax purposes; or
17 (c) other Class Members. The Named Plaintiffs and Class Counsel agree not to publish any of the terms
18 or conditions of this Settlement in any manner that identifies Defendants. However, Class Counsel may
19 identify this Settlement in other matters to demonstrate their adequacy as counsel in such other matters.
20 The Named Plaintiffs and Class Counsel shall nevertheless undertake any and all disclosures that are
21 required to be made to the LWDA under the PAGA statute.

22 75. **Continuing Jurisdiction:** Except as otherwise specifically provided for herein,
23 Department CX102 of the Superior Court of the State of California, County of Orange, shall retain
24 continuing jurisdiction over this case under Rule 3.769, *et seq.* of the California Rules of Court and
25 California Code of Civil Procedure section 664.6 to construe, interpret, and enforce this Agreement and
26 the settlement, and to supervise all notices, the administration of the settlement and this Agreement and
27 distribution of the Maximum Settlement Amount, and to hear and adjudicate any dispute arising from or
28 related to the settlement and/or this Agreement

1 **76. Attorney's Fees, Costs and Expenses:** Except as otherwise specifically provided for
2 herein, if all conditions of this Agreement are satisfied and the Effective Date occurs, each party shall bear
3 its/their own attorneys' fees, costs and expenses, taxable or otherwise, incurred by it in or arising out of
4 the Action, and shall not seek reimbursement thereof from any other party to this Agreement. This section
5 is void if the Settlement is not fully implemented.

6 **77. Notices:** Except for Class Notice which is required to be circulated to the Class Members
7 by the Settlement Administrator, all notices, requests, demands and other communications related to or in
8 connection with this Agreement shall be in writing, and shall be provided by appropriate method
9 depending on the urgency (e.g., personal delivery, facsimile, overnight delivery or first-class U.S. mail)
10 to:

11 To Named Plaintiffs and Class Counsel:

12 Edwin Aiwazian, Esq.
13 Lawyers for Justice, PC
14 410 West Arden Avenue, Suite 203
15 Glendale, California 91203
16 Telephone: (818) 265-1020
17 Facsimile: (818) 265-1021

11 To Defendants:

12 Mona Z. Hanna, Esq.
13 Marc R. Jacobs, Esq.
14 Amanda K. Pawlyk, Esq.
15 Michelman & Robinson, LLP
16 17901 Von Karman Ave., 10th Floor
17 Irvine, California 92614
18 Telephone: (714) 557-7990
19 Facsimile: (714) 557-7991

17 **78. Execution in Counterparts:** This Agreement may be executed in counterparts, and when
18 each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
19 original, and, when taken together with other signed counterparts, shall constitute one Agreement, which
20 shall be binding upon and effective as to all Parties. Copies of the executed Agreement shall be effective
21 for all purposes as though the signatures contained therein were original signatures.

22 **IN WITNESS WHEREOF,** the undersigned Parties and their duly-authorized representatives
23 accept and agree to the terms of this Agreement and hereby execute it voluntarily and with a full
24 understanding of its consequences.

25 Dated: Jun 15, 2018, 2018

· 

William campos (Jun 15, 2018)

William Campos

Plaintiff and Proposed Class Representative

28 *[Additional Signatures On Next Page]*

1 Dated: Jul 4, 2018, 2018

Juanita Hernandez
Juanita Hernandez (Jul 4, 2018)

Juanita Hernandez
Plaintiff and Proposed Class Representative

4 Dated: _____, 2018

Motive Energy, Inc.
Defendant

6 By: _____

8 Its: _____

9 Dated: _____, 2018

Advanced Charged Technologies, Inc.
Defendant

11 By: _____

13 Its: _____

14 Dated: _____, 2018

Motive Energy Telecommunications Group, Inc.
Defendant

17 By: _____

18 Its: _____

19 **APPROVED AS TO FORM AND CONTENT:**

20 Dated: _____, 2018

LAWYERS FOR JUSTICE, PC

22 _____
Edwin Aiwarzian
Attorneys for Named Plaintiffs and Proposed Class Counsel

24 Dated: _____, 2018

MICHELMAN & ROBINSON, LLP

26 _____
Marc R. Jacobs
Attorneys for Defendants Motive Energy, Inc.; Advanced
Charging Technologies, Inc.; and Motive Energy
Telecommunications Group, Inc.

