

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Settlement”) of claims brought under the Private Attorneys General Act, Labor Code § 2698 *et seq.*, is made and entered into between Plaintiff Alejandro Ortega, acting in his capacity as a private attorneys general, and Defendant Key Energy Services, LLC.

I. DEFINITIONS

The following terms, when used in this Settlement, will have the following meanings:

1. “Action” means the lawsuit entitled *Alejandro Ortega v. Key Energy Services, LLC*, Kern County Superior Court, Case No. BCV-23-102240-BCB.
2. “PAGA Aggrieved Employees” means: all of Defendant Key Energy Services, LLC’s current and former non-exempt employees in California who held the job title(s) of Rig Services, Coiled Tubing, and/or Fishing and Rental, and who worked at any time during the PAGA Period.
3. “Defendant” means Key Energy Services, LLC.
4. “Court” means the Superior Court of California for the County of Kern.
5. “Effective Date” means the date on which the Court signs an Order approving this PAGA Settlement.
6. “Individual Settlement Payment” means the amount to be paid to each PAGA Aggrieved Employee based on the formula described herein.
7. “LWDA” means the California Labor and Workforce Development Agency.
8. “Maximum Settlement Amount” is the non-reversionary sum of \$265,000.00, which includes payments to all PAGA Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s attorney’s fees and costs, payment of Plaintiff’s representative enhancement payment, and payment to the Settlement Administrator for administration costs.
9. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and PAGA Aggrieved Employees after the following amounts (subject to Court approval) are deducted from the Maximum Settlement Amount: (a) Plaintiff’s attorneys’ fees of up to one-third of the Maximum Settlement Amount, or \$88,333.33; (b) Plaintiff’s reasonable verified litigation costs in an amount not to exceed \$30,000.00; (c) Plaintiff’s representative enhancement payment of \$5,000.00; and (d) reasonable third-party administration costs up to \$4,500.00.
10. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*
11. “PAGA Period” means the time period from July 12, 2022, to March 25, 2024.

12. “PAGA Released Claims” means all PAGA claims that are based on the Labor Code violations pled in the operative complaint in the Action and Plaintiff’s July 12, 2023 PAGA Notice letter to the LWDA, or which could have been pled in the operative complaint in the Action based on the factual allegations therein, that arose during the PAGA Period. PAGA Aggrieved Employees other than Plaintiff will not be releasing any underlying wage and hour claims through this settlement, only PAGA claims. PAGA Aggrieved Employees will not be provided with the opportunity to opt out of this PAGA settlement and release.

13. “Parties” means Plaintiff and Defendant.

14. “Plaintiff” means Alejandro Ortega.

15. “Plaintiff’s Counsel” means Paul K. Haines, Fletcher W. Schmidt, Matthew K. Moen and Susan J. Perez of Haines Law Group, APC.

16. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

II. OPERATIVE TERMS OF SETTLEMENT

The Parties agree as follows:

1. **Non-Admission of Liability.** Nothing in this Settlement will be construed to be an admission by Defendant of any liability or wrongdoing as to Plaintiff, PAGA Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This Settlement and any related court documents or orders are not, and may not be, cited or admitted as evidence of liability.

2. **Maximum Settlement Amount.** Defendants will pay \$265,000.00 as the non-reversionary Maximum Settlement Amount. The Maximum Settlement Amount will be deposited with the Settlement Administrator within thirty (30) calendar days after the Effective Date.

3. **Representation as to Number of Pay Periods.** According to the data produced by Defendant, the PAGA Aggrieved Employees worked 9,461 aggregate pay periods during the PAGA Period. This representation is a material term of the Settlement. If the actual number of Pay Periods worked by PAGA Aggrieved Employees during the PAGA Period increase at all, Defendant shall increase the Maximum Settlement Amount on a proportional basis (i.e. if there is a 12% increase in the number of aggregate Pay Periods, Defendant shall increase the Maximum Settlement Amount by 12%).

