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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SCOTT D. ONKEN, individually, and on behalf of all others similarly situated,

Plaintiff,

vs.

SIERRA PACIFIC ENGINEERING AND PRODUCTS, INC.; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 24STCV22888

[Honorable Timothy Patrick Dillon, Department 15]

DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFF SCOTT D. ONKEN'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

[Filed with Plaintiff Scott D. Onken's Notice of Motion and Motion for Preliminary Approval, Declaration of Plaintiff Scott D. Onken, and [Proposed] Order]

PRELIMINARY APPROVAL HEARING
Date: October 15, 2025
Time: 11:00 am
Dept: 15

Complaint Filed: September 5, 2024
Trial Date: Not Set

DECLARATION OF KANE MOON

I, KANE MOON, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California and United States District Courts for the Central, Eastern, Northern, and Southern Districts of California. I have never been subject to discipline by the State Bar of California. I am Counsel of Record for Plaintiff Scott D. Onken ("Plaintiff") and the putative Class. I am a fully qualified, adult resident of the State of California, and, if called as a witness in this Action, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. Plaintiff moves the Court for preliminary approval of the Joint Stipulation of Class and Representative Action Settlement Agreement ("*Settlement*") between Plaintiff and Defendant S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc. ("Defendant") (Plaintiff and Defendant, the "Parties"). The Settlement, which was reached after extensive discovery and analysis, and an arm's-length mediation, satisfies the criteria for settlement approval under California law and provides for substantial payments to approximately eighty-two Class Members. Plaintiff also moves the Court for certification of the putative Class and approval of the proposed Class Notice.

SUMMARY OF THE LITIGATION AND SETTLEMENT

Relevant Procedural History

3. On August 31, 2024, Plaintiff submitted to the Labor and Workforce Development Agency ("LWDA"), and sent via certified mail to Defendant, a Notice of California Labor Code ("Labor Code") Violations ("Notice") pursuant to Labor Code section 2699.3(a). (*Settlement*, ¶ 2.0.) A true and correct copy of the Notice is attached as **Exhibit 1**. On September 5, 2024, Plaintiff filed a Class Action Complaint against Defendant, which alleged eight individual and class causes of action for violation of the Labor Code and California Business and Professions Code. (*Id*. at ¶ 2.1.) On January 2, 2025, Plaintiff filed a First Amended Class and Representative Action Complaint ("operative Complaint") against Defendant, which alleged a ninth individual and representative cause of action for violation of the Private Attorneys General Act of 2004, *as modified* ("PAGA"). (*Id*. at ¶ 2.2.)

4. On April 23, 2025, the Parties attempted to resolve the Action through private mediation with experienced wage-and-hour class and representative action mediator, Michael Ludwig, Esq. (*Settlement*, ¶ 2.3.) A settlement in principle was reached the same day. (*Id.*) Before mediation, Plaintiff obtained, through informal discovery, in addition to other data and documents, a 25% sample of the time and corresponding payroll records of the Class and the employee handbook and policies in effect during the Class Period. (*Id*. at ¶ 2.4.) Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801, and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar"). (*Id.*)

<u>The Parties</u>

5. Plaintiff worked for Defendant as an Inside Sales Representative from January 2014 to August 2023. (*Declaration of Plaintiff Scott D. Onken* ["*Onken Decl.*"], ¶ 4.) Throughout his entire employment with Defendant, Plaintiff was classified as non-exempt; typically worked five days and forty-two and one-half hours per workweek; and was subjected to the same alleged unlawful labor practices as his coworkers. (*Id*. at ¶¶ 7-11.) Defendant is a stock corporation headquartered in Carson, California, and is a designer, manufacturer, and distributor of industrial hardware components for both OEMs and hardware distributors.

6. The Class includes all current and former non-exempt employees of Defendant in the State of California from September 5, 2020, to June 7, 2025. (*Settlement*, ¶ 1.5.) The Aggrieved Employees include all current and former non-exempt employees of Defendant in the State of California from August 31, 2023, to June 7, 2025. (*Id*. at ¶ 1.4.)

<u>Plaintiff's Claims</u>

7. The operative Complaint alleges Defendant, on a class and representative basis, systematically: Failed to Pay Minimum Wages [Labor Code §§ 204, 1194, 1194.2, and 1197]; Failed to Pay Overtime Compensation [Labor Code §§ 1194 and 1198]; Failed to Provide Meal Periods [Labor Code §§ 226.7 and 512]; Failed to Authorize and Permit Rest Breaks [Labor Code § 226.7]; Failed to Indemnify Necessary Business Expenses [Labor Code § 2802]; Failed to Timely Pay Final Wages at Termination [Labor Code §§ 201-203]; Failed to Provide Accurate Itemized Wage

Statements [Labor Code § 226]; Engaged In Unfair Business Practices [Business and Professions Code §§ 17200, *et seq*.]; and Is Liable For Civil Penalties Under PAGA [Labor Code §§ 2698, *et seq*.].

Defendant's Defenses

8. Defendant denies the allegations in the operative Complaint, denies any failure to comply with the laws identified in the operative Complaint, and denies any and all liability for the causes of action alleged in the operative Complaint and Notice. (*Settlement*, ¶ 11.1.) First, Defendant asserts it complied with all compensation obligations, including by implementing policies and practices that prohibited and prevented off-the-clock work, and therefore, Plaintiff and other Class Members were paid all wages owed.

9. Second, Defendant asserts it complied with all meal period and rest break obligations, including by implementing schedules, policies, and supervisory practices that consistently resulted in Class Members taking timely, uninterrupted, off-duty, and full meal periods and rest breaks, and thus, Plaintiff and other Class Members were provided the opportunity to take all code-compliant meal periods and rest breaks to which they were entitled. Third, Defendant asserts it did not direct Class Members to make business-related purchases and that Class Members did not need to incur losses in direct discharge of their duties, and therefore, Plaintiff and other Class Members are not owed reimbursements for necessary business expenses. Fourth, Defendant asserts it did not willfully fail to pay any wages, and thus, Plaintiff and other Class Members are not owed waiting time penalties for wages untimely paid at termination. (*See Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.)

10. Fifth, Defendant asserts it complied with all wage statement requirements, and thus, Plaintiff and other Class Members suffered no actual damages or harm from inaccurate wage statements. (*See Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB, 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising from an employer's failure to provide full and accurate wage statements, and the omission of the required information alone is not sufficient"].) Sixth, Defendant denies further derivative liability on these bases, asserting it did not engage in unfair business practices and is not liable for civil penalties under PAGA. Last,

Defendant asserts Plaintiff's claims are individualized and denies that, for any purpose other than settlement, this Action is appropriate for class or representative treatment. (*Settlement*, ¶ 11.2.) These defenses are detailed in Paragraphs 17 through 21 herein.

<u>Discovery, Analysis, and Settlement Negotiations</u>

11. In preparation for mediation, the Parties agreed to an informal exchange of data and documents. The exchange of data included, but was not limited to, the total number of putative Class Members and Aggrieved Employees, and the total number of Workweeks and Pay Periods worked by all putative Class Members and Aggrieved Employees during the Class and PAGA Periods. The exchange of documents included a 25% sample of the time and corresponding payroll records of the Class and the employee handbook and policies in effect during the Class Period.