1 Dated: _____, 2018

Juanita Hernandez
Plaintiff and Proposed Class Representative

4 Dated: _____, 2018

Motive Energy, Inc.
Defendant

6 By: _____

8 Its: _____

9 Dated: _____, 2018

Advanced Charged Technologies, Inc.
Defendant

11 By: _____

13 Its: _____

14 Dated: _____, 2018

Motive Energy Telecommunications Group, Inc.
Defendant

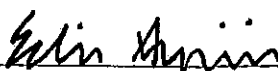
17 By: _____

18 Its: _____

19 **APPROVED AS TO FORM AND CONTENT:**

20 Dated: July 5, 2018

LAWYERS FOR JUSTICE, PC

22 
Edwin Aiwarzian

Attorneys for Named Plaintiffs and Proposed Class Counsel

24 Dated: _____, 2018

MICHELMAN & ROBINSON, LLP

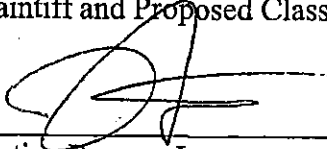
26 _____
Marc R. Jacobs

Attorneys for Defendants Motive Energy, Inc.; Advanced
Charging Technologies, Inc.; and Motive Energy
Telecommunications Group, Inc.

1 Dated: _____, 2018

Juanita Hernandez
Plaintiff and Proposed Class Representative

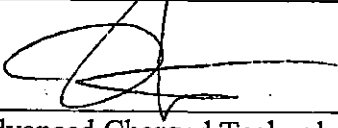
2
3
4 Dated: July 10, 2018


Motive Energy, Inc.
Defendant

6 By: Robert S. Isman

7 Its: C.E.O.

8
9 Dated: July 10, 2018


Advanced Charged Technologies, Inc.
Defendant

11 By: Robert S. Isman

12 Its: PRESIDENT

13
14 Dated: July 10, 2018


Motive Energy Telecommunications Group, Inc.
Defendant

16 By: Robert S. Isman

17 Its: PRESIDENT

18
19 **APPROVED AS TO FORM AND CONTENT:**

20 Dated: _____, 2018

LAWYERS FOR JUSTICE, PC

21
22
23 Edwin Aiwarzian
Attorneys for Named Plaintiffs and Proposed Class Counsel

24 Dated: _____, 2018

MICHELMAN & ROBINSON, LLP

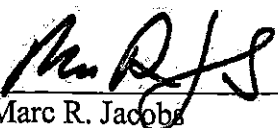
25
26 
Marc R. Jacobs
Attorneys for Defendants Motive Energy, Inc.; Advanced
27 Charging Technologies, Inc.; and Motive Energy
28 Telecommunications Group, Inc.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

William Campos, et al. v. Motive Energy, Inc., et al.
Superior Court of California for the County of Orange
Case No. 30-2016-00828352-CU-OE-CXC

[ADMINISTRATOR] ID: <<[ADMINISTRATOR] ID>>

<<Name>>

<<Address1>> <<Address2>>

<<City>>, <<State>> <<Zip Code>>

To: All current and former hourly-paid or non-exempt employees who worked for Motive Energy, Inc., Motive Energy Telecommunications Group, Inc., or Advanced Charging Technologies, Inc. within the State of California at any time during the period from January 5, 2012 to March 16, 2018:

**PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS.
YOU MAY BE ENTITLED TO MONEY FROM THIS SETTLEMENT**

I. INTRODUCTION

The Superior Court of California for the County of Orange ("Court" or "Orange County Superior Court"), has granted preliminary approval of a proposed class action settlement in the above-captioned action (the "Action").

A Final Approval Hearing will be held on [date] at [time] to determine whether the Settlement should be granted final approval. The records of Motive Energy, Inc., Motive Energy Telecommunications Group, Inc., and Advanced Charging Technologies, Inc. (collectively, "Defendants") show that you were employed by at least one of the Defendants as an hourly-paid or non-exempt employee within the State of California at some time during the period from January 5, 2012 to March 16, 2018 ("Class Period"), and therefore you are a "Class Member." As a Class Member, you may be entitled to money under the Settlement, and unless you "opt out" of the Settlement, your legal rights may be affected. The purpose of this Notice of Class Action Settlement ("Notice") is to: (1) describe the Action, (2) inform you of the terms of the Settlement, and (3) inform you of your rights and options in connection with the Settlement.

II. SUMMARY OF THE ACTION

On January 5, 2016, former employee William Campos ("Campos") filed a Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendants in Orange County Superior Court. On September 22, 2016, Plaintiff Campos filed a First Amended Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. which, *inter alia*, added former employee Juanita Hernandez as a named plaintiff to the Action (together with Plaintiff Campos, "Plaintiffs"). On December 2, 2016, Plaintiffs filed a Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Operative Complaint").

