

1 Edwin Aiwarzian (SBN 232943)
2 Arby Aiwarzian (SBN 269827)
3 Joanna Ghosh (SBN 272479)
4 **LAWYERS for JUSTICE, PC**
5 410 West Arden Avenue, Suite 203
6 Glendale, California 91203
7 Tel: (818) 265-1020 / Fax: (818) 265-1021

8 *Attorneys for Plaintiff's and the Class*

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

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

21 Plaintiffs,

22 vs.

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

Defendants.

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

Honorable William D. Claster
Department CX104

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
LINDSAY KLINE REGARDING
SETTLEMENT NOTICE ADMINISTRATION**

Date: May 10, 2019
Time: 9:00 a.m.
Department: CX104

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

1 **SUPPLEMENTAL DECLARATION OF LINDSAY KLINE**

2 I, LINDSAY KLINE, hereby declare:

3 1. I am employed as a Case Manager by Simpluris, Inc. ("Simpluris"), the Settlement
4 Administrator in the above-entitled action. Our corporate office address is 3194-C Airport Loop Drive,
5 Costa Mesa, California 92626. My telephone number is (714) 640-5635. I am over twenty-one years of
6 age and authorized to make this declaration on behalf of Simpluris and myself. The facts set forth in
7 this declaration are within my personal knowledge or based on information and belief, and, if called as
8 a witness, I could and would competently testify as follows.

9 2. This declaration supplements the Declaration of Lindsay Kline Regarding Settlement
10 Notice Administration dated February 21, 2019.

11 **NOTIFICATION TO THE CLASS**

12 3. On January 16, 2019 ("Initial Mailing Date"), the Notice Packet was mailed to four
13 hundred and ninety-two (492) individuals identified as Class Members in the Class Information via
14 first-class U.S. Mail. Based on the Initial Mailing Date, the deadline for Class Members to submit an
15 Opt Out Form, objection to the Settlement and/or Workweeks dispute to the Settlement Administrator,
16 is March 2, 2019 ("Response Deadline").

17 4. As of this date, twenty three (23) Notice Packets were returned to Simpluris as
18 undeliverable, of which none had forwarding addresses provided by the Post Office. If a Class
19 Member's Notice Packet was returned by the USPS as undeliverable and without a forwarding address,
20 Simpluris performed an advanced address search (i.e. skip trace) on all of these addresses by using
21 Accurint, a reputable research tool owned by Lexis-Nexis. Simpluris used the Class Member's name
22 and previous address to locate a current address. Through the advanced address searches, Simpluris
23 has been able to locate nineteen (19) updated addresses and Simpluris promptly re-mailed the Notice
24 Packet to the updated addresses. The latest Extended Response Deadline for members whose Notice
25 Packet was re-mailed was March 7, 2019. Ultimately, there are four (4) Notice Packets that remain
26 undeliverable.

27 ///

28 ///

1 REQUESTS FOR EXCLUSION, OBJECTIONS, AND DISPUTES

2 5. As of this date, Simpluris has received nine (9) timely and valid Opt Out Forms from the
3 following Class Members: Ezequiel Ortiz, Don Thistlewhite, Anthony Gomez, Alexa Rubio, Christine
4 Martinez, Gabriel Martinez, Kelly Brown, Tara Stallings, and Ian Stallings.

5 6. As of this date, Simpluris has not received any objections to the Settlement from Class
6 Members.

7 7. As of this date, Simpluris has not received any disputes regarding the number of
8 Workweeks credited to Class Members.

9 SETTLEMENT PAYMENTS

10 8. As of this date, there are four hundred and eighty three (483) Class Members who,
11 having not submitted a timely and valid Opt Out Form, are deemed to be Settlement Class Members
12 and will be distributed their *pro rata* share of the Net Settlement Amount (i.e., Individual Settlement
13 Share).

14 9. The Net Settlement Amount is estimated to be \$404,593.13 and was determined by
15 subtracting the requested attorneys' fees (\$262,500.00), requested amount for reimbursement of
16 litigation costs and expenses (\$33,759.87), requested Service Payments (\$15,000.00), LWDA Payment
17 (\$22,500.00), and the requested Settlement Administration Costs (\$11,647.00) from the Maximum
18 Settlement Amount (\$750,000.00).

19 10. Based on the Net Settlement Amount of \$404,593.13, the average Individual Settlement
20 Share is estimated to be \$837.67, the highest Individual Settlement Share to a Settlement Class Member
21 is estimated to be \$2,712.51, and the lowest Individual Settlement Share to a Settlement Class Member
22 is estimated to be \$1.17. Individual Settlement Shares are subject to reduction for the employee's share
23 of taxes and withholdings on the wage portion of Individual Settlement Shares, and the net payment is
24 the "Individual Settlement Payment."