4. **Net Settlement Amount.** The Parties agree that the following amounts should be deducted from the Maximum Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA and PAGA Aggrieved Employees:

- a. **Plaintiff’s Attorney’s Fees and Costs.** Defendant will not oppose Plaintiff’s request for attorneys’ fees in the amount of up to one-third of the Maximum Settlement Amount (\$88,333.33) and actual costs incurred in prosecuting this Action, up to \$30,000.00 as supported by declaration. In the event the Court approves a payment

of less than these amounts, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report these payments on an IRS Form 1099-MISC issued to Plaintiff's Counsel.

- b. Plaintiff's Representative Enhancement Payment. Defendant will not oppose Plaintiff's request for a representative enhancement payment in the amount of \$5,000.00 for his service to the State of California and the PAGA Aggrieved Employees. In the event the Court approves payments of less than the requested amounts, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Forms 1099-MISC issued to Plaintiff.
- c. Administration Costs. Defendant will not oppose the Settlement Administrator's costs in the amount up to \$4,500.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on an IRS Form 1099-MISC issued to the Settlement Administrator.

5. Allocation of Net Settlement Amount. The Net Settlement Amount will be distributed 75% to the LWDA and 25% to the PAGA Aggrieved Employees, pursuant to Labor Code § 2699(i). The 25% portion to be paid to PAGA Aggrieved Employees will be allocated to the PAGA Aggrieved Employees as follows: Individual Settlement Payments will be calculated based on the proportionate number of pay periods worked by each PAGA Aggrieved Employee during the PAGA Period, by multiplying the 25% portion of the Net Settlement Amount by a fraction, the numerator of which is each PAGA Aggrieved Employee's total pay periods worked during the PAGA Period, and the denominator of which is the total aggregate number of pay periods worked by all PAGA Aggrieved Employees during the PAGA Period.

6. PAGA Released Claims. In consideration for the payments awarded pursuant to the terms of this Settlement, Plaintiff, in his capacity as a private attorney general, acting on behalf of himself, the State of California, and the PAGA Aggrieved Employees, agrees that upon the date that Defendant deposits the entire Maximum Settlement Amount with the Settlement Administrator, Plaintiff and the PAGA Aggrieved Employees will release and discharge Defendant, its past and present parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, members, managers, managing agents, officers, directors, employees, agents, attorneys, insurers, successors and assigns from any and all liability for the PAGA Released Claims to the fullest extent permitted by law.

7. Judgment. As part of the Motion to approve the Settlement, Plaintiff will submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and which retains jurisdiction of the Court over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement pursuant to Cal. Code Civ. Proc. § 664.6. This Settlement is expressly conditioned upon the Court entering an order as set forth herein.

III. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions to handle the administration of this Settlement.

2. **Provision of Information for PAGA Aggrieved Employees.** Within ten (10) business days after the Court's signing of the settlement approval order, Defendant will provide the Settlement Administrator with information for the PAGA Aggrieved Employees. Defendant will, in good faith, compile from its records a list of PAGA Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and will include each PAGA Aggrieved Employee's full name, last known mailing address, last known telephone number, Social Security numbers, and pay period information. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access will be limited to those with a need to use the list as part of the administration of the Settlement.

Within ten (10) business days of receiving the PAGA Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual Settlement Payments to each PAGA Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator will also determine whether the Escalator Clause in Paragraph II.3 has been triggered. The Settlement Administrator will obtain approval from all counsel for the Parties of the calculations before mailing Individual Settlement Payments.

3. **Explanatory Letter and Individual Settlement Payments.** Within five (5) business days of receiving the PAGA Aggrieved Employees' information from Defendant, pursuant to Paragraph III.1, the Settlement Administrator will perform a search on the National Change of Address database to update the PAGA Aggrieved Employees' addresses.

Within ten (10) business days of Defendant's deposit of the Maximum Settlement Amount, and after receiving approval from all counsel for the Parties pursuant to Paragraph III.2, the Settlement Administrator will mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in English only, along with the Individual Settlement Payments to all PAGA Aggrieved Employees via First-Class U.S. Mail.