12. These exchanges enabled Class Counsel and their expert to analyze, among other information, the minimum, overtime, meal period premium, and rest break premium wages and reimbursements received by Class Members during the Class Period, and compare the same to the minimum, overtime, meal period premium, and rest break premium wages and reimbursements to which Class Members were entitled during the Class Period pursuant to the Labor Code. In turn, this enabled Class Counsel and their expert to determine the violation rates for each cause of action, and thus, Defendant's maximum monetary exposure. Defendant's maximum monetary exposure is detailed in Paragraph 22 herein.

13. On April 23, 2025, the Parties attempted to resolve the Action through private mediation with experienced wage-and-hour class and representative action mediator, Michael Ludwig, Esq. (*Settlement*, ¶ 2.3.) A settlement in principle was reached the same day. (*Id*.)

<u>MATERIAL TERMS OF THE SETTLEMENT</u>

14. The material terms of the Settlement are set out in the Parties' Joint Stipulation of Class and Representative Action Settlement Agreement. A true and correct copy of the Settlement is attached as **<u>Exhibit 2</u>**. Class Counsel submitted the Settlement to the LWDA on August 15, 2025. A true and correct copy of the LWDA case record of this Action is attached as **<u>Exhibit 3</u>**.

(a) "Administrator" means Apex Class Action, LLC, the neutral entity the Parties have designated to administer the Settlement. (*Settlement*, ¶ 1.2.)

(b) "Administration Expenses Payment" means the court-approved amount allocated to the Administrator for reimbursement of its reasonable fees and expenses incurred to administer the Settlement, not to exceed $7,000.00. (*Settlement*, ¶ 1.3.) A true and correct copy of Apex Class Action, LLC's bid to administer the Settlement is attached as **Exhibit 4**.

(c) Class Certification. The Parties stipulate to class certification for Settlement purposes only. (*Id*. at ¶ 11.2.)

(d) "Class Counsel Fees Payment" means the court-approved amount allocated to Class Counsel for reimbursement of their reasonable fees incurred to prosecute the Action, not to exceed one-third of the Gross Settlement Amount (*Id*. at ¶ 1.7.)

(e) "Class Counsel Expenses Payment" means the court-approved amount allocated to Class Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action, not to exceed $15,000.00. (*Id*. at ¶ 1.8.) A true and correct copy of Class Counsel's expenses to-date is attached as **Exhibit 5**.

(f) "Class Notice" means the court-approved Notice of Class and Representative Action Settlement Agreement and Final Approval Hearing to be mailed to Class Members in English and Spanish, substantially in the form attached to the Settlement as **Exhibit A** and incorporated by reference into the Settlement. (*Id*. at ¶ 1.12.)

(g) "Class Representative Service Payment" means the court-approved payment allocated to the Class Representative for his service in support of the Action and General Release, not to exceed $7,500.00. (*Id*. at ¶ 1.15.)

(h) "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Final Approval Order; and (b) the Judgment is final. The Judgment is final on the latest of the following occurrences: (a) if no Participating Class Member timely objects to the

Settlement, the day the Court enters the Judgment; (b) if one or more Participating Class Members object(s) to the Settlement and does not withdraw his or her objection, the day after the deadline for filing a notice of appeal of the Judgment; or (c) if a timely Appeal of the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur. (*Settlement*, ¶ 1.19.)

(i) Escalator Clause. It is estimated that there are 11,708 Workweeks during the Class Period and 2,086 PAGA Pay Periods in the PAGA Period. If the actual number of Workweeks during the Class Period exceeds 11,708 by more than 10%, Defendant shall have the option of (a) increasing the Gross Settlement Amount by the percentage increase in the number of Workweeks worked by the Class Members above 10% (e.g. if the number of Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%); or (b) rolling back the Class and PAGA Periods to the date in which 11,708 Workweeks is met. **Defendant will be prepared to inform the Court of its selection at the Preliminary Approval Hearing. If Defendant exercises option (b), it will also be prepared to inform the Court of the Class Period end date at the Preliminary Approval Hearing.** (*Id*. at ¶ 7.0.)

(j) Funding of Gross Settlement Amount. The Gross Settlement Amount and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments shall be fully funded by transmission of such funds to the Administrator within thirty (30) calendar days of the Effective Date. (*Id*. at ¶ 4.0.)

(k) "Gross Settlement Amount" means $440,000.00, the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 7.0. The Gross Settlement Amount will pay the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and

Administration Expenses Payment. (*Id*. at ¶ 1.23.)

(l) "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount, calculated according to the number of Workweeks he or she worked during the Class Period. (*Id*. at ¶ 1.24.)

(m) "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 35% of the PAGA Penalties allocated pursuant to California Labor Code ("Labor Code") section 2699(m) and calculated according to the number of PAGA Pay Periods he or she worked during the PAGA Period. (*Settlement*, ¶ 1.26.)

(n) "LWDA PAGA Payment" means the LWDA's 65% share of the PAGA Penalties, allocated pursuant to Labor Code section 2699(m). (*Id*. at ¶ 1.28.)

(o) "Net Settlement Amount" means the Gross Settlement Amount less the following court-approved payments: Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments. (*Id*. at ¶ 1.29.)

(p) <u>Non-reversionary</u>. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. (*Id*. at ¶ 3.0.) None of the Gross Settlement Amount will revert to Defendant. (*Id*.)

(q) "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount in settlement of the Released PAGA claims, not to exceed $20,000.00. (*Id*. at ¶ 1.36.)

(r) <u>Release by Participating Class Members:</u> All Participating Class Members, including Plaintiff, fully and finally release and discharge the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, and actions or causes of action of whatever kind or nature, contingent or accrued, that were alleged or that reasonably could have been alleged based on the facts alleged in the Action and/or that accrued in or are related to the allegations in the Action, under federal, state and/or local law. This release includes, without limitation, a release of all claims alleged in the Action and under state law for alleged failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to pay all unpaid wages at termination, failure to provide accurate itemized wage statements, any violations of California Business and Professions Code §§ 17200, *et seq.*, any statutory penalties based on the foregoing (collectively, the "Released Class Claims") (*Settlement,* ¶ 5.1.)

1) The Participating Class Members' Release exclude the release of claims not permitted by law and is limited to claims arising during the Class Period. (*Id*. at ¶ 5.1.1.)

(s) Release by Aggrieved Employees: All Aggrieved Employees, including Plaintiff, fully and finally release and discharge the Released Parties from any and all claims for the recovery of civil penalties and attorneys' fees and costs, permissible under PAGA which the Aggrieved Employees had, or may claim to have, against the Released Parties, arising out of violations alleged in the First Amended Class and Representative Action Complaint or PAGA Notice, including, but not limited to, failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to pay all unpaid wages at termination, and failure to provide accurate itemized wage statements (collectively, "Released PAGA Claims"). (*Id*. at ¶ 5.2.)

1) The Aggrieved Employees' Release is limited to claims arising during the PAGA Period. In light of the binding nature of a PAGA judgment on non-party employees under *Arias v. Sup. Ct.* (*Angelo Dairy*) (2009) 46 Cal.4th. 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of an Aggrieved Employee who are eligible to receive an Individual PAGA Payment shall be deemed to have released the Released PAGA Claims, regardless of whether his or her check for the Individual PAGA Payment is chased or not. (*Id*. at ¶ 5.2.1.)

