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Attorneys for Plaintiffs ANDREW CRUZ, and
LUIS SILVA, individually, and on behalf of all
similarly aggrieved employees and the putative
class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

ANDREW CRUZ, and LUIS SILVA,
individually, and on behalf of all similarly
aggrieved employees and the putative class,

Plaintiffs,

vs.

MESA ENERGY SYSTEMS, INC., a California
corporation; EMCOR FACILITIES SERVICES,
INC., an Ohio corporation; and DOES 1 through
25, inclusive,

Defendants.

Case No. BCV-23-103858

*Assigned for all purposes to Hon. Gregory A.
Pulskamp. Div. J*

**DECLARATION OF KAREN GOLD IN
SUPPORT OF PLAINTIFFS' MOTION FOR
APPROVAL OF PAGA SETTLEMENT
AND AWARD OF ATTORNEYS' FEES
AND COSTS, GENERAL RELEASE FEE,
AND SETTLEMENT ADMINISTRATION
COSTS**

Date: April 18, 2025

Time: 8:30 a.m.

Division: J

[Filed Concurrently with Plaintiffs' Motion for
Approval of PAGA Settlement; Cruz
Declaration; Silva Declaration; and Hartranft
Declaration]

Complaint Filed: November 19, 2023

Trial Date: Not Set

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1. I am an attorney duly licensed to practice law in all Courts of the State of California. I am a Senior Trial Attorney & Team Lead with Blackstone Law, APC (“Blackstone”), attorneys of record for Plaintiff Andrew Cruz and Plaintiff Luis Silva (“Plaintiffs”).
2. I submit this declaration in support of Plaintiffs’ Motion for Approval of PAGA Settlement and Award of Attorneys’ Fees and Costs, General Release Fee, and Settlement Administration Costs (“Motion”).
3. I am familiar with the legal and factual issues in this matter. I have extensive experience litigating complex wage and hour class actions and California Private Attorneys General Action (“PAGA”) representative actions. I have personal knowledge of the facts contained herein, and if called to testify, I could and would competently do so.

4. PAGA Counsel is experienced in complex representative and class action wage-and-hour litigation. In the view of PAGA Counsel, the benefits conferred by the Agreement are eminently fair and reasonable, and in the best interests of the State of California and the Aggrieved Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the Agreement.

5. Here, the extent of informal discovery conducted was sufficient to enable PAGA Counsel to evaluate the strength and value of the PAGA claims for purposes of settlement. The settlement negotiations were conducted by highly capable and experienced counsel. PAGA Counsel are respected members of the bar with strong records of vigorous and effective advocacy, and are experienced in handling complex wage and hour class action litigation. Accordingly, PAGA Counsel had sufficient information and experience to act intelligently in negotiating the Agreement.

6. I graduated *cum laude* from UCLA in 2005 with a Bachelor of Science degree in Cognitive Science and a Specialization in Computing. I received my law degree from Boston University School of Law and was admitted to the California State Bar in 2008.

7. Upon graduation, I joined Cox Castle & Nicholson, LLP, and worked there for approximately a decade as a general litigation attorney focused primarily on high-stakes sophisticated cases including class action defense matters. Thereafter, I spent several years working for Marlin & Saltzman, LLP, which is a well-known plaintiff-side wage and hour law firm in Los Angeles, before transitioning over to Blackstone Law as a Senior Trial Attorney and Team Lead.

8. Throughout my career, I have managed and/or am currently managing over one hundred complex litigation cases, ranging from employment matters to corporate and general business litigation matters. On many of those cases, I was the only or primary attorney managing the case and thus obtained extensive experience overseeing these types of actions. In that capacity, I was often the primary contact for clients; took and defended many depositions; propounded and responded to discovery; prepared and opposed pleadings and motions, including dispositive and class certification motions; strategized on all cases; attended hearings; attended mediations; coordinated with class action administrators; prepared and worked with experts; participated in trial prep and trials; and engaged in all other intricate facets of litigation. Super Lawyers honored me as a Southern California Rising Star from 2015 through 2018.

9. As a Senior Trial Attorney and Team Lead at Blackstone Law, I currently oversee and handle over 100 wage-and-hour putative class actions and/or representative actions under PAGA seeking relief on behalf of California employees and the State of California.

10. My billable rate is \$985. I am informed and believe that this is within the range of reasonable prevailing rates for attorneys with my education and experience in this area of law in Southern California

11. The attorneys at Blackstone Law possess combined extensive experience litigating wage and hour and other complex litigation matters.

Jonathan M. Genish

12. Jonathan M. Genish is the founder and owner of Blackstone Law. Mr. Genish is a 2008 graduate of the Benjamin N. Cardozo School of Law, and he was admitted to the California Bar that same year.

13. During law school, Mr. Genish clerked at the litigation firm Oved & Oved, LLP and

1 was published several times in various small publications. Upon graduation, Mr. Genish was rehired
2 by Freedman & Taitelman, LLP as an associate and remained employed there from September 2008
3 through August 2015. During his tenure, Mr. Genish managed hundreds (perhaps thousands) of
4 complex litigation cases, though his primary area of expertise was employment, both single plaintiff
5 and representative actions.

6 14. On the vast majority of his cases, Mr. Genish was the only or primary attorney
7 managing the case and thus obtained extensive experience. In that capacity, he conducted wage and
8 hour and wrongful termination labor and employment intakes; was the primary contact for all clients;
9 took and defended hundreds (if not thousands) of depositions; propounded and responded to all
10 discovery; prepared and opposed all motions and pleadings, including dispositive and certification
11 motions; strategized on all cases; attended all hearings; attended all mediations; coordinated with class
12 action administrators; prepared and worked with experts; first and second chaired multiple trials and
13 arbitrations; and engaged in all other intricate facets of litigation. During that time, he represented a
14 wide range of clients from sole proprietorships to Fortune 500 companies in state, federal, complex,
15 and appellate courts. Many of the cases Mr. Genish managed were highly publicized, with articles
16 written about them in the Los Angeles Times, Deadline, The Hollywood Reporter, Business Insider,
17 Law360, and others. Super Lawyers has regularly honored him as a Southern California Rising Star
18 since 2012.

19 15. In February 2018, Mr. Genish started the law firm of Blackstone Law, APC,
20 representing plaintiffs in individual and representative employment litigation. The firm maintains
21 many highly pedigreed attorneys working on almost exclusively labor and employment class actions,
22 California Labor Code Private Attorney General Act of 2004 ("PAGA") cases, and individual matters,
23 with roughly 15% of the firm focused on other complex general litigation matters. Mr. Genish has
24 considerable experience in handling class and representative action lawsuits throughout his career and
25 has been approved as counsel in a number of cases.

26 16. Mr. Genish is currently the managing partner at Blackstone Law, APC, overseeing
27 roughly 500 labor and employment cases, approximately 80% of which include a wage and hour
28 component. The majority of those cases are wage-and-hour putative class actions or representative

1 PAGA actions seeking relief on behalf of thousands of California employees. Mr. Genish's billable
2 rate is \$1,150.

3 Marissa Mayhood

4 17. Marissa Mayhood is a Senior Attorney at Blackstone Law. She graduated from
5 Pepperdine University School of Law with a juris doctorate and a certificate in dispute resolution from
6 Pepperdine's Straus Institute. Ms. Mayhood spent approximately five years working for Marlin &
7 Saltzman, LLP, which is a well-known plaintiff-side wage and hour law firm in Los Angeles. While
8 working for Marlin & Saltzman, LLP, she litigated and helped settle a \$72.5 million case, *Utne v.*
9 *Home Depot U.S.A., Inc.*, United States District Court for the Northern District of California, Case
10 No. 3:16-cv-01854-RS, and was approved as class counsel. Her hourly rate of \$750 is reasonable
11 based on her education and experience and is in line with the market rate.

12 Sara Pezeshkpour

13 18. Sara Pezeshkpour, a 2008 graduate of the UCLA School of Law with an emphasis in
14 Public Interest Law and Policy, is a Law and Motion Attorney at Blackstone Law. Ms. Pezeshkpour
15 has spent her legal career exclusively representing plaintiffs in civil rights matters, including wage-
16 and-hour class and PAGA actions. She has significant experience in all stages of litigation, including
17 trial and appellate work, in both California and Federal courts. Her hourly rate of \$850 is reasonable
18 based on her education and experience and is in line with the market rate.

19 Blackstone Law

20 19. Blackstone Law, APC has been approved as class counsel in several class action and
21 PAGA actions that have since been resolved, the most recent of which are as follows:

- 22 • *David Williams v. Rancho Nicasio, LLC*, Marin County Superior Court, Case No.
23 CIV2203067, approved as class counsel in final settlement of wage and hour class and
24 PAGA action.
- 25 • *Bobby Birdi v. Lucid USA, Inc.*, Alameda County Superior Court, Case No.
26 21CV003541, approved as class counsel in final settlement of wage and hour class and
27 PAGA action.
- 28 • *Alexis Cardoza v. BHFC Operating LLC*, Los Angeles County Superior Court, Case No.

21STCV34040, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.