25 11. Based on the Net Settlement Amount of \$404,593.13, the Individual Settlement Share to
26 Plaintiff William Campos is estimated to be approximately \$290.05, and the Individual Settlement
27 Share to Plaintiff Juanita Hernandez is estimated to be approximately \$324.79.

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

10 I declare under penalty of perjury under the laws of the State of California that the foregoing is
11 true and correct. Executed this 9th day of April 2019, in Costa Mesa, California.

14 Lindsay Kline

EXHIBIT A



Class Action Settlement Administration

800-779-2104 • www.simpluris.com

3176 Pullman Street, Suite 123

Costa Mesa, CA 92626

Estimate #:	8576V3	Prepared By:	Michael Sutherland
Estimate Date:	5/10/2018	Direct Dial #:	321-223-5067
Expiration Date:	8/8/2018	Email:	msutherland@simpluris.com

Plaintiff Attorney

Attorney/Client: **Joanna Ghosh**
Firm: **Lawyers for Justice**
Email:

Defense Attorney

Attorney/Client:
Firm:

Case Name: Campos, et al. v. Motive Energy: All In Settlement

Anticipated Total Credit	\$12,500.00
Discount Given	\$943.00
Estimated Fees*	\$11,647

Notes:

1) Estimated administration fees assume that Simpluris will receive the data in a single Excel file with no substantial changes to class size or response rate.

Total Possible Class Size:	550	Undeliverable Rate:	20%
Response Rate:	2%	Call Rate:	20%
Length of Response Period:	45-60	Fund Distribution:	Simpluris
Mailing Document Language:	English/Spanish	Redistribution:	None
Reminder Postcard:	No	State Wage Reporting:	One

Case Setup

Data Compilation - Develop Case Specific Response Tracking - Error Reports			
Category	Unit Value	# of Units	Total
Project Manager - Case Setup	\$75.00	6	\$450.00
Translation*	\$0.34	1500	\$510.00
Database Manager - Initial Data Analysis	\$125.00	6	\$750.00
Total			\$1,710.00

Notification

Mailing Notice Pack - 12 Pg Notice - merged data - Printed Double Sided - English/Spanish			
Category	Unit Value	# of Units	Total
Mailing Notice Pack	\$1.25	550	\$687.50
Postage	\$0.42	550	\$231.00
NCOA	\$125.00	1	\$125.00
Undeliverable Processing	\$0.50	110	\$55.00
Skip Tracing	\$2.00	110	\$220.00
Re-mail Notice Pack	\$1.25	94	\$116.88
Re-mail Postage	\$0.48	94	\$44.88
Clerical	\$50.00	2	\$100.00
Total			\$1,580.26

Call Center

Establish Case Specific Toll Free Number for Live Call Center Support - English/Spanish			
Category	Unit Value	# of Units	Total
Customer Service Reps/Call Center Support	\$75.00	6	\$225.00
Total			\$225.00



Class Action Settlement Administration

800-779-2104 • www.simpluris.com

3176 Pullman Street, Suite 123

Costa Mesa, CA 92626

Classing/Administration

Process: Mailed in Opt Outs or Objections			
Category	Unit Value	# of Units	Total
Database Manager	\$125.00	1	\$125.00
Dispute/Deficient Responses - One Cure Letter	\$2.50	11	\$27.50
Opt Out Processing	\$2.50	11	\$27.50
SSN Verification	\$75.00	2	\$150.00
Data Entry	\$50.00	1	\$50.00
Project Manager	\$125.00	1	\$125.00
Declaration	\$300.00	1	\$300.00
Weekly Reporting to Counsel	WAIVED	12 Wks of Reporting	\$0.00
Total			\$805.00

Distribution

Setup a Disbursement Account			
Print & Mail Checks to Class Members W-2/1099's File Reports with Appropriate Federal & State Taxing Authorities			
Account Management & Reconciliation Mailing Notice Pack			
Category	Unit Value	# of Units	Total
Disbursement Data Preparation	\$125.00	3	\$375.00
Disbursement Manager - Data Validation	\$75.00	2	\$150.00
Setup Banking Account/QSF	\$75.00	4	\$300.00
Print & Mail Checks/1099s/W2	\$2.00	550	\$1,100.00
Check Postage	\$0.42	550	\$231.00
Process Returned Checks	\$0.50	28	\$13.75
Skip Trace Undeliverable Checks	\$5.00	28	\$137.50
Remail Checks	\$5.00	28	\$137.50
Escheat to the State Controller. Uncashed checks.	\$2,500.00	1	\$2,500.00
QSF Account Reconciliation	\$350.00	1	\$350.00
Individual State Tax Reporting	\$500.00	1	\$500.00
QSF Reporting/Declaration	\$500.00	1	\$500.00
QSF Annual Tax Preparation Fee	\$750.00	1	\$750.00
Reissuing Checks	\$5.00	15	\$75.00
Reissuing 1099/W-2's	\$5.00	15	\$75.00
Responding to IRS, State, Agency Inquiries	\$75.00	1	\$75.00
Disbursement Manager	\$125.00	4	\$500.00
Total			\$7,769.75