(t) "Released Parties" means Defendant and all of its present and former members, parent companies, subsidiaries, affiliates, joint venturers, and licensees, and all of their shareholders, officers, directors, employees, agents, affiliates, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting under them. (*Settlement*, ¶ 1.42.)

(u) "Response Deadline" means forty-five (45) calendar days from the date the Administrator mails the Class Notice to the Class and the last date on which Class Members may: (a) mail a Request for Exclusion from the Settlement; or (b) mail an Objection to the Settlement. (*Id*. at ¶ 1.44.)

(v) <u>Tax Allocation</u>. Twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to the settlement of claims for wages. Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to the settlement of claims for interest and penalties. (*Id*. at ¶ 3.1.3.2.) One hundred percent (100%) of each Individual PAGA Payment will be allocated as penalties. (*Id*. at ¶ 3.1.4.2.)

(w) <u>Unpaid Residue</u>. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, or for any Class Member whose envelope is returned and no forwarding address can be located for the Class Member after reasonable efforts have been made, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure ("CCP") section 384(b). (*Id*. at ¶ 4.1.3.)

<u>THE SETTLEMENT MERITS PRELIMINARY APPROVAL</u>

15. The Settlement merits preliminary approval because it is fair and reasonable. The Settlement is fair and reasonable because it is the product of adversarial discussions and negotiations between the Parties; the terms reflect findings made after an exhaustive exchange of data and documents between the Parties; the terms are supported by an in-depth factual investigation and evaluation by Class Counsel and their expert, including an analysis of the time, payroll, and policy records produced by Defendant; and it subverts further litigation, and thus, the risk of delay, the risks involved in class certification, the challenge of succeeding on the merits even if the Class were certified, substantial litigation-related costs, and trial and appellate risk.

16. The Settlement is based on the following information derived from Defendant's production *prior to mediation* and from Defendant *at mediation*: there are approximately (a) eighty-two Class Members who fall within the four-year statute of limitations period pursuant to California Business and Professions Code sections 17200, *et seq*. and worked 11,708 Workweeks during the Class Period; and (b) sixty-three Aggrieved Employees who fall within the one-year statute of limitations period pursuant to Labor Code sections 2699, *et seq*. and worked 2,132 biweekly Pay Periods during the PAGA Period; and Class Members have a weighted average hourly rate of pay, average hourly regular rate of pay, and average overtime rate of pay of $22.70, 26.00, and 39.00, respectively.

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Claim	Relevant Time Period	Rate	Number of Violations	Amount
Unpaid Wages (due to Off-the-Clock Work)	11,708 Workweeks	$22.70 Average Hourly Rate	27,153 Net Unpaid Hours	$886,618.00 (Based on actual, rather than average, minimum and overtime rates) ****$132,992.70**
Meal Period Violations	11,708 Workweeks	$26.00 Average Regular Rate	27,010 Unique Meal Break Violations	$693,638.00 (Based on actual, rather than average, regular rates) ***$173,409.50**
Rest Break Violations	11,708 Workweeks	$26.00 Average Regular Rate	26,849 Unique Rest Break Violations	$698,078.00 (Based on actual, rather than average, regular rates) ****$104,711.70**
Unreimbursed Business Expenses Violations	11,708 Workweeks	$60.00 Per Class Member Per Month	Violation Rate Based On Analysis Of Records By Expert	$108,120.00 ****$16,218.00**
Waiting Time Penalties	Based On Three-Year Statute Of Limitations	Penalty based on Labor Code section 203	Violation Rate Based On Analysis Of Records By Expert for 63 Terminated Class Members During The Three-Year Statute Of Limitations	$342,336.00 *****$34,233.60**
Inaccurate Wage Statements	Based On One-Year Statute Of Limitations	$100.00 / Pay Period	$100.00 / Pay Period for 62 Class Members During The One-Year Statute Of Limitations	$208,300.00 *****$20,830.00**
PAGA Civil Penalties	2,132 Pay Periods	$100.00 / Pay Period	$100.00 / Pay Period for 63 Class Members During The One-Year Statute Of Limitations	$213,200.00 *****$21,320.00**
Discounted Total				**$503,715.50**
Figures discounted based on a 25% probability of prevailing on class certification and the merits: (*) Figures discounted based on a 15% probability of prevailing on class certification and the merits: (**) Figures discounted based on a 10% probability of prevailing on class certification and the merits: (***)				

17. The unpaid wages claim is based on the allegation that Defendant failed to compensate Class Members for all off-the-clock hours worked: Throughout the Class Period, Class Members were required to clock out at their respective scheduled shift times to avoid overtime. Due

to their substantial workload, Class Members would regularly continue to work after clocking out for up to one hour. Class Counsel and their expert modestly assumed all Class Members worked approximately thirty off-the-clock minutes per shift. At mediation, Defendant, nonetheless, contended that the due to the fact that the Class Members worked remotely, they were in control of their own schedules. Defendant also contended that any off-the-clock, meal period, and rest break assumptions made on behalf of the entire Class are, on that basis alone, not wholly representative. Defendant further contended that hourly, non-exempt employees wholly own the company, and thus, the Class is largely comprised of employees with ownership in the company unlikely to participate as putative Class Members. These defenses were well taken, and therefore, Class Counsel reasonably discounted Defendant's estimated potential liability for this claim by eighty-five percent ($886,618.00 * 0.15). **My realistic damage estimate for this unpaid wages claim was, therefore, $132,992.70.**

18. The meal period claim is based on the allegation that Defendant failed to provide or maintain sufficient meal period policies or practices, such that Class Members were not provided with code-compliant first and second meal periods or meal period premium wages in lieu thereof. The time and corresponding payroll records establish that 50.2% of meal periods were short, taken after the sixth hour, or not taken at all; presumably did not have a corresponding waiver, as none were produced by Defendant; and did not have an offsetting premium payment. They also establish that 26.8% of meal periods were exactly thirty minutes, which indicates Defendant may have auto-deducted meal periods, and in turn, aligns with Plaintiff's allegation that meal periods were regularly interrupted with work-related or sales calls. From this, as well as the average hourly regular rate of pay of Class Members, Class Counsel argued that Defendant had a maximum potential liability of $693,638.00. Even assuming all Class Members signed a valid meal period waiver, our expert determined Defendant committed 26,518 total unique meal period violations during the Class Period. However, at mediation, Defendant argued that, again, Class Members were in charge of their schedules when working from home, and therefore, not obstructed from taking timely, full meal periods. Defendant also argued that there were relatively few recorded meal period violations. Plaintiff responded, however, that he is entitled to make a reasonable presumption that the violation rate for any unrecorded meal periods is consistent with the violation rate for recorded meal periods.