Plaintiffs allege that Defendants failed to properly pay minimum and overtime wages, failed to provide compliant meal periods and pay meal period premiums, failed to provide compliant rest periods and pay rest period premiums, failed to reimburse employees for necessary business expenses, failed to timely pay wages and associated waiting time penalties, failed to provide accurate and itemized wage statements, and failed to keep requisite pay records, and thereby engaged in unfair business practices and conduct giving rise to civil penalties under the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"), with respect to Plaintiffs and all other current and former hourly-paid or non-exempt employees who worked for Defendants within the State of California at any time during the period from January 5, 2012 to final judgment.

Defendants deny all of Plaintiffs' allegations and specifically deny that they violated the law in any way as described in the lawsuit. Nothing in this Notice, or the Settlement itself, or any actions to carry out the terms of the Settlement mean that Defendants admit any fault, guilt, negligence, wrongdoing, or liability whatsoever. There has been no finding of any wrongdoing by Defendants. Defendants wish to settle in order to avoid the costs, time, and disruption caused by litigation.

Plaintiffs and Defendants participated in a mediation before an experienced wage-and-hour mediator, which resulted in

a settlement of the Action, and the parties executed the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement" or "Settlement Agreement").

The Court granted preliminary approval of the Settlement on [Preliminary Approval Date] on behalf of the following Class (each individually, a "Class Member"):

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from January 5, 2012 to March 16, 2018.

At that time, the Court also preliminarily approved Plaintiffs William Campos and Juanita Hernandez to serve as representatives of the Class ("Class Representatives"), and Edwin Aiwazian, Esq., Arby Aiwazian, Esq., and Joanna Ghosh, Esq. of Lawyers for Justice, PC to serve as counsel for the Class ("Class Counsel").

Edwin Aiwazian, Esq.
Arby Aiwazian, Esq.
Joanna Ghosh, Esq.
Lawyers for Justice, PC
410 Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020
Fax: (818) 265-1021

III. SUMMARY OF SETTLEMENT TERMS

Maximum Settlement Amount. As a part of the Settlement, Defendants have agreed to pay the amount of \$750,000 (the "Maximum Settlement Amount") to fully resolve the Action in accordance with the terms of the Settlement Agreement. The "Net Settlement Amount" refers to the amount that will be available for distribution to Class Members who do not submit a valid and timely Request for Exclusion ("Settlement Class Members"). The Net Settlement Amount is the Maximum Settlement Amount less the following amounts, subject to approval by the Court:

- **Settlement Administration Costs.** Payment to the Settlement Administrator, in an amount not to exceed \$12,000, for the expenses and costs of notifying the Class Members of the Settlement, processing Requests for Exclusion (as described in Section V of this Notice), calculating Class Members' *pro rata* shares of the Net Settlement Amount, and distributing payments under the Settlement, among other tasks.
- **Attorneys' Fees and Litigation Costs and Expenses.** An award of \$262,500 (which is 35% of the Maximum Settlement Amount) for attorneys' fees to Class Counsel, as compensation for the work that Class Counsel has performed and will continue to perform in this Action through the finalization of the Settlement. Class Counsel also seeks reimbursement of its actual litigation costs and expenses incurred in the Action, in an amount not to exceed \$50,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.
- **Service Payments.** Service Payments in amounts not to exceed \$8,000 to Plaintiff William Campos and \$7,000 to Plaintiff Juanita Hernandez (totaling \$15,000), to compensate them for their services on behalf of the Class in initiating and prosecuting the Action. The Service Payments are in addition to whatever payments Plaintiffs are otherwise entitled to as Settlement Class Members.
- **LWDA Payment.** Under the Settlement, \$30,000 has been designated as penalties under the Private Attorneys General Act ("PAGA Payment"). As required by statute, 75% of the PAGA Payment (i.e., \$22,500) will be paid to the Labor and Workforce Development Agency ("LWDA Payment"), and the remaining 25% of the PAGA Payment (i.e., \$7,500) will remain part of the Net Settlement Amount to be distributed to Settlement Class Members on a *pro rata* basis.

Calculation of Individual Settlement Shares. Settlement Class Members will be entitled to receive a *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"). Each Settlement Class Member's Individual Settlement Share will be calculated based upon the number of weeks that the respective Settlement Class Member was employed by any of the Defendants in an hourly-paid or non-exempt position in California from January 5, 2012 to March 16, 2018

("Workweeks"), relative to the total number of Workweeks of all Settlement Class Members.