simpluris

Class Action Settlement Administration

800-779-2104 • www.simpluris.com

3176 Pullman Street, Suite 123

Costa Mesa, CA 92626

Case Wrap Up

~~Send Final Reports to Counsel~~

Category	Unit Value	# of Units	Total
Data Manager-Final Reporting	\$125.00	2	\$250.00
Clerical-Clean Up Any Misc	\$50.00	2	\$100.00
Project Manager-Wrap-up Final Issues	\$75.00	2	\$150.00
Total			\$500.00

Total Case Costs

\$12,590.01

All administration services to be provided by Simpluris to Client, are provided subject to the following terms and conditions:

- 1. Services.** Simpluris agrees to provide Client those services set forth in the Bid (the "Services") to which these terms and conditions are attached and which has been provided to Client. As compensation for such Services, Client agrees to pay the fees for Services outlined in the Bid. However, Client such fees for Services are estimated based on the requirements provided by Client and actual fees charged by Simpluris may be greater or less than such estimate and Client will be responsible for the payment of all such fees.
- 2. Billing and Payment.** Simpluris will invoice Client on a regular basis unless a specific timeframe is otherwise set forth in the Bid. Client shall pay all invoices within 30 days of receipt. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Services are not provided on a contingency basis and Client shall remain liable to Simpluris for all fees for the Services, regardless of any court decisions, and/or actions by the parties, including disapproval or withdrawal of a settlement.
- 3. Retention of Documents.** Unless directed otherwise in writing by the Client, Simpluris will destroy all undeliverable mail (except for undeliverable checks) on the date that it is processed and retained in Simpluris' system. Simpluris will maintain records to establish that the subject mail is undeliverable. Simpluris will retain undeliverable checks until the Qualified Settlement Fund is closed. Simpluris will also retain all other class member and putative class member correspondence (including without limitation, claims forms and opt out forms) for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Lastly, Simpluris will retain bank & tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
- 4. Limitation of Liability; Disclaimer of Warranties.** Simpluris warrants that it will perform the Services diligently, with competence and reasonable care. Simpluris' only obligation will be to correct any non-conformance with the foregoing warranty. In no event will Simpluris be liable for any lost profits/opportunities, business interruption or delay or, special, consequential, or incidental damages incurred by Client relating to the performance of the Services, regardless of whether Client's claim is for breach of contract, tort (including negligence and strict liability) or otherwise. Under no circumstances will Simpluris be liable to Client for any claims, losses, costs, penalties, fines, judgment or damages, including court costs and reasonable attorney's fees (collectively, "Losses"), whether direct or indirect, arising out of, related to, or in connection with Services in an amount in excess of the total fees charged or chargeable to Client for the particular portion of the Services affected by Simpluris' omission or error. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.
- 5. Force Majeure.** To the extent performance by Simpluris of any of its obligations hereunder is substantially prevented by reason of any act of God or because of any other matter beyond Simpluris' reasonable control, then such performance shall be excused and this Agreement, at Simpluris' option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
- 6. Rights in Data.** Client agrees that it will not obtain, nor does Simpluris convey, any rights of ownership in the programs, system data, or materials provided or used by Simpluris in the performance of the Services.
- 7. Electronic Communications.** During the provision of the Services the parties may wish to communicate electronically with each other at a business e-mail address. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly, each party agrees to use commercially reasonable procedures to check for the then most commonly known viruses and to check the integrity of data before sending information to the other electronically, but each party recognizes that such procedures cannot be a guarantee that transmissions will be virus free. It remains the responsibility of the party receiving an electronic communication from the other to carry out a virus check on any attachments before launching any documents whether received on disk or otherwise.
- 8. Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service. Notice should be addressed to an officer or principal of Client and Simpluris, as the case may be.
- 9. Waiver.** Failure or delay on the part of a party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof or any of other subject, right, power or privilege.
- 10. Termination.** Client may terminate the Services at anytime upon 30 days prior written notice to Simpluris. Termination of Services shall in no event relieve Client of its obligation make any payments due and payable to Simpluris in respect of Services rendered up to the effective date of Termination. Simpluris may terminate this Agreement (i) for any reason upon no less than 90 days prior written notice to the Client; or (ii) upon 15 calendar days' prior written notice, if the Client is not current in payment of fees.
- 11. Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in such Court.
- 12. Survival.** Any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 4 - Limitation of Liability; Disclaimer of Warranties, Section 6 - Rights in Data, and Section 12- Jurisdiction, 14 - Confidentiality, and Section 15 - Indemnification.
- 13. Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.
- 14. Confidentiality.** Simpluris maintains reasonable and appropriate safeguards to protect the confidentiality and security of data provided by Client to Simpluris in connection with the Services. If, pursuant to a court order or other proceeding, a third party requests that Simpluris to disclose any confidential data provided by or for Client, Simpluris will promptly notify the Client unless prohibited by applicable law. Client will then have the option to provide Simpluris with qualified legal representation at Client's expense to defend against such request. If, pursuant to a court order, Simpluris is required to disclose data, produce documents, or otherwise act in contravention of the obligation to maintain confidentiality set forth in these terms and conditions, Simpluris will not be liable for breach of said obligation.
- 15. Indemnification.** Client will indemnify and hold Simpluris (and the officers, employees, affiliates and agents harmless against any Losses incurred by Simpluris, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by Simpluris in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by Simpluris pursuant to Client's instructions.
- 16. Severability.** If any term or condition or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 17. Database Administration.** Simpluris' database administration for Client assumes that Client will provide complete data that includes all information required to send notifications and calculate and mail settlement payments. Data must be provided in a complete, consistent, standardized electronic format. Simpluris' standardized format is Microsoft Excel, however, Simpluris may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by Simpluris on a time and materials basis according to Simpluris' Standard Rates.