- *Theresa Bendorf, et al. v. Sea World LLC, et al.*, San Diego County Superior Court, Case No. 37-2021-00034922-CU-OE-CTL, preliminarily approved as class counsel, in association with other counsel, in settlement of wage and hour class and PAGA action.
- *Victor De La Cruz v. Northwest Pipe Company*, San Bernardino County Superior Court, Case No. CIVSB2211140, preliminarily approved as class counsel in settlement of wage and hour class and PAGA action.
- *Maria Ayala, et al. v. SDH Services West, LLC*, Kern County Superior Court, Case No. BCV-21-101933, approved as class counsel in final settlement of wage and hour class action.
- *Alfredo Sanchez v. Greenworld, Inc.*, Riverside County Superior Court, Case No. CVRI2105756, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Michael Bravo v. Michels Pacific Energy, Inc.*, Santa Clara County Superior Court, Case No. 22CV403427, preliminarily approved as class counsel in settlement of wage and hour class and PAGA action.
- *Oscar Bryant v. Midwest Construction Services, Inc. dba Trillium*, San Bernardino County Superior Court, Case No. CIVSB2121529, approved as class counsel in final settlement of wage and hour class action.
- *Matthew Savattieri v. AMI Expeditionary Healthcare, LLC, et al.*, Los Angeles County Superior Court, Case No. 21STCV33372, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Lexy Barajas, et al. v. H. W. Hunter, Inc.*, Los Angeles County Superior Court, Case No. 22STCV01892, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Alejandro Valdez v. C.H.I. Automart, Inc.*, Los Angeles County Superior Court, Case No. 21STCV40168, approved as class counsel in final settlement of wage and hour class and

PAGA action.

- *Sheizan Bawa v. Meathead Movers, Inc.*, Orange County Superior Court, Case No. 30-2021-01211895-CU-OE-CXC, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Tanisha Lopez, et al. v. Restorix Health, Inc.*, Los Angeles County Superior Court, Case No. 21STCV33067, approved as class counsel, in association with other counsel, in final settlement of wage and hour class and PAGA action.
- *Perla Soto, et al. v. Nippon Express U.S.A., Inc.*, Los Angeles County Superior Court, Case No. 21STCV24902, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Angel Garcia, et al. v. J&B Investments, Inc., et al.*, San Bernardino County Superior Court, Case No. CIVSB2208601, approved as class counsel, in association with other counsel, in final settlement of wage and hour class and PAGA action.
- *Sindy Aviles, et al. v. Freeway Insurance Services America, LLC*, Los Angeles County Superior Court, Case No. 21STCV34864, approved as counsel, in association with other counsel, in settlement of representative wage and hour action pursuant to PAGA.
- *Alexander Gnaedig, et al. v. Favorite Healthcare Staffing, Inc.*, Los Angeles County Superior Court, Case No. 21STCV20904, approved as class counsel, in association with other counsel, in final settlement of wage and hour class and PAGA action.
- *Richard Evans v. My Paint Stop, LLC, et al.*, Contra Costa County Superior Court, Case No. MSC21-01812, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Jose Luis Parada George v. Main Electric Supply Company, LLC, et al.*, Orange County Superior Court, Case No. 30-2021-01220136-CU-OE-CXC, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Samia Salazar Yunis v. Sharif Jewelers*, Sacramento County Superior Court, Case No. 34-2020-00290080, approved as class counsel in final settlement of wage and hour class and PAGA action.

- 1 • *Daniel Analco v. Felix Chevrolet, LP, et al.*, Los Angeles County Superior Court, Case
2 No. 21STCV36654, approved as class counsel in final settlement of wage and hour class
3 and PAGA action.
- 4 • *Sasha Aiono v. Benefit Cosmetics*, Los Angeles County Superior Court, Case No.
5 21STCV33719, approved as counsel in settlement of representative wage and hour
6 action pursuant to PAGA.
- 7 • *Daniel Rodriguez v. Republique, LLC*, Los Angeles Superior Court, Case N.
8 23STCV14521, approved as counsel in settlement of representative wage and hour
9 action pursuant to PAGA.
- 10 • *Sitara Nayabkhil v. San Francisco SPCA et al.*, San Francisco Superior Court, Case No.
11 CGC-23-609950, approved as class counsel in final settlement of wage and hour class
12 and PAGA action.
- 13 • *Travis Sanford v. Santa Cruz Seaside Company*, Santa Cruz Superior Court, Case No.
14 23CV01762, approved as class counsel in final settlement of wage and hour class and
15 PAGA action.
- 16 • *Tyler Emery v. Santa Cruz Bicycles, LLC*, Santa Cruz Superior Court, Case No.
17 24CV00244, approved as class counsel in final settlement of wage and hour class and
18 PAGA action.
- 19 • *Jesse Romero v. California Closet Company et al.*, Los Angeles Superior Court, Case
20 No. 23STCV27355, approved as class counsel in settlement of wage and hour class and
21 PAGA action.

22 **Procedural History of the Action**

23 20. Defendant Mesa Energy Systems, Inc. (“Mesa”) is a licensed, full-service HVAC,
24 building automation, and retrofit contractor. Defendant EMCOR Facilities Services, Inc. (“EFS”)
25 (collectively, with Mesa “Defendants”) provides comprehensive facilities services ranging from
26 mechanical maintenance and operations to energy-efficiency upgrades and supplier-managed
27 interior/exterior maintenance.

28 21. On August 9, 2023, Plaintiffs provided written notice to the Labor and Workforce

1 Development Agency (“LWDA”) and to Defendants, pursuant to California Labor Code Section
2 2699.3, of the specific provision of the California Labor Code alleged to have been violated by
3 Defendant. A true and correct copy of the notice is attached hereto as **Exhibit 1**.

4 22. On November 19, 2023, Plaintiffs filed a Class & Collective Action Complaint in the
5 case titled *Andrew Cruz et al. v. Mesa Energy Systems, Inc. et al.*, Kern County Superior Court, Case
6 No. BCV-23-103858 (“Action”) thereby commencing a representative and putative class action
7 against Defendants.

8 23. On May 3, 2024, the Plaintiffs, EFS, and Mesa (collectively hereinafter the “Parties”)
9 advised the Court that they agreed to participate in private mediation and informal discovery.

10 24. During the course of informal discovery in the Action, Blackstone Law, APC
11 (hereinafter “PAGA Counsel”) conducted a thorough investigation into the facts of the Action. This
12 included obtaining data, information, and documents relating to the underlying alleged violations,
13 including, but not limited to, Plaintiffs’ employee files, a sampling of Aggrieved Employees’ time and
14 payroll data, Defendants’ Employee Handbook, and Aggrieved Employees’ data points so that
15 Plaintiffs could assess the number of alleged potential violations and value of the recoverable
16 penalties, as well as evaluate the strengths and weaknesses of their claims.

17 25. Based on the data, information, and documents received, as well as thorough
18 discussions with Defendants’ counsel, PAGA Counsel was able to (i) determine the total number of
19 distinct individuals falling within the definition of “Aggrieved Employees” for the relevant statutory
20 period, (ii) the number of affected pay periods at issue among them, and (iii) construct a damages
21 model that calculated the maximum realistic amount of PAGA penalties that could be levied against
22 Defendants within the relevant statutory period. Defendants, however, disputed Plaintiffs’ claims and
23 disputed both the existence of and extent of liability as alleged by Plaintiffs, which allowed PAGA
24 Counsel to further assess the strength of Plaintiffs’ claims. PAGA Counsel’s experience in litigating
25 similar representative wage and hour claims, the degree of investigation that was conducted here, and
26 the amount of data, information, and documents that was obtained, was sufficient to determine the
27 potential value of the PAGA claims, and to evaluate the strength of these claims for purposes of
28 settlement.

1 26. On October 28, 2024, the Parties participated in a formal mediation conducted by
2 Michael Dickstein, Esq. (“Mediator”), a neutral and respected mediator with extensive experience in
3 complex wage and hour matters. After a full day of mediation, and with the help of the Mediator, the
4 Parties were able to reach an agreement to resolve the PAGA claims in the Action.

5 27. On January 24, 2025, Plaintiffs submitted an amended letter to the LWDA for
6 Defendants’ alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5,
7 226(a), 226.7, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, 249, 510, 512(a), 1174(d), 1194, 1197,
8 1197.1, 1198, 1198.5, 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage
9 Orders (“PAGA Notice”). A true and correct copy of the notice is attached hereto as **Exhibit 2**. As of
10 the date of the filing of this declaration, the LWDA has not responded to Exhibit 1 or Exhibit 2.

11 28. On February 14, 2025, Plaintiffs filed a First Amended Class & Collective Action
12 Complaint (“Operative Complaint”) in the Action, which, added the additional claims that were
13 asserted in the PAGA Notice.

14 29. On or around February 20, 2025, the Parties executed a PAGA Settlement Agreement
15 and Release (“Settlement Agreement”). Attached hereto as **Exhibit 3** is a true and correct copy of the
16 fully executed Settlement Agreement.

17 **Summary of the Terms of the Settlement Agreement**

18 30. The Settlement resolves Plaintiffs’ PAGA claims on behalf of Defendant’s non-union
19 California employees because of the existence of arbitration agreements and collective bargaining
20 agreements (“CBAs”). As part of the settlement, Plaintiffs’ putative class claims to be dismissed
21 without prejudice to other putative class members’ ability to later file their own claims (individually or
22 as their own putative class action(s)), should they wish to pursue such claims in the future.