(*See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.) Nevertheless, Defendant's defenses were well taken, and thus, Class Counsel reasonably discounted Defendant's maximum potential liability for this claim by seventy-five percent ($693,638.00 * 0.25). Plaintiff, nonetheless, contended that the remainder of uncompensated violative meal periods were demonstrable on the face of the records, rendering it a viable and certifiable claim for a potential sub-Class of employees. **My realistic damage estimate for the meal period claim was, therefore, $173,409.50.**

19. The rest break claim is based on the allegation that Defendant failed to provide or maintain sufficient rest break policies or practices, such that Class Members were not provided with code-compliant first and second rest breaks or rest break premium wages in lieu thereof. Defendant did not encourage or enforce code-compliant rest breaks, and at least half of Class Members did not take rest breaks. Rest breaks were taken according to workload, and about half of Class Members' workload was regularly so voluminous that a rest break was not possible. The precise number of rest break violations could not be calculated because Defendant did not document when Class Members took their required rest breaks. Therefore, in preparation for mediation, Class Counsel assumed that Defendant had a fifty percent violation rate for rest breaks in shifts of at least three- and one-half hours. Class Counsel and their data expert then estimated that, in light of the assumed violation rate; the fact that there was a total of 26,849 rest breaks among all Class Members during the Class Period; and the average hourly regular rate of pay for Class Members, Defendant had a maximum potential liability of $698,078.00. At mediation, Defendant, nonetheless, asserted it complied with all rest break obligations, including by implementing schedules, policies, and supervisory practices that consistently resulted in Class Members taking timely, uninterrupted, off-duty, and full rest breaks. Defendant also argued that this claim is extremely individualized, especially given the number of employees who worked from home, thereby necessitating a substantial number of declarations among the many Class Members to successfully certify this claim, and even more, succeed on the merits. These defenses were well taken, and thus, Class Counsel discounted Defendant's maximum potential liability for this claim by eighty-five percent ($698,078.00 * 0.15). **My realistic damage estimate for the rest period claim was, therefore, $104,711.70.**

20. The unreimbursed business expense claim is based on the allegation that Defendant failed to reimburse Class Members for home internet and additional electricity costs from WiFi routers, computer chargers, and extra lighting necessitated by their remote work duties. However, the sample of time and corresponding payroll records show that Defendant did not reimburse Class Members for internet and electricity costs for remote work. Plaintiff, therefore, reasonably assumed that Class Members incurred $60.00 in personal business-related expenses each month. Based on this assumption, as well as the total number of Workweeks throughout the Class Period, Class Counsel and their expert estimated Class Members incurred a total of $108,120.00 in unreimbursed expenses. At mediation, Defendant, nonetheless, argued that these expenses were not necessary for their employment. However, in *Thai v. International Business Machines Corporation*, 93 Cal.App.5th 364 2023), the First District Court of Appeal found the elements of failure-to-reimburse causes of action are: (1) the employee made expenditures or incurred losses; (2) the expenditures or losses were incurred in direct consequence of the employee's discharge of his or her duties, or obedience to the directions of the employer; and (3) the expenditures or losses were necessary. (*Id.* at 370). After making this finding, the court determined the defendant employer was required to reimburse employees for expenditures incurred in working from home during the COVID-19 pandemic. (*Id.* at 371-372). Thus, Plaintiff countered that when Class Members were required to work from home following Executive Order N-33-20, which took effect on March 19, 2020, Defendant was required, at least, to reimburse for home internet. Defendant responded that, after Executive Order N-33-20 was rescinded on June 15, 2021, Class Members worked hybrid. Defendant added that any home internet was likely used by Class Members for non-work purposes. For these reasons, Defendant contended it was not liable for the full cost of Class Members' home internet during and after COVID-19. Defendant's defenses were well taken, and thus, Class Counsel reasonably discounted Defendant's maximum potential liability for this claim by eighty-five percent ($108,120.00 * 0.15). **My realistic damage estimate for the unreimbursed expenses claim was, therefore, $16,218.00.**

21. The derivative penalties, as indicated above, were calculated by taking into account the above claims and maximum liabilities; their respective formulae for calculation and statutes of limitations; the total number of Class Members who fall within their respective statutes of limitations;

and the total number of Workweeks worked by all Class Members and PAGA Periods worked by all Aggrieved Employees. From this, Class Counsel and their expert determined that the maximum potential liability of Defendant for waiting time statutory penalties was $342,336.00; inaccurate wage statement statutory penalties was $208,300.00; PAGA civil penalties was $213,200.00; and Defendant's total maximum potential liability for all statutory and civil penalties was $763,836.00. Plaintiff, nonetheless, discounted such penalties in light of the defenses set out above and the reasonable discounts made to their underlying claims; the potential Due Process concerns that arise from putative awards relative in size; and to reach a fair and reasonable compromise with Defendant. For these reasons, Class Counsel discounted the potential liability by ninety percent ($763,836.00* 0.10). **My realistic damage estimate for all derivative penalties was, therefore, $76,383.60.**

22. **The discounted claims and penalties aggregate to $503,715.50, which represents Defendant's realistic maximum liability**. The Gross Settlement Amount of $440,000.00, therefore, represents 87.35% of Defendant's realistic maximum liability. In turn, an estimate of the Net Settlement can be calculated to be $243,833.33[1] at this time. The Class is comprised of approximately eighty-two Class Members. In result, each Participating Class Member is eligible to receive an average net benefit of $2,973.58. Considering Class Members' average hourly rate was $22.70, the average net benefit is approximately 130.99 hours of work.

23. In light of the risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary to establish liability, the probability of an appeal of a favorable judgment, the legitimate controversy that exists as to each cause of action, the expense and time required to prove the amount of wages due to each Class Member, and the possibility that the Court could discretionarily decide not to impose civil penalties under PAGA, the Settlement is within the *ballpark* of reasonableness, and- preliminary approval of the Settlement is appropriate. Further, in light of Plaintiff's legally and factually backed confidence in the merits of his claims and the fact that the issues were fairly contested, the Settlement is in the best interest of the Class.

[1] The Net Settlement Amount is the Gross Settlement Amount of $440,000.00, less the following maximum awards: $7,000.00 for a maximum Administration Expenses Payment; $15,000.00 for a maximum Class Counsel Expenses Payment; $146,666.67 for a maximum Class Counsel Fees Payment; $7,500.00 for a maximum Class Representative Service Payment; and $20,000.00 for the PAGA Penalties. (*Settlement*, ¶¶ 3.1, *et seq.*)

THE CLASS COUNSEL FEES PAYMENT IS FAIR AND REASONABLE

24. The Class Counsel Fees Payment is fair and reasonable in light of Class Counsel's experience and qualifications and pursuant to the common fund doctrine:

My Experience And Qualifications

25. I received a Bachelor of Arts in History in 1998 from the University of California, Los Angeles, and a Juris Doctor from Loyola Marymount Law School in 2006. I became an Active Member of the State Bar of California in June 2007 and have been an Active Member in good standing continuously since. I have been selected to Super Lawyers each year from 2020 to 2025.

26. I co-founded Moon Law Group, P.C., formerly Moon & Yang, APC, in March 2010. For the past decade, I have built my practice to have an emphasis on employment and related civil litigation cases. In fact, my practice is focused almost exclusively on advocating for the rights of employees in wage-and-hour litigation through class and representative actions. The firm and its lawyers, including myself, have successfully settled hundreds of wage-and-hour cases; tried both bench and jury trials, representing both plaintiffs and defendants, in employment-related matters; and have been appointed lead or co-lead class counsel in numerous federal and state courts in California.