Each Individual Settlement Payment will be deemed 100% penalties and reported using an IRS Form 1099-MISC. Checks will remain negotiable for one hundred eighty (180) days from the date they are mailed by the Settlement Administrator. Any funds from checks that are not negotiated within one hundred eighty (180) days of mailing to an PAGA Aggrieved Employee shall be transferred to Court Appointed Special Advocates (CASA) of Kern County, a 501(c)(3) non-profit organization (EIN: 77-0344298), the Parties' agreed-upon *cy pres* designee.

4. **Undeliverable Letters.** The Settlement Administrator will exercise its best judgment to determine the current mailing address for each PAGA Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a Skip-Trace or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will perform a re-mailing.

Defendant fully discharges its obligations to those PAGA Aggrieved Employees to whom it will pay an Individual Settlement Payment through the Settlement Administrator's initial mailing of a check, regardless of whether such checks are actually received and/or negotiated by PAGA Aggrieved Employees. PAGA Aggrieved Employees will not have any right to opt-out or object to this Settlement.

5. **Payment of Remainder.** Within ten (10) business days of Defendant's deposit of the Maximum Settlement Amount, and after receiving approval from all counsel for the Parties pursuant to Paragraph III.2, the Settlement Administrator will issue the following payments: (1) the 75% share of the Net Settlement Fund to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved representative enhancement payment to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** The Settlement Administrator will provide an accounting declaration under oath to the Parties of the amounts paid from the Settlement as soon as practicable after the check cashing deadline described in Paragraph III.3.

7. **Tax Consequences.** Individual Settlement Payments made under this Settlement will be attributed 100% as penalties and paid via IRS Form 1099-MISC issued to each PAGA Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

IV. **MISCELLANEOUS PROVISIONS**

1. **Non-Publicity.** The Parties agree that no Party will issue any press release nor other public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement. The Parties and their respective counsel agree to keep the Settlement confidential through settlement approval. Thereafter, the Parties agree to make no comments to the media or otherwise publicize the terms of the Settlement.

2. **Successors.** This Settlement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **Governing Law.** This Settlement will be construed under and governed by the laws of the State of California, without regard to choice of law principles. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement will be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it will be brought in the State of California, Kern County.

4. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claim in the Action.

5. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason,

then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

6. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction per California Code of Civil Procedure § 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement; (ii) settlement administration matters; and (iii) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement.

7. **Amendment or Modification.** This Settlement may be amended or modified only by a written instrument, signed by the Parties or their successors-in-interest or counsel for the Parties.

8. **Authorization to Enter into Settlement.** Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effectuate the implementation of the Settlement. If they are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of the Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

10. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

11. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

12. **Enforcement Action.** In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party will be entitled to recover from the unsuccessful Party reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

13. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly

against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

14. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

15. **Cooperation and Execution of Necessary Documents.** The Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement. The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to seek the Court's approval of this Agreement are timely filed.

16. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

IN WITNESS THEREOF, the Parties to this Settlement each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

ALEJANDRO ORTEGA

Dated: 11/12/24


Alejandro Ortega (Nov 12, 2024 16:20 PST)
Alejandro Ortega, Plaintiff

KEY ENERGY SERVICES, LLC

Dated: _____

By: _____
Its: _____

APPROVED AS TO FORM ONLY:

Date: 11/12/2024

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Fletcher W. Schmidt
Matthew K. Moen
Attorneys for Plaintiff

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ALEJANDRO ORTEGA

Dated: _____

Alejandro Ortega, Plaintiff

KEY ENERGY SERVICES, LLC

Dated: 11/12/2024 _____

DS
CH

DocuSigned by:
Katherine Hargis
A490765EC68D407

By: Katherine Hargis
Its: SVP, CAO, General Counsel & Secretary

APPROVED AS TO FORM ONLY:

Date: _____

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Fletcher W. Schmidt
Matthew K. Moen
Attorneys for Plaintiff

Date: 11.13.2024

BUCHALTER, A Professional Corporation

By: 

Kalley Aman
Michelle Lopez
Attorneys for Defendant,
Key Energy Services, LLC

Exhibit A

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Alejandro Ortega v. Key Energy Services, LLC, et al.
Kern County Superior Court, Case No. BCV-23-102240-BCB

[NAME]
[ADDRESS]
[CITY], [STATE] [ZIP CODE]
XXX-XX-[LAST 4 SSN]

I. NOTICE OF PAGA SETTLEMENT

The Kern County Superior Court (the “Court”) has approved the PAGA Settlement Agreement (“Settlement”) in the above-captioned lawsuit filed by Alejandro Ortega (“Plaintiff”) on behalf of himself and all other aggrieved employees, including you.