23 31. For purposes of settlement only, the Parties have agreed that the “Aggrieved
24 Employees” shall be defined as all current and former non-unionized, non-exempt employees of Mesa
25 or EFS in the State of California during the PAGA Period. The “PAGA Period” is the period from
26 August 9, 2022, through the pay period that includes December 31, 2024 (except as potentially
27 modified by the escalator provision in Section 3(a)(8) of the Settlement Agreement. Based on its
28

1 records, Defendants have represented that there are approximately 705 Aggrieved Employees who
2 worked 45,549 pay periods during the period from August 9, 2022, through October 28, 2024

3 32. The Parties have agreed to settle the PAGA claims at issue in the Action for a non-
4 reversionary Gross Settlement Amount of One Million Four Hundred Seventy-Five Thousand Dollars
5 and Zero Cents (\$1,475,000.00). The Gross Settlement Amount is a common fund and therefore
6 includes all requested costs, fees, and other allocations. The Gross Settlement Amount includes: (1)
7 PAGA Counsel's fees in the amount of 35% of the Gross Settlement Amount (i.e. \$516,250.00 if the
8 Gross Settlement Amount is \$1,475,000.00); (2) Sixteen Thousand Five Hundred Seventy-One Dollars
9 and Fifty-Three Cents (\$16,571.5) for PAGA Counsel's Litigation Costs; (3) General Release Fee in
10 the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) to be split between Plaintiffs;
11 and (4) Administration Expenses Payment, not to exceed Seven Thousand Five Hundred & Fifty
12 Dollars and Zero Cents (\$7,550.00).

13 33. After the above-estimated amounts are deducted from the Gross Settlement Amount,
14 the Net Settlement Amount will amount to approximately Nine Hundred & Fourteen Thousand Six
15 Hundred Twenty-Eight Dollars and Forty-Seven Cents (\$914,628.47), of which 75% (\$685,971.35)
16 will be paid to the LWDA and the remaining 25% (\$228,657.12) will be paid to the Aggrieved
17 Employees and distributed on a pro rata basis based on individual versus total weeks worked during
18 the PAGA Period.

19 34. The Settlement does not require PAGA Employees to submit claims as a prerequisite
20 to receiving their *pro rata* share of twenty-five percent (25%) of the net PAGA Amount ("PAGA
21 Settlement Payment").

22 35. Within fourteen (14) calendar days after the Court's order granting approval of the
23 Settlement, Defendants shall provide the Settlement Administrator with a list of all Aggrieved
24 Employees (the "Aggrieved Employees List"), containing the following information for each
25 Aggrieved Employee: (i) full name; (ii) employee ID number; (iii) last four digits of SSN; (iv) last
26 known mailing address; and (v) dates worked for Defendants during the PAGA Period; and (vi) any
27 other information necessary for the Settlement Administrator to calculate pay periods worked during
28 the PAGA Period ("Aggrieved Employee List")

1 36. Within thirty (15) calendar days of the Effective Date, Defendants will fund the Gross
2 Settlement Amount by transmitting the funds to a qualified settlement account established by the
3 Settlement Administrator for administration of this Settlement.

4 37. Within seven (7) calendar days after Defendants fund the Gross Settlement Amount
5 and received the Aggrieved Employee List, the Settlement Administrator will issue and transmit
6 checks for the Individual Allocation checks to Aggrieved Employees, the LWDA Payment to the
7 LWDA, Settlement Administration Costs to itself, the General Release Fee to Plaintiffs, the Attorney's
8 Fees and Costs to PAGA Counsel.

9 38. Prior to mailing the Individual Allocation checks, the Administrator will update the
10 Aggrieved Employees' mailing addresses using the National Change of Address Database. For each
11 PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial
12 mailing, the Settlement Administrator shall promptly attempt to locate an alternative, updated address
13 for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing
14 of the PAGA Settlement Package.

15 39. Individual Allocation checks that are issued to Aggrieved Employees will be valid and
16 negotiable for up to one hundred and eighty (180) calendar days after the checks are initially mailed
17 to the Aggrieved Employees, and thereafter, will be canceled. Funds associated with such canceled
18 checks shall be transmitted to the State Controller's Office Unclaimed Property Division in the name
19 of the Aggrieved Employee(s) at issue and in the amount of their respective Individual PAGA
20 Payment(s). If the Court requires a cy pres, then the Parties shall designate CASA Advocates for
21 Children or other agreed-upon charity acceptable to the Court.

22 40. If the actual number of pay periods during the PAGA Period exceeds 45,549 by more
23 than 10% (i.e., if the Pay Periods exceed 50,104), then Defendants, at their option, can either choose
24 to: (1) cut off the end date for the PAGA Period as of the date on which the number of Pay Periods
25 reaches 50,104, or (2) increase the Gross Settlement Amount on a proportional basis equal to the
26 percentage increase in number of Pay Periods worked by the Aggrieved Employees in the PAGA
27 Period above the 10% (i.e., if there was an 11% increase in the number Pay Periods during the PAGA
28 Period, Defendants would agree to increase the Gross Settlement Amount by 1%).

41. As of the date of this filing, Defendants represent that the number of Pay Periods in the PAGA Period is 48,392 and therefore, does not exceed 10%.

The Settlement Is Fair and Reasonable

Discovery and Informed Arms-Length Negotiations

42. The Parties' settlement negotiations were at all times made at arm's-length and were adversarial. The Settlement was reached following a full day of mediation with a highly respected mediator with substantial experience mediating wage and hour cases, and Plaintiffs engaged in additional negotiations in order to finalize the long-form agreement presently before the Court.

43. The Parties engaged in extensive informal discovery prior to reaching a settlement at the mediation. Prior to mediation, Defendants produced putative class members and Aggrieved Employees' time and pay data, as well as Defendants' employee handbook, relevant wage and hour policies, and information to determine the total number of putative class members and Aggrieved Employees, the number of current versus former employees, the number of union and non-union employees, the total workweeks worked by the putative class members and Aggrieved Employees, and the average rate of pay for the putative class members and Aggrieved Employees.

44. Plaintiffs' counsel also reviewed, analyzed and researched the enforceability of the arbitration agreements at issue here, as well as the Collective Bargaining Agreements.

45. This allowed Plaintiffs' counsel to conduct an informed assessment and analysis of the strengths and weaknesses of the claims and the potential class-wide damages and PAGA penalties.

46. Plaintiffs' counsel treats mediations as "practice runs" for trial, and routinely invest substantial time and money into fully developing the facts and the law governing the action before participating in mediation. Such an approach regularly results in strong settlements for Plaintiffs' counsel because they are better able to respond to any potential legal or factual issues raised by Defendant.

47. Here, the Agreement is presumptively fair because: (1) it occurred after counsel for the Parties engaged in significant investigation to evaluate the strength and potential value of the PAGA claims, and the risks of litigating these claims through trial; and (2) it was negotiated at great length and effort by counsel with significant experience in similar complex labor and employment matters.

1 48. Based on the information exchanged, the Parties extensively briefed issues regarding
2 Plaintiffs' theories of liability and provided their analyses to the mediator who helped the Parties
3 debate the strengths and weakness of their respective positions. At all times, Plaintiffs were willing
4 and prepared to litigate this matter through class certification and trial if the Parties had been unable
5 to reach a favorable resolution. Additionally, and as explained in detail below, settlement negotiations
6 were conducted by highly capable and experienced counsel. Class Counsel are respected members of
7 the California State Bar with strong records of vigorous and effective advocacy and are experienced
8 in handling complex wage and hour class action and representative action litigation. Accordingly,
9 Class Counsel had sufficient information and experience to act intelligently in negotiating the
10 Settlement.

11 49. Although the investigation and information discovered supports Plaintiffs' contentions,
12 Defendants raised potential defenses and other circumstances that impacted the risk of proceeding on
13 a class-wide basis. Consideration of these risks factored into the decision to enter the Settlement.

14 50. My colleagues and I were aware of Defendants' defenses and arguments and have also
15 taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
16 delays inherent in such litigation, including those involved in class and/or representative adjudication.
17 Plaintiffs further recognizes the burdens of proof necessary to establish liability for the claims asserted
18 in the Action, Defendants' defenses, and the difficulties in establishing entitlement to monetary
19 recovery. Plaintiffs has also considered the Parties' settlement discussions, as well as the evaluations
20 of the mediator, who is experienced and well-regarded in complex labor and employment matters.

21 51. Throughout this litigation, Defendants maintained, and continues to maintain, that it
22 had, and continues to have, compliant employment policies and practices throughout the time period
23 at issue. Defendants deny that it ever violated any provision of the California Labor Code, including,
24 but not limited to, those sections for which Plaintiffs seek penalties under PAGA. Defendants further
25 denied, and continues to deny, that the lawsuits are appropriate for representative treatment for any
26 purpose other than settlement because of, *inter alia*, arbitration agreements, collective bargaining
27 agreements, and signed meal break waivers. Defendants also challenged Plaintiffs' standing as
28 aggrieved employees and denied that any of Defendants' other employees whom Plaintiffs seek to

1 represent are aggrieved. Defendants also argued that an important feature of PAGA is that the Court
2 retains discretion to lower the penalties if, based on the facts and circumstances of the particular case,
3 to do otherwise would result in an award that is “unjust, arbitrary and oppressive, or confiscatory.”

4 52. Even if violations of the California Labor Code occurred, which Defendants denies,
5 Defendants contended that said violations would only be considered “initial violations” and thus
6 heightened “subsequent violation” penalties were not warranted.

7 53. Defendants also contended that, with respect to PAGA claims, the Court was unlikely
8 to assess cumulative penalties for the maximum number of possible, separate California Labor Code
9 violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where
10 certain conduct may be regulated by multiple provisions of the California Labor Code that are
11 interrelated and work in tandem. As such, Defendants contended that cumulative penalties and
12 heightened penalties would be unjust, arbitrary, oppressive, and confiscatory.

13 54. While Plaintiffs maintain that their claims have merit, in reaching the Agreement,
14 Plaintiffs and their counsel took into account the strengths and weaknesses of each side’s position, and
15 the uncertainty of how the cases might have concluded as litigation continued, at trial, and/or upon
16 appeal. The Agreement achieves a sizeable benefit obtained.