27. In addition to the present case, Moon Law Group, P.C. is presently class counsel for dozens of other putative wage-and-hour class and representative action lawsuits pending in various state and federal jurisdictions throughout California. The following is a list of some of our recent class action settlements that have received preliminary and final approval: *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20,2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 (class size approx. 2,650; lead counsel) (In approving my $650 hourly rate in that case, the Court found: "Class Counsel's declarations show that the attorneys are experienced and successful litigators." Other courts have approved the attorneys' current rates for the Moon Law Group, PC attorneys. (*Id*. at *10); *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdeals, Inc.*, LASC

BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc*., LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment Processing, Inc*., LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*, LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*, LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoyne, Inc.,* LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc*., LASC BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC BC709630 (class size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*, LASC BC682972 ($750,000 for 79 Class Members; lead counsel); *Aparicio v. Lineage Logistics, LLC*, LASC BC722764 (class size approx. 155; lead counsel). This experience is helpful in assessing the reasonableness of settlements such as the one at issue here. From this experience, our firm, as Class Counsel, concluded that this lawsuit could not have been settled on better terms than provided under the present Settlement.

Allen Feghali's Experience And Qualifications

28. Allen Feghali is a partner at Moon Law Group, P.C. He received a Bachelor of Arts in Global and International Studies from the University of California, Santa Barbara in 2011, and a Juris Doctor from University of La Verne College of Law in 2014. Mr. Feghali became an Active Member of the State Bar of California in December 2014 and has been an Active Member in good standing continuously since. He was selected by Super Lawyers as a "Southern California Rising Star" from 2020 to 2025.

29. Mr. Feghali began working at Moon Law Group, P.C. in May 2015, and his practice focuses on advocating for the rights of employees at the trial-court and appellate levels. Prior to approximately June 2018, with the exception of a handful of cases, his practice focused on individual Fair Employment Housing Act ("FEHA") and wrongful termination claims, as well as individual wage-and-hour claims. In June 2018, Mr. Feghali became heavily involved in the firm's class action practice.

30. During Mr. Feghali's tenure with Moon Law Group, P.C., he has played a critical role in obtaining outstanding results for employees who have been wronged by their employers. Mr. Feghali's litigation experience includes, but is not limited to:

(a) In March 2021, Mr. Feghali prepared the briefing in the matter of *Rivera, et al. v. Clearpath Federal Credit Union* (LASC No. 19STCV33504), which resulted in a certification order on all causes of action following contested briefing in a wage and hour class action.

(b) Mr. Feghali prepared the briefing in a contested class certification motion in the matter of *Dawson, et al. v. GoHealth, LLC, et al.* (No. CGC-19-577790), which was argued and taken under submission by the Court on February 3, 2022.

(c) Mr. Feghali prepared the briefing in a contested class certification motion in the matter of *Brown v. NTI-CA, Inc., et al.* (No. 21STCV04397), which is not currently scheduled for hearing.

(d) Mr. Feghali was part of a team that prepared the briefing in a contested class certification motion in the matter of *Thong, et al. v. Outlook Resources, Inc., et al*. (No. 19STCV44400), which was granted in part and denied in part in October 2022.

(e) Mr. Feghali prepared the briefing which resulted in a remand order in the matter of *Andrade v. Rehrig Pacific Corp.* (C.D. Cal. April 22, 2020, No. CV 20-1448 FMP (RAOx)) 2020 WL 1934954, where Defendant removed a wage and hour class alleging that Plaintiff's claims were pre-empted by the Labor Management Relations Act.

(f) Mr. Feghali briefed, argued, and won the matter of *Lee, et al. v. The Christian Herald, U.S.A., Inc.* (Cal. Ct. App. Dec. 12, 2017, No. B266853) 2017 WL 6333905, at *1. There, the Court of Appeal reversed a dismissal of an individual defendant following the trial court's granting of a demurrer without leave to amend relating to alter ego allegations.

(g) Mr. Feghali prepared the briefing which resulted in a remand order in the matter of *Sotelo v. Belfor USA Group, Inc.* (C.D. Cal. Mar., 13, 2018, No. 2:17–cv–09056–RSWL–MRWx) 2018 WL 1352910. Defendants there sought to remove the case based on the inclusion of a "sham defendant," but the court agreed with Mr. Feghali's briefing which argued that the individual defendant, who was alleged to have harassed the plaintiff under FEHA, was a proper defendant.

(h) Mr. Feghali has been the lead counsel, or co-lead counsel, in individual cases that settled for $850,000.00, $375,000.00, and $250,000.00. In addition to the foregoing, Mr. Feghali has resolved or assisted in the resolution of approximately 100 cases which has resulted in millions of dollars of unpaid wages being returned to low-wage employees.

(i) Mr. Feghali was part of a team that prepared the briefing in a contested class certification motion in the matter of Hernandez v. CR Laurence, Inc., et al. (No. 20STCV32372), which was granted, in part, and denied, in part, in February 2024.

31. Since June 2018, Mr. Feghali's practice has shifted to almost exclusively representing employees in wage and hour class and representative actions. His fee has been approved by Courts throughout the state. He has participated as lead, or co-lead counsel, in the litigation and resolution of over 100 wage and hour class actions, including obtaining preliminary and final approval of settlements. A selection of settled cases wherein Mr. Feghali served as lead or co-lead class counsel includes the following: *Barahona v. Methodist Hosp. of Cal*. (No. 20STCV09876) ($5,000,000); *Stanley Black & Decker Wage and Hour Cases* (No. JCCP5218) ($3,500,000); *Vazquez v. St. Mar 2.0 Inc.* (No. 37-2021-00042702-CU-OE-CTL) ($2,250,000); *Duncan v. Infineon Technologies Americas Corp*. (No. 21STCV16872) ($2,500,000); *Aquino v. Coast King Packing, LLC* (No. 21CV002448) ($2,300,000); *Martinez, et al. v. Curative LLC* (No. 21STCV20778) ($1,500,000); *Calderon v. Installed Building Products* (No. 37-2021-00035844-CU-OE-CTL) ($1,500,000); *Majdoub v. Argent Hotel Mgmt.* (No. CGC-20-582921) ($1,800,000); *Fuentes v. Covid Clinic, Inc*. (No.

CIVSB2106806) ($1,526,317.57); *Rahman, et al. v. Gate Gourmet, Inc*. (No. 3:20-cv-03047) ($3,850,000); *Pagoulatos v. Coast Hills Credit Union* (No. 20CV02801) ($1,100,000); *Hammers v. Redwood Oil Co., Inc*. (No. SCV-269625) ($1,180,000); *Cuadras v. R.C. Wendt Painting, Inc*. (No. BC705964) ($1,400,000); *Zaragoza v. The Roman Catholic Bishop of Fresno* (No. 22CV-00282) ($1,500,000); *Garcia v. San Jose Water Co.* (22CV396328) ($1,200,000); *Garcia v. Tri-Valley Plastering, Inc*. (No. 22CECG00591) ($1,250,000); *Garcia v. Tapia Enter., Inc*. ($2,137,651 for 507 class members); *Cha v. Center Point, Inc*. (No. CIV2102081) ($1,000,000); *Sison v. Cha Hollywood Med. Ctr., L.P*. (No. BC644129) (2,137 class members); *Lagos v. ThyssenKrupp Elevator Corp.* (No. BC682972) ($750,000 for 79 class members); and *Montoya v. Golden 1 Credit Union* (No. 34-2018-00228252) ($1,250,000).