Tax Matters. Each Individual Settlement Share is allocated as follows, for withholding purposes: thirty-three percent (33%) as wages and sixty-seven percent (67%) as interest and penalties. The wages portion of each Individual Settlement Share will be reported on an IRS Form W-2. Settlement Class Members will be issued payment of their respective Individual Settlement Share subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of their Individual Settlement Share, which the Settlement Administrator is responsible for remitting and reporting to the tax authorities. Defendants will be responsible for paying their employer's share of payroll taxes and contributions with respect to the wages portion of Individual Settlement Shares. The portions of the Individual Settlement Share that are allocated towards interest and penalties will be paid out without reduction for taxes or withholdings, and these non-wage portions will be reported on an IRS Form 1099. Settlement Class Members will be exclusively liable for any and all tax liability for payments issued to them under the Settlement. Settlement Class Members may wish to consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Releases. Other than the rights created by the Settlement, upon the Effective Date, all Class Members who do not submit a valid and timely Request for Exclusion (i.e., Settlement Class Members) will fully release and discharge Released Parties from, and covenant not to sue the Released Parties for, any and all of the Released Claims.

"Released Parties" means: Defendants and each of its past, present, and future parent companies, subsidiaries, shareholders, lenders, officers, partners, directors, employees, insurers, predecessors, accountants, attorneys, plan administrators, heirs, trustees, successors, and assigns, and each and all of their respective past, present, and future shareholders, lenders, officers, partners, directors, employees, insurers, predecessors, accountants, attorneys, plan administrators, heirs, trustees, successors, and assigns, and all persons acting under, by, through, or in concert with any of them.

"Released Claims" means: all individual, class, or representative claims, actions, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, penalties, damages (including and not limited to, liquidated damages, exemplary damages, and punitive damages), restitution, equitable relief, injunctive relief, or causes of action, or penalties, of any nature whatsoever, whether known or unknown, that were pled or could have been pled based on the factual allegations in the Operative Complaint, arising during the Class Period, which the Settlement Class Members have had or hereafter may claim to have, against the Released Parties, or any of them, including, without limitation: (a) claims for violation of the California Labor Code and applicable Wage Order(s) promulgated by the California Industrial Welfare Commission, for failure to pay minimum wages, the failure to pay overtime wages or other premium pay, the failure to provide compliant meal periods, the failure to provide compliant rest periods, failure to provide compliant wage statements, failure to reimburse for necessary business expenditures; (b) claims for unfair, unlawful, and fraudulent business practices under the California Business and Professions Code sections 17200, et seq. and/or any other unfair competition law; (c) related or derivative claims for penalties, including, but not limited to, wage statement penalties and/or any other penalties set forth in California Labor Code or Wage Orders; (d) all violations of the Private Attorneys General Act of 2004 (including, but not limited to, all claims arising under California Labor Code sections 2698, 2699, and 2699.3), and (e) any additional claims for penalties, damages or wages predicated on the same.

Upon the Effective Date, Settlement Class Members acknowledge and are deemed to acknowledge that they may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the subject matter of the Action, Settlement Agreement and/or the Released Claims and which, if known or suspected at the time of executing the Settlement Agreement, may have materially affected this release. Nevertheless, the Settlement Class waive any right, claim, or cause of action that might arise as a result of such different or additional claims or facts.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order, at or following a Final Approval Hearing, granting final approval of the Settlement.

IV. RECEIVING PAYMENT UNDER THE SETTLEMENT

If you do nothing, you will be deemed a Settlement Class Member, you will be issued payment from the Settlement, and you will release the Released Parties of all Released Claims, as described herein.

Based on Defendants' records, which will be presumed to be correct unless evidence to the contrary is timely submitted to the Settlement Administrator:

You are credited as having been employed by at least one of the Defendants in an hourly-paid or non-exempt position in California during the time period starting on January 5, 2012 and ending on March 16, 2018 for <<WorkWeeks>> Workweeks and your estimated gross Individual Settlement Share is <<estAmount>>.

If you wish to challenge the number of Workweeks attributed to you above, then you must submit a written, signed dispute, along with supporting documents, if any exist, to the Settlement Administrator at the following address, postmarked **no later than [Response Deadline]**:

Motive Energy Settlement
c/o [administrator's name]
[mailing address]
[telephone support number].