17 55. Defendants further denied that class certification is appropriate for any purpose and
18 proffered defenses to both certification and to the merits of Plaintiffs’ claims. Defendants contended
19 that Plaintiffs’ claims are not suitable for class certification because individual issues would
20 predominate should this case go to trial. As with all class actions, these complex cases raise difficult
21 management and proof issues and, accordingly, there is a significant risk that the Court may deny class
22 certification.

23 56. The likely expense, complexity and duration of litigation absent settlement is
24 considerable here. Representative PAGA actions and putative class actions often involve, *inter alia*:
25 (i) numerous percipient witness interviews and depositions, (ii) extensive document and data
26 production, review and analysis (including class-wide time and pay records), (iii) multiple expert
27 witnesses (including their reports, studies, depositions, etc.), (iv) motion(s) to compel arbitration
28 (including potential interlocutory appeals); (v) motions for class certification, (vi) potential motions

1 for decertification of the class, and (vii) appeal(s). Thus, the expense, complexity and likely duration
2 of further litigation supports approval of the pending Settlement

3 ***Estimate of Potential Value of Claims***

4 57. Taking Defendant's arguments into consideration, we believe the range of realistic
5 "litigation outcomes" with respect to Plaintiff's PAGA claims are as follows:

- 6 a. Presuming no stacking of PAGA penalties, no heightened penalties, and an
7 overall 25% violation rate: 45,073 PAGA pay periods x \$100 per employee per
8 pay period x 0.25 = \$1,126,825.
- 9 b. Presuming stacking of PAGA penalties but no derivative penalties and no
10 heightened penalties and an overall 25% violation rate for each violation:
11 45,073 PAGA pay periods x \$100 per employee per pay period x 3 violations
12 (meal breaks, rest breaks and overtime violations) x 0.25 = \$3,380,475.
- 13 c. Presuming stacking of PAGA penalties but no derivative penalties and no
14 heightened penalties and an overall 50% violation rate for each violation:
15 45,073 PAGA pay periods x \$100 per employee per pay period x 3 violations
16 (meal breaks, rest breaks and overtime violations) x 0.5 = \$6,760,950.
- 17 d. Presuming stacking of PAGA penalties but no derivative penalties and no
18 heightened penalties and an overall 75% violation rate for each violation:
19 45,073 PAGA pay periods x \$100 per employee per pay period x 3 violations
20 (meal breaks, rest breaks and overtime violations) x 0.75 = \$10,141,425.

21 58. Plaintiffs and their counsel negotiated a PAGA-only settlement in the amount of
22 \$1,475,000.00 on behalf of the state of California and 705 Aggrieved Employees, resulting in an
23 average gross settlement on a per employee basis of \$1,297.35 (of which 25% goes to the Aggrieved
24 Employee and 75% goes to the LWDA). These employees worked a combined total of 45,549 pay
25 periods, resulting in an average gross PAGA-only settlement on a per pay period basis of \$20.09 (of
26 which 25% goes to the Aggrieved Employee and 75% goes to the LWDA). There can be little dispute
27 that the Settlement reached here between the parties confers a substantial benefit on the State of
28 California and the Aggrieved Parties.

1 59. Moreover, all Aggrieved Employees' rights to pursue any later individual or putative
2 class action against Defendant is preserved under the terms of the agreement, resulting in significant
3 non-monetary benefits to any Aggrieved Employees who may believe that they too suffered wage and
4 hour violations for which they may later seek redress.

5 60. Therefore, I submit that the Settlement is fair, reasonable, and adequate. The
6 Settlement is in the best interest of the Aggrieved Employees, and the State of California, and is within
7 the accepted range of recoveries for this type of litigation given the inherent risk of litigation, and the
8 costs of further litigation.

9 **Attorneys' Fees and Costs**

10 ***Work Performed by Plaintiffs' Counsel/ Lodestar***

11 61. Class Counsel seeks thirty-five percent (35%) of the Gross Settlement Amount,
12 equaling \$516,250.00 for fees for the time spent litigating this matter and reimbursement of actual
13 costs and expenses not to exceed \$16,571.53 incurred in the prosecution of the Class Action and PAGA
14 Action. Attached hereto as **Exhibit 4** is a document detailing the costs and expenses. I am informed
15 and believe that the requested fees and costs are fair compensation for undertaking complex, risky,
16 expensive, and time-consuming litigation on a contingent fee basis, especially in light of the
17 substantial benefits achieved by Class Counsel for the Class Members.

18 62. The effectiveness of Blackstone Law, APC's prosecution of this matter has translated
19 into tangible monetary benefits for the Aggrieved Employees as follows: (1) Aggrieved Employees
20 will obtain monetary recovery quickly, as opposed to waiting years for the same, or potentially an
21 even worse, result; (2) a guaranteed result that compares favorably with other similar representative
22 action settlements of this type, given the strengths and weaknesses of the Action; and (3) significant
23 savings in PAGA Counsel's costs that would have only increased significantly had the Action
24 progressed through trial and/or appeals. PAGA Counsel has litigated this matter diligently and was
25 prepared to continue litigating this matter through class certification and trial.

26 63. My team is somewhat unique in our approach to mediations. We treat early mediations
27 as "practice trials" of sorts, and spend extensive time gathering evidence, interviewing witnesses,
28 researching legal issues, and developing our legal and factual theories in advance of the mediation.

We believe that investing substantial time, energy and money up front often results in far better results at mediation, and saves the plaintiffs, putative class members, and the firm years of potential delay and additional costs should the case not settle at early mediation. Consistent with this approach, my team extensively worked-up this case informally prior to mediation, which I am informed and believe was a substantial contributing factor in obtaining the strong result achieved at mediation. Accordingly, Blackstone Law has spent a considerable number of hours litigating this matter. Attorneys who worked on this matter to date engaged in a multitude of tasks including, *inter alia*: (1) communicating with the client; (2) performing preliminary legal research, (3) drafting the operative class action complaint, (4) drafting the PAGA notice, (5) drafting the PAGA complaint, (6) locating and interviewing witnesses, (7) negotiating with defense counsel to schedule the mediation and obtain the necessary informal discovery documents sufficiently in advance of mediation; (8) hiring and interfacing with a damages expert to calculate a damages model for use at mediation and multiple revisions and iterations of the same; (9) reviewing and analyzing all documents produced by Defendants; (10) thoroughly researching the legal and factual theories and investigating additional potential avenues of liability; (11) drafting a comprehensive mediation brief; (12) preparing for and attending mediation; (13) following-up on conversations and negotiations with the mediator and opposing counsel; (14) negotiating the terms of the long form settlement agreement and notice documents; (15) obtaining administrative quotes from potential Settlement Administrators; and (16) responding to questions from aggrieved employees.

64. A summary of Blackstone's estimated lodestar to-date to complete these tasks is as follows:

<u>Attorney</u>	<u>Position</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Jonathan M. Genish	Managing Partner	82.50	\$1,150	\$94,875
Karen I. Gold	Senior Counsel	196.50	\$985	\$193,552.50
Sara Pezeshkpour	Associate	30.25	\$850	\$25,712.50
Marissa Mayhood	Senior Associate	221.75	\$750	\$166,312.50
Total Hours		531 hours		
Total Fees		\$480,452.50		

65. I expect my team to spend an additional 35 hours at a blended rate for myself, Ms.

Pezeshkpour, and Ms. Mayhood of \$861.66, resulting in an additional \$30,158.33 in attorneys' fees to be incurred finalizing the motion for settlement approval and supporting documents, preparing for and attending the Settlement Approval Hearing, managing the Settlement through its conclusion, including anticipated communications with defense counsel, the Settlement Administrator, our client, and Aggrieved Employees, as well as any additional procedural issues that require attention. Based thereon, the total amount of Blackstone Law's estimated lodestar fees through closure of this case are approximately ***\$510,610.83***.

66. One difficulty in determining the hourly rate of attorneys of similar skill and experience in the relevant community is the scarcity of hourly fee-paying clients in class action and representative action litigation. As a practical matter, few if any employees or consumers pay attorneys' fees on an hourly basis for such litigation, and thus retainer agreements in such cases are based on a stepped-up contingency fee (with the percentage increasing from one third to forty-five – and sometimes even fifty percent, which in my experience is on par with personal injury contingency fee agreements – if the case goes to trial). Therefore, based on my experience, there really is no customary hourly billing rate for work that is routinely based on a contingent fee relationship, but the nature of class action and representative work and the contingency relationship should be strongly considered by the Court.

67. Wage and hour work presents a specialized, challenging and complex area of law that is not within the knowledge of many lawyers. This kind of work requires specialized learning and the willingness to take large risks, particularly in light of the very real possibility that some portion of the cases accepted will result in little to no recovery, and therefore no fees to the firm. Thus, prosecution of this case has involved significant financial risk, as we undertook this matter solely on a contingency fee basis with no guarantee of recovery, and fronted all costs necessary for its prosecution.

68. As with all contingency cases, I understand that my firm had to consider its workload when agreeing to pursue this litigation. Specifically, the firm had to be mindful of its attorneys' caseload when it took on this matter, and necessarily had to forgo other cases when it decided to do so, as my team and the other class action teams are currently at or near capacity.