Jacquelyne VanEmmerik's Experience And Qualifications

32. Jacquelyne VanEmmerik is an associate at Moon Law Group, P.C. Ms. VanEmmerik received a Bachelor of Arts in Law, History, and Culture from the University of Southern California in 2017, and a Juris Doctor from the University of California, Davis School of Law in 2021. In law school, Ms. VanEmmerik served as a Judicial Extern for the Honorable Todd W. Eddins of the Supreme Court of Hawai'i and Senior Articles Editor of the Environmental Journal of Law and Policy.

33. Ms. VanEmmerik became an Active Member of the State Bar of California in November 2021 and has been an Active Member in good standing continuously since. Ms. VanEmmerik is also a member in good standing with the United States District Courts for the Northern and Central Districts of California and the United States Court of Appeals for the Ninth Circuit, and was selected by Super Lawyers as a "Southern California Rising Star" in 2024 and 2025.

34. Ms. VanEmmerik is an associate attorney at Moon Law Group, P.C. and represents employees in all aspects of employment litigation, including wage-and-hour class and representative actions involving claims related to overtime and minimum wages, meal and rest break violations, improper wage statements, the California Private Attorneys General Act, and unfair business practices.

35. During her tenure with Moon Law Group, P.C., Ms. VanEmmerik has played a critical role in obtaining outstanding results for employees who have been wronged by their employers. Ms. VanEmmerik's litigation experience includes, but is not limited to:

(a) In June 2025, Ms. VanEmmerik briefed a Motion for Class Certification in the matter of *Rivera, et al. v. MTPDR, Inc. dba Jiffy Lube*, Case No. 22STCV06571, in the Los Angeles County Superior Court.

(b) From September 2021 to the present, Ms. VanEmmerik has participated in the litigation and/or resolution of approximately seventy wage-and-hour class and/or representative actions, including through successfully moving the Court for preliminary and final approval of settlements on the first attempt.

(c) In March 2023 and May 2024, respectively, Ms. VanEmmerik briefed a Motion for Class Certification in the matter of *Roland Tolentino v. Gillig, LLC*, Case No. RG20073930, in the Alameda County Superior Court, and an Appellant Brief matter of *Roland Tolentino v. Gillig, LLC*, Case No. 23-16182, in the Ninth Circuit Court of Appeals;

(d) In May 2023, Ms. VanEmmerik briefed, and prevailed on, an Opposition to Motion for Judgment on the Pleadings in the matter of *Rodrigo Gonzalez Guzman v. Wayne Provisions Co., Inc.*, Case No. 21STCV41124, Los Angeles County Superior Court, in which Defendant attempted to invalidate Plaintiff's standing to bring a representative claim under PAGA;

(e) In January 2022, Ms. VanEmmerik briefed, and prevailed on, an Opposition to Demurrer in the matter of *Fernando Alquicira, et al. v. Sit N' Sleep, Inc., et al.*, Case No. 21STCV14594, Los Angeles County Superior Court, in which Defendant wrongfully sought an order of abatement or stay of proceedings pending final judgment of an unrelated matter; and

(f) In January 2022, Ms. VanEmmerik briefed, and prevailed on, an Opposition to Motion for Bifurcate and Sequence Discovery in the matter of *David Flores Valencia v. Wawona Packing Co., LLC*, Case No. 21CECG01163, Fresno

County Superior Court, in which Defendant sought to subject Plaintiff to a preliminary trial to establish his status as an aggrieved employee before proceeding as a representative in his PAGA action.

Considerations Under The Common Fund Doctrine

36. I am informed and believe that the fee provision is reasonable. Not only is the fee percentage requested less than that charged by my office for most employment cases, but also, my office has invested significant time and resources into this case, with payment deferred to the end of the case, and then, of course, contingent on the outcome.

37. The risk to my office has been significant, particularly if we would not have been successful in pursuing this class action. In that case, we would have been left with no compensation for all the time taken in litigating this case. Indeed, I have taken on many class action cases that have resulted in thousands of attorney hours being expended and ultimately having the defendant company go bankrupt. The contingent risk in these types of cases is very real and occurs regularly. Furthermore, we were precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

38. It is further estimated that my office will need to expend at least another fifty to one hundred hours to monitor the process leading up to final approval and payments made to the Class. My office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

39. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, Moon Law Group, P.C. represents virtually all of its employment law clients on a contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless we prevail at trial or successfully settle our clients' cases.

40. Moon Law Group, P.C. is taking the risk that we will not be reimbursed for our time unless our client settles or wins his case. For this reason, we cannot afford to represent an individual employee on a contingency basis if, at the end of our representation, all we are to receive is our regular hourly rate for services. It is essential that we recover more than our regular hourly rate when we win if we are to remain in practice and continue representing other individuals in civil rights employment disputes.

THE CLASS COUNSEL EXPENSES PAYMENT IS FAIR AND REASONABLE

41. The Class Counsel Expenses Payment is fair and reasonable because class counsel are entitled to recover the out-of-pocket litigation costs they reasonably incur in investigating, prosecuting, and settling a class and representative action, and the Class Counsel Expenses Payment reflects such costs. (*Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 974.) Here, Class Counsel has reasonably incurred $14,559.41 in litigation costs. Such costs were reasonably incurred because they were actually incurred and required to prosecute the Action. (*See* Exhibit 5.) For example, they include, but are not limited to, the complaint filing fee and mediation fee. (*Id*.) The complaint filing fee was required for Plaintiff to initiate this Action, and the mediation fee facilitated the Parties' settlement discussions, which ultimately led to the Settlement. (*Settlement*, ¶ 2.5.) The Parties have agreed to reimbursement of litigation costs not to exceed $15,000.00, and any un-awarded litigation costs shall become part of the Net Settlement Amount for allocation to Participating Class Members. (*Id*. at ¶ 3.1.2.)

THE CLASS REPRESENTATIVE SERVICE PAYMENT IS FAIR AND REASONABLE

42. The Class Representative Service Payment is fair and reasonable, as named plaintiffs in class action lawsuits "are eligible for reasonable incentive payments to compensate them for the expense or risk they incur in conferring a benefit on other members of the class," and the Service Payment here is reasonable and compensate Plaintiff for the benefit he conferred on the Class. (*Munoz*, *supra*, 86 Cal.App.4th at 412; *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 806; *See In re Cont'l Ill. Sec. Litig*. (7th Cir. 1992) 962 F.2d 566, 571 ["Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit could be thought the equivalent of the lawyers' nonlegal but essential case-specific expenses, such as long-distance phone calls, which are reimbursable".].) Here, Participating Class Members will receive an average payment of $2,973.58, equating to approximately 130.99 hours of work, based on their average hourly rates. (*Moon Decl*., ¶ 22.) In addition to this monetary benefit, Plaintiff has likely effectuated lawful wage-and-hour policies and practices at S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc. from which currently employed Class Members are deriving benefit in the form of proper pay and working conditions.