To be valid, your dispute must contain: (1) your full name, address, signature, and the last four digits of your Social Security number; (2) the case name and number of this Action (the case name is *Campos, et al. v. Motive Energy, Inc., et al.*, and the Case Number is 30-2016-00828352-CU-OE-CXC); (3) a clear statement indicating that you are disputing the number of Workweeks credited to you; and (4) facts supporting your dispute along with any supporting documents.

In order to ensure receipt of your payment, **it is your responsibility to make sure you keep the Settlement Administrator informed of your current mailing address**, and you may do so by contacting the Settlement Administrator at the address listed above or the telephone number listed on the bottom of the page.

V. RIGHT TO REQUEST EXCLUSION

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive no money from the Settlement and you will not be bound by its terms.** To opt out, you must submit a written request to be excluded ("Request for Exclusion") to the Settlement Administrator. To be valid, your Request for Exclusion must contain: (1) your full name, address, signature, and the last four digits of your Social Security number; (2) the case name and number of this Action (the case name is *Campos, et al. v. Motive Energy, Inc., et al.*, and the Case Number is 30-2016-00828352-CU-OE-CXC); and (3) a clear statement indicating that you wish to opt out of the Settlement. The Request for Exclusion must be mailed to the Settlement Administrator at the address set forth in Section IV, above, postmarked **no later than [Response Deadline]**. Requests for Exclusion that do not include all required information or are postmarked after **[Response Deadline]** will be rejected, and those individuals will remain bound by the Settlement and the release of the Released Claims described above.

VI. RIGHT TO OBJECT

Class Members who have not submitted a timely and valid Request for Exclusion (i.e., Settlement Class Members) and believe that the Settlement should not be finally approved by the Court for any reason, may object to the Settlement. Objections must be in writing and must be mailed to the Settlement Administrator at the address listed above in Section IV, postmarked **on or before [Response Deadline]**. To be valid, an objection must contain: (1) the objector's full name, address, telephone number, signature, the last four digits of the objector's Social Security number; (2) the case name and number of this Action (the case name is *Campos, et al. v. Motive Energy, Inc., et al.*, and the Case Number is 30-2016-00828352-CU-OE-CXC); (3) a clear statement indicating that the objector wishes to object to the Settlement and the basis for any objection; (4) identification of the name and address of the objector's counsel, if he or she is represented by counsel; and (5) a statement of whether or not the objector intends to appear at the Final Approval Hearing. To object to the Settlement, Class Members must remain members of the Settlement Class, and if the Court approves the Settlement, Settlement Class Members who object will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object. Any Settlement Class Member who does not object in the manner provided in this Notice will waive any objection to the Settlement, whether by appeal or otherwise.

VII. HEARING ON THE SETTLEMENT ("FINAL APPROVAL HEARING")

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held on [date] at [time] in Department CX102, in the Superior Court of California for the County of Orange, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. The Final Approval Hearing may be continued without further notice. **You**

are not required to attend the Final Approval Hearing, although any Settlement Class Member is welcome to attend the hearing at his or her own expense. Any Class Member may retain his or her own legal representation at his or her own expense as well. If you are objecting, you must comply with the requirements set forth in Section VI, above in order to have your objection heard by the Court.

VIII. ADDITIONAL INFORMATION

This Notice is only a summary of the Action and the Settlement. Class Members should contact the Settlement Administrator with any concerns or questions regarding the Settlement:

Motive Energy Settlement
c/o [administrator's name]
[mailing address]
[telephone support number]

You may also refer to the pleadings and other papers filed in the Action, which may be viewed at the Office of the Clerk, Central Justice Center of the Orange County Superior Court, located at 700 West Civic Center Drive, Santa Ana, California 92701 during regular business hours of each court day or select documents may be downloaded from the Orange County Superior Court's website (<https://www.occourts.org/online-services/case-access/>) by clicking on the "Civil Case & Document Access" option, for a fee.

You may also contact Class Counsel: Edwin Aiwazian, Esq., Lawyers for Justice, PC, 410 Arden Avenue, Suite 203, Glendale, California, 91203, Telephone: (818) 265-1020, Fax: (818) 265-1021.

PLEASE DO NOT CONTACT MOTIVE ENERGY, INC., MOTIVE ENERGY TELECOMMUNICATIONS, INC., OR ADVANCED CHARGING TECHNOLOGIES, INC., OR THEIR HUMAN RESOURCES REGARDING THIS NOTICE.

FURTHER, PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH QUESTIONS.

ALL QUESTIONS SHOULD BE DIRECTED TO THE SETTLEMENT ADMINISTRATOR.