Settlement Administration Costs

69. As set forth in the Settlement Agreement, the Parties have agreed to retain, subject to

1 approval by the Court, APEX Class Action, LLC. to handle the administration of the Agreement. The
2 fees and expenses of the Administrator are estimated not to exceed \$7,550.00. These costs include,
3 but are not limited to, expenses for preparing, printing, and mailing the Cover Letter and Individual
4 PAGA Payment checks to the Aggrieved Employees, re-mailing the returned Individual PAGA
5 Payment checks to any new addresses obtained, and handling inquiries from Aggrieved Employees
6 regarding the Agreement, among other things. Accordingly, the Court should grant approval of the
7 Administration Costs in the amount of up to \$7,550 to APEX Class Action, LLC, a necessary third-
8 party for handling the settlement process.

9 ***General Release Fee***

10 70. As part of the Settlement Agreement, Plaintiffs respectfully request a reasonable
11 General Release Fee in the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) to be
12 split between Plaintiff Silva and Plaintiff Cruz. This General Release Fee is reasonable given the time
13 and effort Plaintiffs spent on this matter, their services on behalf of the State of California and the
14 Aggrieved Employees, and their broader, general release of claims.

15 71. By initiating and pursuing the Action, Plaintiffs stepped into the shoes of the State of
16 California and undertook the responsibilities of serving in representative capacities. Plaintiffs were
17 available whenever Plaintiffs' counsel needed them and actively tried to obtain information that would
18 benefit the prosecution of the Action.

19 ***Notice to the LWDA***

20 72. My office submitted a copy of the Settlement Agreement to the LWDA through its
21 online submission portal in compliance with California Labor Code § 2699(1)(2) concurrently with the
22 filing of this motion.

23 ***Pending Actions***

24 73. There is a representative action that was recently filed on February 14, 2025 (months
25 after the settlement in principle of this matter) which is titled *Travion D. Wyatt v. Emcor Facilities*
26 *Services, Inc. et al.*, Los Angeles Superior Court, Case No. 25STCV04279 and may have overlapping
27 claims that will be extinguished or adversely affected by the Agreement.

28 ///

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

3 Executed on March 12, 2025, at Westlake Village, California.

4 
5 _____
6 Karen I. Gold

EXHIBIT 1

August 9, 2023

PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: *Andrew Cruz & Luis Silva v. EMCOR Group, Inc.; EMCOR Facilities Services, Inc.; Mesa Energy Systems, Inc.; and EMCOR Mesa Energy Systems, Inc. (collectively, “Employers”)*

Dear Representative:

This office represents Andrew Cruz and Luis Silva (“Claimants”) with respect to their claims under the California Labor Code against EMCOR Group, Inc.; EMCOR Facilities Services, Inc.; Mesa Energy Systems, Inc.; and EMCOR Mesa Energy Systems, Inc. (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employers”). This letter is being sent simultaneously to Employers by certified mail.

Employers employed Claimant Andrew Cruz from approximately August 2021 to October 2022 as a non-exempt, hourly-paid employee. During his employment with Employers, Claimant was employed as a Forklift Operator at their location at 1822 Norris Rd, Bakersfield, CA 93308.

Employers employed Claimant Luis Silva from approximately September 2020 to August 2022 as a non-exempt, hourly-paid employee. During his employment with Employers, Claimant was employed as a Technician at their location at 2 Cromwell, Irvine, CA 92618.

Claimants intend to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimants are seeking penalties on behalf of themselves and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employers in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3 and shall serve as Claimant’s notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employers violated several of California's wage and hour laws during Claimant's employment, including but not limited to California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the Industrial Welfare Commission Wage Orders ("IWC Wage Order") including, *inter alia*, IWC Wage Order No. 4-2001. The claims made on behalf of Claimants and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employers have engaged in numerous unlawful practices which resulted in the failure to pay Claimants and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and IWC Wage Order No. 4-2001 require employers to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and IWC Wage Order No. 4-2001 further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employers regularly required Claimant Andrew Cruz and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, amongst other things, requiring Claimant and other Aggrieved Employees to provide services to Employers including *inter alia*, operating a forklift, moving pallets, and loading and unloading goods and supplies, as well as performing tasks related and/or necessary to performing their primary job functions. Employers failed to compensate Claimant and other Aggrieved Employees for this off-the-clock work, in violation of California law.

Throughout the relevant time period, Employers regularly required Claimant Luis Silva and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, travel time, amongst other things, as well as requiring Claimant and other Aggrieved Employees to provide technical duties to or on behalf of Employers. Employers failed to compensate Claimant and other Aggrieved Employees for any of this off-the-clock work, in violation of California law.

In addition, Employers utilized time rounding practices that resulted in the systematic underpayment of wages (including minimum wages, straight time wages and overtime wages) to Claimants and Aggrieved Employees.

Employers also failed to accurately record the actual time worked by Claimants and

Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimants and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week resulting in a failure to pay overtime compensation. Finally, Employers failed to pay overtime to Claimants and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay.

As a result of the foregoing practices, Employers have failed to pay Claimants and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employers failed to provide Claimants and other Aggrieved Employees with legally-compliant 30-minute meal periods. Claimants and other Aggrieved Employees were required by Employers to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Claimants and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employers regularly required Claimants and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. Meal periods, when provided, were oftentimes interrupted or cut short.

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimants and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3)

Employers failed to adequately inform and train Claimants and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employers failed to adequately inform and train Claimants and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimants and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employers required Claimants and other Aggrieved Employees to respond to work-related requests at all times, including during meal periods; and (7) Employers' policy and culture prevented Claimants and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Claimants and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 226.7, 512(a) and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes must for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employers failed to authorize and permit Claimants and other Aggrieved Employees to take legally-compliant 10-minute rest periods. Employers required Claimants and other Aggrieved Employees to work through rest periods. Claimants and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimants and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimants and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimants and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employers failed to adequately inform and train Claimants and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employers failed to adequately inform and train Claimants and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimants and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employers required Claimants and other Aggrieved Employees to respond to work-related requests at all times, including during rest periods; and (7) Employers' policy and culture prevented Claimants and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Claimants and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 226.7, and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employers have failed to timely pay all wages earned because Claimants and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employers violated California Labor Code section 204(a).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimants and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. The wage statements provided to Claimants and other Aggrieved Employees also failed to include the name of the legal entity that employed Claimants and the Aggrieved Employees. Accordingly, Employers violated California Labor Code section 226(a).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employers have failed to maintain accurate records relating to Claimants and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 1198.5 and 1174(d).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A)**Error! Reference**

source not found. of IWC Wage Order No. 4-2001; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. IWC Wage Order No. 4-2001 requires employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimants and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employers. These costs include but are not limited to the purchase of the purchase of clothing/uniforms, certain transportation costs, and the usage of personal cell phones for work-related purposes.

Accordingly, Employers violated IWC Order No. 4-2001 **Error! Reference source not found.**and California Labor Code sections 2800 and 2802. Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; and attorneys' fees and costs.

8. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employers' practices of requiring Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employers failed to pay Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employers also failed to pay Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages. Accordingly, Employers violated California Labor Code sections 201 and 202.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

Employers are in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, et seq., and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employers for the violations discussed in this letter.

This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of Sections 2699, et seq., by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of themselves, the State of California and all Aggrieved Employees should your office not address Employers' alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

BLACKSTONE LAW

Karen Gold

Karen Gold, Esq.

cc: By U.S. Certified Mail, Return Receipt Requested

EMCOR Group, Inc.
301 MERRITT SEVEN 6TH FLOOR,
NORWALK, CT, 06851

EMCOR Facilities Services, Inc.
2710 GATEWAY OAKS DRIVE,
SACRAMENTO, CA 95833

EMCOR Facilities Services, Inc.
9655 READING RD.
CINCINNATI, OH 45215

Mesa Energy Systems, Inc.
2 Cromwell
Irvine, CA 92618

EMCOR Mesa Energy Systems, Inc.
2 Cromwell
Irvine, CA 92618

EXHIBIT 2

January 24, 2025

Amended PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: *Andrew Cruz & Luis Silva v. EMCOR Group, Inc.; EMCOR Facilities Services, Inc.; Mesa Energy Systems, Inc.; and EMCOR Mesa Energy Systems, Inc. (collectively, “Employers”) LWDA Case No. LWDA-CM-974093-23*

Dear Representative:

This office represents Andrew Cruz and Luis Silva (“Claimants”) with respect to their claims under the California Labor Code against EMCOR Facilities Services, Inc. and Mesa Energy Systems, Inc. (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employers”). This letter is being sent simultaneously to Employers by certified mail.

Employers employed Claimant Andrew Cruz from approximately August 2021 to October 2022 as a non-exempt, hourly-paid employee. During his employment with Employers, Claimant was employed as a Forklift Operator at their location at 1822 Norris Rd, Bakersfield, CA 93308.

Employers employed Claimant Luis Silva from approximately September 2020 to August 2022 as a non-exempt, hourly-paid employee. During his employment with Employers, Claimant was employed as a Technician at their location at 2 Cromwell, Irvine, CA 92618.

Claimants intend to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimants are seeking penalties on behalf of themselves and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employers in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3 and shall serve as Claimant’s notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employers violated several of California's wage and hour laws during Claimant's employment, including but not limited to California Labor Code sections 201, 202, 203, 204, 225.5, 226(a), 226.7, 223, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, 249 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the Industrial Welfare Commission Wage Orders ("IWC Wage Order") including, *inter alia*, IWC Wage Order No. 4-2001. The claims made on behalf of Claimants and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employers have engaged in numerous unlawful practices which resulted in the failure to pay Claimants and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and IWC Wage Order No. 4-2001 require employers to pay at least the legal minimum wage to their employees. California Labor Code section 223 makes it illegal for employers to secretly pay employees less than the wage required by statute or contract. California Labor Code sections 510 and 1198 and IWC Wage Order No. 4-2001 further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employers regularly required Claimant Andrew Cruz and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, amongst other things, requiring Claimant and other Aggrieved Employees to provide services to Employers including *inter alia*, operating a forklift, moving pallets, and loading and unloading goods and supplies, as well as performing tasks related and/or necessary to performing their primary job functions. Employers failed to compensate Claimant and other Aggrieved Employees for this off-the-clock work, in violation of California law.