In this lawsuit, Plaintiff seeks to recover civil penalties for alleged violations of a California law known as the Private Attorneys General Act (“PAGA”). Plaintiff is acting as a “private attorney general” on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other employees of Defendant Key Energy Services, LLC (“Defendant”). Plaintiff alleges that Defendant is liable for civil penalties under PAGA because Defendant failed to pay all minimum and overtime wages; failed to authorize and permit all required rest periods; failed to provide all required meal periods; failed to reimburse all necessary business expenses; failed to issue accurate itemized wage statements; failed to pay all wages at least twice during each calendar month; and failed to maintain accurate employment records.

The Court has ***not*** ruled on Plaintiff’s claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff’s claims. Defendant maintains that Plaintiff’s allegations are without merit, and enters into this Settlement with no admission of liability.

You are receiving this Notice because you are in the group of employees referred to as the “PAGA Aggrieved Employees,” which is defined as: all of Defendant’s current and former non-exempt employees in California who held the job title(s) of Rig Services, Coiled Tubing, and/or Fishing and Rental, and who worked at any time from July 12, 2022 to March 25, 2024. The time period from July 12, 2022 to March 25, 2024 is also known as the “PAGA Period.”

II. CALCULATION OF INDIVIDUAL SETTLEMENT PAYMENT

Each PAGA Aggrieved Employee is receiving a share of the Net Settlement Amount based on the proportionate number of pay periods worked by each PAGA Aggrieved Employee during the PAGA Period, by multiplying the PAGA Aggrieved Employees’ 25% portion of the Net Settlement Amount by a fraction, the numerator of which is each PAGA Aggrieved Employee’s total pay periods worked during the PAGA Period, and the denominator of which is the total aggregate number of pay periods worked by all PAGA Aggrieved Employees during the PAGA Period.

Based on Defendants' records, you worked a total of [THIS EMPLOYEE'S PAY PERIODS] pay periods during the PAGA Period. The total number of pay periods worked by all PAGA Aggrieved Employees during the PAGA Period is [TOTAL PAY PERIODS]. Based on these figures, your Individual Settlement Payment has been calculated at \$[AMOUNT PAID TO THIS EMPLOYEE]. Your payment is enclosed with this Notice.

III. RELEASE

On [PAGA APPROVAL DATE], the Court approved the parties' Settlement Agreement. By operation of the Settlement's terms, the PAGA Aggrieved Employees will release and discharge Defendant, its past and present parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, members, managers, managing agents, officers, directors, employees, agents, attorneys, insurers, successors and assigns from any and all liability for all PAGA claims that are based on the Labor Code violations pled in the operative complaint in the Action and Plaintiff's July 12, 2023 PAGA Notice letter to the LWDA, or which could have been pled in the operative complaint in the Action based on the factual allegations therein, that arose during the PAGA Period, to the fullest extent permitted by law (the "PAGA Released Claims").

This release is solely limited to civil penalties that are recoverable under PAGA. PAGA Aggrieved Employees other than Plaintiff will not be releasing any underlying wage and hour claims through this settlement, only PAGA claims.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE.

You may contact the Court-approved Settlement Administrator, Phoenix Class Action Administration Solutions, at [ADMINISTRATOR INFO] with any questions.

Settlement checks will be null and void one hundred eighty (180) days after issuance if not deposited or cashed. Any check not deposited or cashed within one hundred eighty (180) days of mailing to a PAGA Aggrieved Employee shall be transferred to Court Appointed Special Advocates (CASA) of Kern County, a 501(c)(3) non-profit organization (EIN: 77-0344298), the parties' *cy pres* designee. **If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.**