43. Plaintiff faces significant risk as the Class Representative in this Action. In particular, Plaintiff faces actual risk with his future employment, as putting himself on public record in an employment lawsuit has been proven to affect employees' prospects for future employment.

44. Plaintiff created the opportunity for Class Members to participate in a settlement that reimburses them for wage violations they may have never known about on their own or been willing to pursue on their own. If Class Members had each tried to pursue their legal remedies on their own, such would have resulted in each expending significant monetary resources and time, which were obviated by Plaintiff putting himself on the line on behalf of the other Class Members.

45. This Action would not have been possible without the aid of Plaintiff, who put significant time and effort into this litigation and placed himself at risk for the sake of the Class. The requested enhancement award for Plaintiff's service as Class Representative is a relatively small amount of money considering the time and effort he put into the litigation, in comparison to enhancements granted in other class actions, and in light of the significant benefits generated for the Class. The requested Class Representative Service Payment is, therefore, fair and reasonable.

Executed on August 15, 2025 at Los Angeles, California.

Kane Moon, Esq.

EXHIBIT 1

MOON LAW GROUP, PC
ATTORNEYS AT LAW
WWW.MOONLAWGROUP.COM

725 S. FIGUEROA STREET., SUITE 3100
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 232-3128
FACSIMILE: (213) 232-3125

Kane Moon, Esq.
kmoon@moonlawgroup.com

August 31, 2024

VIA ONLINE SUBMISSION
Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

VIA CERTIFIED MAIL
Sierra Pacific Engineering and Products, Inc.
c/o Registered Agents, Ltd.
1013 Centre Road, Suite 403-A
Wilmington, DE 19805

Notice of Labor Code Violations and PAGA Penalties

Re: ***Scott D. Onken v. Sierra Pacific Engineering and Products, Inc.***

To Whom It May Concern:

Please be advised that my office has been retained by Scott D. Onken ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Sierra Pacific Engineering and Products, Inc. ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of Plaintiff as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendantis subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

MOON LAW GROUP
EMPLOYMENT LAWYERS
725 S. Figueroa St, 31st Floor Los Angeles, CA 90017

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Sierra Pacific Engineering and Products, Inc.
c/o Registered Agents, Ltd.
1013 Centre Rd., Ste 403-A
Wilmington, DE 19805

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Sierra Pacific Engineering and Products, Inc.
c/o Registered Agents, Ltd.
1013 Centre Rd, Ste 403-A
Wilmington, DE 19805

9590 9402 8546 3186 4836 06

2. Article Number *(Transfer from service label)*
9589 0710 5270 1315 2413 76

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by *(Printed Name)*
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
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☐ Adult Signature Restricted Delivery $
Postage
$
Total Postage and Fees
$

Postmark
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Sent To
Sierra Pacific Engineering and Products, Inc.
Street and Apt. No., or PO Box No.
1013 Centre Rd., Ste 403-A
City, State, ZIP+4®
Wilmington, DE 19805

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

EXHIBIT 2

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Allen Feghali (SBN 301080)
Jacquelyne VanEmmerik (SBN 399388)
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Attorneys for Defendant, *S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SCOTT D. ONKEN, individually, and on behalf of all others similarly situated, *Plaintiff*, vs. SIERRA PACIFIC ENGINEERING AND PRODUCTS, INC.; and DOES 1 through 10, inclusive, *Defendants*.	Case No.: 24STCV22888 **JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT** Complaint Filed: September 5, 2024

This Joint Stipulation of Class and Representative Action Settlement Agreement ("Settlement Agreement" "Settlement" or "Agreement") is made by and between Plaintiff Scott D. Onken ("Plaintiff") and Defendant S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc. ("Defendant") (Plaintiff and Defendant collectively, the "Parties," and individually "Party").

1. <u>DEFINITIONS.</u>

1.1. "Action" means *Onken, Scott D. v. Sierra Pacific Engineering and Products, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 24STCV22888.

1.2. "Administrator" means Apex Class Action, LLC, the neutral entity the Parties have designated to administer the Settlement.

1.3. "Administration Expenses Payment" means the court-approved amount allocated to the Administrator for reimbursement of its reasonable fees and expenses incurred to administer the Settlement, not to exceed $7,000.00.

1.4. "Aggrieved Employees" means all current and former non-exempt employees of Defendant in the State of California from August 31, 2023, to June 7, 2025.

1.5. "Class" means all current and former non-exempt employees of Defendant in the State of California from September 5, 2020, to June 7, 2025.

1.6. "Class Counsel" means Kane Moon, Allen Feghali, and Jacquelyne VanEmmerik of Moon Law Group, P.C.

1.7. "Class Counsel Fees Payment" means the court-approved amount allocated to Class Counsel for reimbursement of their reasonable fees incurred to prosecute the Action, not to exceed one-third of the Gross Settlement Amount.

1.8. "Class Counsel Expenses Payment" means the court-approved amount allocated to Class Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action, not to exceed $15,000.00.

1.9. "Class Data" or "Class List" means Class Member identifying information in Defendant's possession, including the Class Member's name, last-known mailing address, last known telephone number, Social Security number, start and end dates of active employment as a non-exempt employee of Defendant in the State of California, total number of Workweeks and/or PAGA Pay Periods, and any other information required by the Administrator to effectuate this Agreement.

1.10. "Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member, including a Non-Participating Class Member who qualifies as an Aggrieved Employee.

1.11. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods, and means, including, but not limited to, the National Change of Address database, skip tracing, and direct contact by the Administrator with Class Members.

1.12. "Class Notice" means the court-approved Notice of Class and Representative Action Settlement and Final Approval Hearing to be mailed to Class Members in English and Spanish, substantially in the form attached to this Agreement as **Exhibit A** and incorporated by reference into this Agreement.

1.13. "Class Period" means the period from September 5, 2020, to June 7, 2025.

1.14. "Class Representative" means the named Plaintiff in the Action, Scott D. Onken.

1.15. "Class Representative Service Payment" means the court-approved payment allocated to the Class Representative for his services in support of the Action and General Release, not to exceed $7,500.00.

1.16. "Court" means the Superior Court of the State of California, County of Los Angeles.

1.17. "Defendant" means the named Defendant in the Action, S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc.

1.18. "Defense Counsel" means Deborah H. Petito of Offit Kurman, P.C.

1.19. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Final Approval Order; and (b) the Judgment is final. The Judgment is final on the latest of the following occurrences: (a) if no Participating Class Member timely objects to the Settlement, the day the Court enters the Judgment; (b) if one or more Participating Class Members object(s) to the Settlement and does not withdraw his or her objection, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.20. "Final Approval Order" means the Court's Order Granting Final Approval of the Settlement.

1.21. "Final Approval Hearing" means the Hearing on Plaintiff's Motion for Final Approval of the Settlement.

1.22. "Final Judgment" means the Judgment entered by the Court upon granting Final Approval of the Settlement.

1.23. "Gross Settlement Amount" means $440,000.00, the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 7 below. The Gross Settlement Amount will pay the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment.