Throughout the relevant time period, Employers regularly required Claimant Luis Silva and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, travel time, amongst other things, as well as requiring Claimant and other Aggrieved Employees to provide technical duties to or on behalf of Employers. Employers failed to compensate Claimant and other Aggrieved Employees for any of this off-the-clock work, in violation of California law.

In addition, Employers utilized time rounding practices that resulted in the systematic underpayment of wages (including minimum wages, straight time wages and overtime wages) to Claimants and Aggrieved Employees.

Employers also failed to accurately record the actual time worked by Claimants and Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimants and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week resulting in a failure to pay overtime compensation. Finally, Employers failed to pay overtime to Claimants and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay.

As a result of the foregoing practices, Employers have failed to pay Claimants and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; penalties pursuant to California Labor Code sections 225.5, 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employers failed to provide Claimants and other Aggrieved Employees with legally-compliant 30-minute meal periods. Claimants and other Aggrieved Employees were required by Employers to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Claimants and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employers regularly required Claimants and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. Meal periods, when provided, were oftentimes interrupted or cut short.

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimants and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employers' management at various levels failed and

refused to implement and enforce legally compliant meal period policies and practices, including, but not limited to requiring Claimants and other Aggrieved Employees to answer and/or monitor employer-issued work phones during meal breaks; (3) Employers failed to adequately inform and train Claimants and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employers failed to adequately inform and train Claimants and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimants and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employers required Claimants and other Aggrieved Employees to respond to work-related requests at all times, including during meal periods; (7) Employers' policy and culture prevented Claimants and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods; and (8) Employers failed to accurately track time worked and/or rounded time punches such that Aggrieved Employees were not timely provided with compliant meal periods.

Claimants and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 226.7, 512(a) and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes must for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employers failed to authorize and permit Claimants and other Aggrieved Employees to take legally-compliant 10-minute rest periods. Employers required Claimants and other Aggrieved Employees to work through rest periods. Claimants and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimants and other Aggrieved Employees were not provided with a

second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimants and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimants and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices, including, but not limited requiring Claimants and other Aggrieved Employees to answer and/or monitor their employer-issued work phones while on their rest breaks; (3) Employers failed to adequately inform and train Claimants and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employers failed to adequately inform and train Claimants and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimants and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employers required Claimants and other Aggrieved Employees to respond to work-related requests at all times, including during rest periods; and (7) Employers' policy and culture prevented Claimants and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Claimants and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 226.7, and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those

wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employers have failed to timely pay all wages earned because Claimants and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employers violated California Labor Code section 204(a).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimants and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. The wage statements provided to Claimants and other Aggrieved Employees also failed to include the name of the legal entity that employed Claimants and the Aggrieved Employees. Accordingly, Employers violated California Labor Code section 226(a).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the

commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employers have failed to maintain accurate records relating to Claimants and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employers violated IWC Wage Order No. 4-2001 and California Labor Code sections 1198.5 and 1174(d).

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. IWC Wage Order No. 4-2001 requires employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimants and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employers. These costs include but are not limited to the purchase of the purchase of clothing/uniforms, certain transportation costs, and the usage of personal cell phones for work-related purposes.

Accordingly, Employers violated IWC Order No. 4-2001 and California Labor Code sections 2800 and 2802. Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 4-2001; and attorneys' fees and costs.

8. VIOLATIONS REGARDING CALIFORNIA SICK LEAVE/SICK PAY LAWS

California Labor Code section 233, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, and 249 provide protections regarding sick leave for California employees, including accrual of sick leave and notice that California employers must provide to their employees regarding sick leave. Among those, California Labor Code section 246(i) requires an employer to provide written notice about available sick leave, and states in relevant part:

“An employer shall provide an employee with written notices that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.”

Employers failed to provide proper accrued sick leave to Claimants and Aggrieved Employees, failed to pay sick pay at the regular rate of pay, and failed to provide proper notice about accrued sick leave. Therefore, Employers violated California Labor Code section 246.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to the relevant California Labor Code section including section 248.5; all available equitable and injunctive relief; and attorneys' fees and costs.

9. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employers' practices of requiring Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employers failed to pay Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employers also failed to pay Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages. Accordingly, Employers violated California Labor Code sections 201 and 202.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

Employers are in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, et seq., and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employers for the violations discussed in this letter.

This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before

he or she can invoke the provisions of Sections 2699, et seq., by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of themselves, the State of California and all Aggrieved Employees should your office not address Employers' alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

BLACKSTONE LAW

A handwritten signature in black ink that reads "Karen Gold". The script is cursive and fluid.

Karen Gold, Esq.

cc: By U.S. Certified Mail, Return Receipt Requested

***EMCOR Facilities Services, Inc.
2710 GATEWAY OAKS DRIVE,
SACRAMENTO, CA 95833***

***EMCOR Facilities Services, Inc.
9655 READING RD.
CINCINNATI, OH 45215***

***Mesa Energy Systems, Inc.
2 Cromwell
Irvine, CA 92618***

EXHIBIT 3

**PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (Settlement Agreement” or “Settlement”) is entered into by and between Plaintiff Andrew Cruz (former Mesa (defined below) employee) and Plaintiff Luis Silva (former EFS (defined below) employee) (“Plaintiffs”), individually and as a representative of the State of California and the Aggrieved Employees (as defined in Section 3(a)(5) below) and Defendant Mesa Energy Systems, Inc. (“Mesa”) and Defendant EMCOR Facilities Services, Inc. (“EFS”) (Mesa & EFS collectively, “Defendants”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiffs, Defendants, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff Andrew Cruz is a former employee of Defendant Mesa. Plaintiff Andrew Cruz was employed by Defendant Mesa from approximately August 2021 to approximately October 2022;

(b) Plaintiff Luis Silva is a former employee of Defendant EFS. Plaintiff Luis Silva was employed by Defendant EFS from approximately September 2020 to approximately August 2022;

(c) On August 9, 2023, Blackstone Law, APC (“Plaintiffs’ Counsel”), submitted a letter on behalf of Plaintiffs to the California Labor and Workforce Development Agency (“LWDA”) and Defendants to notify the LWDA and Defendants pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, *et seq.* (“PAGA”), of Plaintiffs’ intent to seek civil penalties under PAGA for Defendants’ alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Order No. 4-2001, thereby initiating LWDA Case Number LWDA-CM-974093-23 (“Original PAGA Notice”);

(d) On November 19, 2023, Plaintiffs filed a Class & Collective Action Complaint, commencing a class action and representative action under PAGA against Defendants, entitled *Andrew Cruz et al. v. Mesa Energy Systems, Inc. et al.*, Kern County Superior Court Case No. BCV-23-103858 (“Action”).

(e) On October 28, 2024, the Parties mediated the Action with Michael Dickstein, and, with the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the PAGA claims asserted in the Action;

(f) On January 24, 2025, Plaintiffs submitted an amended letter to the LWDA for Defendants’ alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226(a), 226.7, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, 249, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders (“PAGA Notice”);

(g) On February 14, 2025, Plaintiffs filed a First Amended Class & Collective Action Complaint (“Operative Complaint”). The Operative Complaint asserts ten (10) causes of action for violations of the California Labor Code for failure to pay minimum wages, failure to pay overtime wages, failure to provide and properly pay sick time, utilizing time rounding practices that resulted in underpayment of wages, failure to provide compliant meal periods and premium payments in lieu thereof, failure to provide compliant rest periods and premiums payments in lieu thereof, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to maintain required records, recordkeeping violations, failure to timely pay wages upon separation, failure to provide proper payment of final wages, and failure to reimburse necessary business expenses, for violations of California Business & Professions Code Section 17200, et seq. based on the aforementioned California Labor Code violations, and for civil penalties under PAGA based on the aforementioned California Labor Code violations.

(h) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the PAGA claims asserted in the Action and Released Claims (as defined in Section 6(b) below).

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties (defined below) of wrongdoing or evidence of any liability or unlawful conduct of any kind. Defendants specifically deny any and all liability.

3. **Consideration.**

(a) Subject to the escalator clause in Section 3(a)(8), Defendants shall pay a maximum gross sum of One Million Four hundred Seventy-Five Thousand Dollars and Zero Cents (\$1,475,000.00) (the “Gross Settlement Amount”) to resolve the PAGA claims asserted in the Action and Released Claims (as defined in Section 6(b) below), which will be paid as follows:

(1) Attorneys’ fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount, which is (\$516,250.00 if the Gross Settlement Amount is \$1,475,000.00), and reimbursement of litigation costs and expenses in the amount of up to Twenty-Seven Thousand Dollars and Zero Cents (\$27,000.00) (collectively, “Attorneys’ Fees and Costs”) to Plaintiffs’ Counsel, which Defendants will not contest.

(2) A general release fee of up to the amount of Ten Thousand Dollars & Zero Cents (\$10,000) (“General Release Fee”) for each of the two Plaintiffs, which amounts to \$20,000 collectively and which Defendants will not contest.

(3) Costs and expenses of administration of the Settlement up to the amount of Eight Thousand Dollars and Zero Cents (\$8,000.00) (“Settlement Administration Costs”) to Apex Class Action, LLC (“Settlement Administrator”).