Simpluris Security Summary – White Paper

Simpluris is committed to the security and overall protection of not only our data and information but our client's data and information, as well. As a demonstration of our commitment, we maintain SOC 2 Certification which requires strict adherence to policies and procedures surrounding information security, including processing and storage of confidential customer data. Simpluris supports a comprehensive, written information security program that complies with all applicable laws and regulations (e.g. HIPAA, Gramm-Leach-Bliley Act, MA 201 CMR 17.00) and is designed to (a) ensure the security, privacy and confidentiality of client and class member information, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of client or class member information, and (c) protect against unauthorized access to, use, deletion, or modification of class member information. Simpluris has designated specific employees to be responsible for the administration of its information security program. Also, Simpluris regularly and routinely monitors, tests, and updates our information security program.

Simpluris uses client and class member information only for the purposes for which its clients provide it, as described in any agreements or court orders governing the provision of Simpluris' services in any particular case. Simpluris maintains a process for identifying, assessing, and mitigating the risks to class member information in each relevant area of Simpluris' operations. At Simpluris, we continuously evaluate the effectiveness of the safeguards for controlling these risks to data and bank accounts. Simpluris restricts access to class member information only to those employees, agents, or subcontractors who need to know the information to perform their jobs. Simpluris performs background checks of all its employees that will have access to sensitive personal information, including a review of their references, employment eligibility, education, and criminal history to ensure they do not pose a risk to the security of client or class member information.

Simpluris adheres to the following industry best practices to safeguard its systems which process, store or transmit client and class member information:

- Identity and Access Management;
- Complex passwords are routinely and regularly changed;
- Role-based access control systems to limit individual employee access to network applications and systems based on their particular job role and function;
- Data Loss Prevention and Intrusion Prevention System software at multiple layers to prevent from internal and external threats of data leaks, malicious activity, and policy violations
- Encryption of class member information if transmitted over public or wireless networks (e.g., via email, FTP, the Internet, etc.);
- Implementation of a Secure File Transfer system (using SSL encryption) for transmitting documents back and forth to clients;
- Encryption of servers, portable media, laptops, desktops, smartphones, mobile devices, and new technologies that store class member information;
- Complex password authentication for remote access to company's networks;
- Upon hire and annually after that, training of all employees with access to class member information, (including any agents, and subcontractors with access to class member information) about their obligations to implement the information security program;
- Strict disciplinary measures for employees who violate the information security program;
- Preventing terminated employees from accessing class member information;
- Appropriately configured and updated firewall, antivirus, and spyware software;
- Prompt application of vendor-recommended security patches and updates to systems and other applications to avoid any adverse impact on class member information;
- Separation of Duties;
- Infrastructure and Physical Security;
- Business Continuity Planning;
- Disaster Recovery Planning