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3) above, once approved by the Court, shall be paid from the Gross Settlement Amount. The balance remaining after these deductions is referred to as the “Net Settlement Amount.”

(5) Aggrieved Employees means all current and former non-unionized, non-exempt employees of Mesa or EFS who worked for Mesa or EFS in California at any time during the PAGA Period. The period of August 9, 2022, through the pay period that includes December 31, 2024 (except as potentially modified by the escalator provision in Section 3(a)(8) below) is the “PAGA Period.”

(6) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA (“LWDA Payment”); and the remaining twenty-five percent (25%) will be paid to Aggrieved Employees.

(7) Twenty-five percent (25%) portion of the Net Settlement Amount payable to the Aggrieved Employees is referred to as the “Aggrieved Employee Allocation.”

(8) The Aggrieved Employees are estimated to consist of approximately 705 individuals who worked approximately 45,549 pay periods during the period from August 9, 2022, through October 28, 2024. If it is determined by the Settlement Administrator that the total number of Pay Periods (as defined in Section 5(b) below) worked by the Aggrieved Employees during the PAGA Period actually exceeds 45,549 by more than 10% (i.e., if the Pay Periods exceed 50,104), then Defendants, at their option, can either choose to: (1) cut off the end date for the PAGA Period as of the date on which the number of Pay Periods reaches 50,104, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of Pay Periods worked by the Aggrieved Employees in the PAGA Period above the 10% (i.e., if there was an 11% increase in the number Pay Periods during the PAGA Period, Defendants would agree to increase the Gross Settlement Amount by 1%).

(9) No benefit, including but not limited to any ERISA plan such as 401K or a pension plan, shall increase or accrue as a result of any payment made as a result of this Settlement.

(b) Because this is a settlement of PAGA claims for civil penalties, one hundred percent (100%) of the payments for Attorneys’ Fees and Costs and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Sections 3(a)(1), 3(a)(6), and 3(a)(7) above will be treated and reported for tax purposes as non-wage payments and the Settlement Administrator will be responsible for issuing IRS Forms 1099, as required.

(c) The General Release Fee will be treated as 25% wages (reported via W-2) and 75% non-wage penalties (reported via 1099), for tax purposes. The Settlement Administrator will be responsible for issuing the applicable IRS Forms for these payments.

4. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to settlement (i.e., to terminate the Action by way of judgment or dismissal). As one example, Plaintiffs will dismiss their class action claims without prejudice and notify the Court that they are proceeding only on their PAGA claims as a result of arbitration agreements allegedly entered into between the Parties.

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of a motion to be filed by Plaintiffs' Counsel. Plaintiffs' Counsel shall use their best efforts to send a draft of all documents to be submitted in connection with the motion to approve this Settlement Agreement to P. Dustin Bodaghi & Joshua Kienitz of Littler Mendelson, P.C. ("Defendants' Counsel") for review by April 3, 2025 (65 days after execution of the MOU). Defendants' Counsel will be given an opportunity to comment on the papers prior to their being filed with the Court, and such comments will be implemented to the extent reasonable. Plaintiffs' counsel shall use their best efforts to file a motion for approval by April 14, 2025 (75 days after execution of the MOU).

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

(e) The "Effective Date" means the first calendar date on which all of the following have occurred: (i) the Court enters an order approving this Settlement; (ii) the Court enters judgment pursuant to the approval order; and (iii) the judgment and order are Final. The judgment becomes "Final" on: (a) the day the Court enters the judgment, if no person or entity has objected to the Settlement; or (b) the day after the deadline for filing a notice of appeal from the judgment has passed with no appeal having been filed, if any person or entity has objected to the Settlement; or (c) the date after the appellate court and/or the Supreme Court, as applicable, affirms the judgment and denies any appeal, if an appeal of the judgment is filed.

(f) If the Effective Date does not occur because the Court ultimately does not approve this Settlement, neither Mesa nor EFS has any duty to pay any portion of the Gross Settlement Amount (other than administration expenses) and Plaintiffs and Defendants will return

to the status quo prior to this Settlement Agreement, and Plaintiffs will have the opportunity to challenge the enforceability of the arbitration agreement(s).

5. Payment of the Gross Settlement Amount / Notice to Recipients.

(a) Payment of the sums described in Section 3(a) above shall be made by Defendants by transmitting the Gross Settlement Amount to a qualified settlement account established by the Settlement Administrator for administration of this Settlement, within fifteen (15) seven calendar days of the Effective Date. If the date by which payment by Defendants is due falls on a Saturday, Sunday, or legal holiday in the State of California, then the due date shall be extended to the next following day which is not a Saturday, Sunday, or legal holiday in the State of California.

(b) The Aggrieved Employee Allocation will be paid to the Aggrieved Employees on a pro rata basis based on individual versus total weeks worked during the PAGA Period. (A “week worked” is a week during which any work was performed and the total weeks worked or workweeks will always be a whole number.) For example, if the Aggrieved Employee Allocation is \$100,000.00, Aggrieved Employee John Doe worked 100 weeks during the PAGA period and all Aggrieved Employees, collectively, worked 50,000 weeks during the PAGA period, John Doe’s Individual Allocation would be \$200.00. (\$200 = 100 weeks, divided by 50,000 weeks, multiplied by \$100,000.)

(1) One hundred percent (100%) of the Aggrieved Employee Allocations are to be considered penalties and the Settlement Administrator will not undertake any deductions, withholding, or remittances for local, state, or federal taxes. Aggrieved Employees’ Individual PAGA Payments will be reported on an IRS Form 1099, as required.

(c) The Settlement Administrator shall distribute each Individual Allocation by way of check, along with a cover letter (“Cover Letter”) agreed to by the Parties and approved by the Court, in substantially the form attached hereto as “**Exhibit A**,” in the following manner:

(1) No later than fourteen (14) calendar days after the Court’s order granting approval of the Settlement, Defendants shall provide the Settlement Administrator with a list of all Aggrieved Employees (the “Aggrieved Employees List”), containing the following information for each Aggrieved Employee: (i) full name; (ii) employee ID number; (iii) last four digits of SSN; (iv) last known mailing address; and (v) dates worked for Defendants during the PAGA Period; and (vi) any other information necessary for the Settlement Administrator to calculate pay periods worked during the PAGA Period.

(2) The Settlement Administrator shall conduct one (1) National Change of Address (“NCOA”) search for all individuals identified on the Aggrieved Employees List.

(3) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall mail the agreed-upon Cover Letter and each Individual Allocation

(together, the “PAGA Settlement Package”) to all Aggrieved Employees by First-Class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial mailing, the Settlement Administrator shall promptly attempt to locate an alternative, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package.

(4) The Individual Allocation checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) calendar days, and thereafter, shall be canceled. Funds associated with such canceled checks shall be transmitted to the State Controller’s Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of their respective Individual PAGA Payment(s). If the Court requires a cy pres, then the Parties shall designate CASA Advocates for Children or other agreed-upon charity acceptable to the Court.

(5) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(6) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the General Release Fee to Plaintiffs.

(7) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the Attorneys’ Fees and Costs to Plaintiffs’ Counsel.

(8) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the Settlement Administration Costs to itself.

6. Release of Claims by Plaintiffs and the State of California with Respect to the Aggrieved Employees.

(a) The “Released Parties” are EFS, Mesa, and each of their former and present directors, officers, shareholders, partners, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, affiliates and parent companies and any of its former and present directors, officers, and shareholders.

(b) Upon the occurrence of the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs (on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns) and the State of California with respect to all Aggrieved Employees, and all Aggrieved Employees release, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Action (including the PAGA Notices filed by Plaintiffs), including violations premised on violation of Labor Code sections 201-204, 210, 223, 225.5, 226, 226.3, 226.7, 233, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, 249, 510, 512,

558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, IWC Wage Order 9, including §§ 3(A), 4, 3(A), 11, 12, and Cal. Code Regs., tit. 8, section 11090 (the “Released Claims”). The release period for the Released Claims is the PAGA Period.

(c) Upon the occurrence of the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs, individually and on their own behalf, will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, asserted or unasserted, which Plaintiffs have or may have as of the date of execution of this Settlement Agreement, including but not limited to any and all claims arising out of, relating to, or resulting from Plaintiffs’ employment and/or separation of employment with Defendants, including any claims arising under any federal, state, or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of implied covenant of good faith and fair dealing, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990. With respect to those claims released by Plaintiffs in their individual capacity, Plaintiffs acknowledge and waive any and all rights and benefits available under California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs understand and agree that claims or facts in addition to or different from those which are now known or believed by them to exist may hereafter be discovered. It is Plaintiffs’ intentions to, upon the Effective Date and full funding of the Gross Settlement Amount, settle fully and release all claims Plaintiffs now have against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the general release by Plaintiffs shall not extend to claims for workers’ compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

7. Governing Law and Interpretation.

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California. Should any non-material provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing Party.

8. **Amendment.** This Settlement Agreement may not be modified, altered, or changed except in writing and signed by both Parties' counsel, subject to approval by the Court.

9. **Miscellaneous.**

(a) Plaintiffs' counsel and Plaintiffs agree that they will not issue any press release, press statement, social media or website statement, initiate media coverage, or respond to any media inquiries regarding the Lawsuit, or this Settlement.

(b) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(c) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(d) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

(e) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator Michael Dickstein, Esq. In the event of vagueness, ambiguity, or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

(f) If Plaintiffs or Defendants fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. This Settlement Agreement remains in full force and effect anyway.

(g) The Parties agree that, after entry of Judgment, the Court will retain continuing and exclusive jurisdiction over the Parties, Action, and the Settlement under California Code of Civil Procedure Section 664.6 and California Rule of Court rule 3.769(h) including for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFFS AND DEFENDANTS, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

PLAINTIFF ANDREW CRUZ

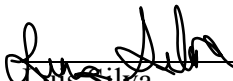
Dated: 02/20/2025



Andrew Cruz

PLAINTIFF LUIS SILVA

Dated: 02/20/2025



Luis Silva

DEFENDANT MESA ENERGY SYSTEMS, INC.

Dated: _____

Full Name: _____

Title: _____
On behalf of Mesa Energy Systems, Inc.

DEFENDANT EMCOR FACILITIES SERVICES, INC.

Dated: _____

Full Name: _____

Title: _____
On behalf of EMCOR Facilities Services, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC

Dated: February 20, 2025



Karen I. Gold
Attorneys for Plaintiffs

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFFS AND DEFENDANTS, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

PLAINTIFF ANDREW CRUZ

Dated: _____

Andrew Cruz

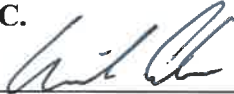
PLAINTIFF LUIS SILVA

Dated: _____

Luis Silva

DEFENDANT MESA ENERGY SYSTEMS, INC.

Dated: _____



Full Name: Michael Cook

Title: VP Human Resources
On behalf of Mesa Energy Systems, Inc.

DEFENDANT EMCOR FACILITIES SERVICES, INC.

Dated: _____

Full Name: _____

Title: _____
On behalf of EMCOR Facilities Services, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC

Dated: _____

Karen I. Gold
Attorneys for Plaintiffs

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFFS AND DEFENDANTS, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

PLAINTIFF ANDREW CRUZ

Dated: _____

Andrew Cruz

PLAINTIFF LUIS SILVA

Dated: _____

Luis Silva

DEFENDANT MESA ENERGY SYSTEMS, INC.

Dated: _____

Full Name: _____

Title: _____
On behalf of Mesa Energy Systems, Inc.

DEFENDANT EMCOR FACILITIES SERVICES, INC.

Dated: 24 FEB '25



Full Name: MICHAEL P. MCELRAH

Title: PRESIDENT
On behalf of EMCOR Facilities Services, Inc.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC

Dated: _____

Karen I. Gold
Attorneys for Plaintiffs

LITTLER MENDELSON, P.C.

Dated: February 24, 2025

Dustin Bodaghi

P. Dustin Bodaghi
Attorneys for Defendants

Exhibit A

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>><<State>><<Zip>>

Re: Settlement Payment from *Andrew Cruz et al. v. Mes Energy Systems, Inc. et al.*, Kern County Superior Court Case No. BCV-23-103858

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Allocation”). This check is your payment from the settlement in the lawsuit entitled *Andrew Cruz et al. v. Mesa Energy Systems, Inc. et al.*, Kern County Superior Court Case No. BCV-23-103858 (“Action”).

The lawsuit was filed on November 19, 2023 by Andrew Cruz and Luis Silvia (“Plaintiffs”) against their former employers Mesa Energy Systems, Inc. (“Mesa”) and Defendant EMCOR Facilities Services, Inc. (“EFS”) (Mesa & EFS collectively, “Defendants”), on behalf of the State of California, with respect to themselves and other alleged Aggrieved Employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders. On February 14, 2025, Plaintiffs filed a First Amended Class & Collective Action Complaint (“Operative Complaint”) which alleges ten (10) causes of action for violations of the California Labor Code including, *inter alia*, for failure to pay overtime wages, failure to provide and properly pay sick time, utilizing time rounding practices that resulted in underpayment of wages, failure to provide compliant meal periods and premium payments in lieu thereof, failure to provide compliant rest periods and premiums payments in lieu thereof, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to maintain required records, recordkeeping violations, failure to timely pay wages upon separation, failure to provide proper payment of final wages, and failure to reimburse necessary business expenses.

Prior to initiating the lawsuit, on August 9, 2023, Plaintiffs submitted a letter to the California Labor and Workforce Development Agency (“LWDA”), pursuant to PAGA, to provide notice of their intent to seek civil penalties under PAGA for Defendants’ alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Order No. 4-2001, thereby initiating LWDA Case Number LWDA-CM-974093-23 (“Original PAGA Notice”). On January 24, 2025, Plaintiffs submitted an amended letter to the LWDA for Defendants’ alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226(a), 226.7, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, 249, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders (“PAGA Notice”);

Defendants deny all of Plaintiffs’ allegations and deny any wrongdoing of any kind associated with Plaintiffs’ allegations. A settlement was reached between Plaintiffs and Defendants.

On <<Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former non-unionized, non-exempt employees of Mesa or EFS who worked for Mesa or EFS in California at any time during the PAGA Period. (“Aggrieved Employees”). The period of August 9, 2022, through the pay period that includes [December 31, 2024 unless the escalator provision of Section 3(a)(8) of the Settlement Agreement is triggered] is the “PAGA Period.”

COVER LETTER

You are receiving a portion of the settlement (the enclosed Individual Allocation) because you have been identified as an Aggrieved Employee. Your Individual Allocation is calculated on a pro rata basis based on individual versus total weeks worked during the PAGA Period. (A “week worked” is a week during which any work was performed and the total weeks worked or workweeks will always be a whole number.) The Individual Allocation is considered to be 100% penalties, which will be reported on an IRS Form 1099 (if applicable). You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of Court’s order granting approval of the Settlement Agreement and full funding of the Gross Settlement Amount>>, the Released Parties were fully, finally, and forever released, settled, compromised, relinquished, and discharged from the Released Claims.

“Released Parties” means EFS, Mesa, and each of their former and present directors, officers, shareholders, partners, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, affiliates and parent companies and any of its former and present directors, officers, shareholders.

“Released Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Action (including the PAGA Notices filed by Plaintiffs), including violations premised on violation of Labor Code sections 201-204, 210, 223, 225.5, 226, 226.3, 226.7, 233, 245, 245.5, 246, 246.5, 247, 248.1, 248.2, 248.3, 249, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, IWC Wage Order 9, including §§ 3(A), 4, 3(A), 11, 12, and Cal. Code Regs., tit. 8, section 11090. The release period for the Released Claims is the PAGA Period.

The enclosed check is valid for 180 calendar days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 180-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the [State Controller’s Office Unclaimed Property Division in your name and in the amount of your Individual Allocation/ CASA Advocates for Children, if the Court requires a cy pres].

Do not call or write the Court, Office of the Clerk of the Court, Defendants, or Defendants’ counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [Settlement Administrator] at [toll-free phone number].

EXHIBIT 4

Date	Type of Expense	Description of Expense	Amount
8/9/2023	Mailing	Mailing Cost: PAGA Letter to Labor Workforce Development Agency (Certified Mail)	\$8.53
8/9/2023	Other	PAGA Letter Submission Fee	\$75.00
8/9/2023	Mailing	Mailing Cost: PAGA Letter to Defendant EMCOR Mesa Energy Systems, Inc (Certified Mail)	\$8.53
8/9/2023	Mailing	Mailing Cost: PAGA Letter to Defendant EMCOR Group Inc.(Certified Mail)	\$8.53
8/9/2023	Mailing	Mailing Cost: PAGA Letter to Defendant EMCOR Facilities Services, Inc. (Certified Mail)	\$8.53
8/9/2023	Mailing	Mailing Cost: PAGA Letter to Defendant Mesa Energy Systems, Inc. (Certified Mail)	\$8.53
8/14/2023	Mailing	Mailing Cost: Plaintiffs' Records Request to Defendant EMCOR Group, Inc.- Agent for Service of Process (Certified Mail)	\$8.53
8/14/2023	Mailing	Mailing Cost: Plaintiffs' Records Request to Defendant EMCOR Group Inc. (Certified Mail)	\$8.53
11/27/2023	Filing	Fee to Steno: Complaint Packet (PAGA Court Filing Fee)	\$59.95
11/27/2024	Filing	Fee to Steno: Complaint Packet (CLASS Court Filing Fee-Complaint, Jury Fee)	\$1,997.20
1/17/2024	Filing	Fee to Steno: NAR (PAGA Filing Fee)	\$59.95
2/29/2024	Filing/Service	Fee to Steno: Proof of Service Summons (CLASS Filing Fee)	\$59.95
3/8/2024	Filing	Fee to Steno: Notice of Continued Case Management Conference (Service & Filing Fee)	\$59.95
3/22/2024	Mailing	Mailing Cost of Check to Mediator Michael E. Dickstein (Priority with USPS Tracking)	\$20.00
3/22/2024	Mediation	Plaintiffs' portion of Mediation Fee to Michael E. Dickstein	\$8,100.00
5/8/2024	Filing	Fee to Steno: Request for Dismissal as to Defendant EMCOR Mesa Energy Systems, Inc. (Filing Fee)	\$59.95
11/22/2024	Other	Payment to Damage Analysis Consultant, Berger Consulting Group	\$5,850.00
1/24/2025	Mailing	Mailing Cost: Amended PAGA Letter to Mesa Energy Systems, Inc (Certified Mail)	\$9.64
1/24/2025	Mailing	Mailing Cost: Amended PAGA Letter to EMCOR Facilities Services Inc. - Ohio Location(Certified Mail)	\$9.64
1/24/2025	Mailing	Mailing Cost: Amended PAGA Letter to EMCOR Facilities Services Inc. - CA Location(Certified Mail)	\$9.64
	Filing	Future Cost to Steno: Plaintiffs' Motion for Approval of PAGA Settlement	\$140.95
Total:			\$16,571.53