1.24. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount, calculated according to the number of Workweeks he or she worked during the Class Period.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 35% of the PAGA Penalties allocated pursuant to California Labor Code ("Labor Code") section 2699(m) and calculated according to the number of PAGA Pay Periods he or she worked during the PAGA Period.

1.27. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699(m).

1.28. "LWDA PAGA Payment" means the LWDA's 65% share of the PAGA Penalties, allocated pursuant to Labor Code section 2699(m).

1.29. "Net Settlement Amount" means the Gross Settlement Amount less the following court-approved payments: Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.30. "Non-Participating Class Member" means a Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.31. "Objection" means a Class Member's written or verbal objection to a term of, or the terms of, Settlement.

1.32. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.33. "PAGA Period" means the period from August 31, 2023, to June 7, 2025.

1.34. "PAGA" means the Private Attorneys General Act, Labor Code sections 2698, *et seq*.

1.35. "PAGA Notice" means Plaintiff's August 31, 2024 letter to the LWDA providing written notice pursuant to Labor Code section 2699.3(a).

1.36. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount in settlement of the Released PAGA claims, not to exceed $20,000.00.

1.37. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion.

1.38. "Plaintiff" means the named Plaintiff in the Action, Scott D. Onken.

1.39. "Preliminary Approval Order" means the Court's Order Granting Preliminary Approval of the Settlement.

1.40. "Released Class Claims" means the claims released as described in Paragraph 5.2.

1.41. "Released PAGA Claims" means the claims released as described in Paragraph 5.3.

1.42. "Released Parties" means Defendant and all of its present and former members, parent companies, subsidiaries, affiliates, joint venturers, and licensees, and all of their shareholders, officers, directors, employees, agents, affiliates, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting under them.

1.43. “Request for Exclusion” means a Class Member’s written request to be excluded from the Settlement.

1.44. "Response Deadline" means forty-five (45) calendar days from the date the Administrator mails the Class Notice to the Class and the last date on which Class Members may: (a) mail a Request for Exclusion from the Settlement; or (b) mail an Objection to the Settlement. Class Members to whom a Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional ten (10) calendar days beyond the Response Deadline to timely mail a Request for Exclusion or Objection. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant.

1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.46. “Workweek” means any week in which a Class Member worked for Defendant for at least one day during the Class Period.

2. RECITALS.

2.0. On August 31, 2024, Plaintiff submitted to the LWDA, and sent via certified mail to Defendant, a Notice of Labor Code Violations pursuant to Labor Code section 2699.3(a).

2.1. On September 5, 2024, Plaintiff filed a Class Action Complaint against Defendant, which alleged eight individual and class causes of action for violations of the Labor Code and California Business and Professions Code.

2.2. On January 2, 2025, Plaintiff filed a First Amended Class and Representative Action Complaint against Defendant, which alleged a ninth individual and representative cause of action for violation of the Private Attorneys General Act of 2004, *as modified*.

2.3. On April 23, 2025, the Parties attempted to resolve the Action through private mediation with experienced wage-and-hour class and representative action mediator, Michael Ludwig, Esq. A settlement in principle was reached the same day.

2.4. Before mediation, Plaintiff obtained through informal discovery, in addition to other data and documents, a 25% sample of the time and corresponding payroll records of the Class and the employee handbook and policies in effect during the Class Period. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. <u>MONETARY TERMS.</u>

3.0. <u>Gross Settlement Amount</u>. Except as otherwise provided by Paragraph 7 below, Defendant will pay $440,000.00 as the Gross Settlement Amount and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments, which shall be paid separately. Defendant has no obligation to pay the Gross Settlement Amount or any payroll taxes before the deadline stated in Paragraph 4.0 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.1. <u>Payments from the Gross Settlement Amount</u>. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval Order:

3.1.1. <u>To Plaintiff</u>: A Class Representative Service Payment to the Class Representative of not more than $7,500.00, in addition to the Individual Class Payment and Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and Aggrieved Employee. Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. Plaintiff and/or Class Counsel will file a

Motion supporting the Class Representative Service Payment no later than sixteen (16) court days before the Final Approval Hearing. If the Court approves of a Class Representative Service Payment that is less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on this payment and shall hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of the payment. Defendant makes no representations as to the tax treatment or legal effect of the payment called for herein, and Plaintiff is not relying on any statement or representation by Defendant or its counsel in this regard. If the Court reduces the Class Representative Service Payment, this Agreement remains in full force and effect.

3.1.2. To Class Counsel: A Class Counsel Fees Payment not to exceed one-third of the Gross Settlement Amount, or $146,666.67, whichever is greater, and a Class Counsel Expenses Payment not to exceed $15,000.00. Defendant will not oppose Plaintiff's request for Class Counsel Fees and Class Counsel Expenses Payments that do not exceed these amounts. Plaintiff and/or Class Counsel will file a Motion supporting the Class Counsel Fees and Class Counsel Expenses Payments no later than sixteen (16) court days before the Final Approval Hearing. If the Court approves of Class Counsel Fees and/or Class Counsel Expenses Payments that are less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee and/or Class Counsel Expenses Payments. The Administrator will pay the Class Counsel Fees and Class Counsel Expenses Payments using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class

Counsel Fees and Class Counsel Expenses Payments. Class Counsel will hold Defendant harmless, and indemnify Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. If the Court reduces the Class Counsel Fees Payment or the Class Counsel Expenses Payment, this Agreement remains in full force and effect.

3.1.3. To the Administrator: An Administration Expenses Payment of not more than $7,000.00, except for a showing of good cause and as approved by the Court. Plaintiff and/or Class Counsel will file a Motion supporting the Administration Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves of an Administration Expenses Payment that is less than the amount requested, or if the Administration Expense Payment is less than the amount allocated under this Agreement, the Administrator will allocate the remainder to the Net Settlement Amount. To the extent the actual Administration Expenses Payment is greater than $7,000.00, such excess amount will be taken from the Gross Settlement Amount, subject to the Court's approval. If the Court reduces the Administration Expenses Payment, this Agreement remains in full force and effect.

3.1.3.1. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Non-Participating Class Members will not receive an Individual Class Payment. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.1.3.2. Tax Allocation of Individual Class Payments: Twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to the settlement of claims for wages (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to the settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for employee taxes owed on their Individual Class Payment.

3.1.4. <u>To the LWDA and Aggrieved Employees:</u> PAGA Penalties of not more than $20,000.00 to be paid from the Gross Settlement Amount, with sixty-five percent (65%) (i.e., $13,000.00) allocated to the LWDA PAGA Payment and thirty-five percent (35%) (i.e., $7,000.00) allocated to the Individual PAGA Payments. If the Court approves PAGA Penalties less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. If the Court increases the PAGA Penalties Payment, this Agreement remains in full force and effect.

3.1.4.1. <u>To Each Aggrieved Employee:</u> An Individual PAGA Payment calculated by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods.

3.1.4.2. <u>Tax Allocation of Individual PAGA Payments</u>: One hundred percent (100%) of each Individual PAGA Payment will be allocated as penalties. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.0. Funding of Gross Settlement Amount. The Gross Settlement Amount and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments shall be fully funded by transmission of such funds to the Administrator within thirty (30) calendar days of the Effective Date.

4.1. Payments from the Gross Settlement Amount. No later than fourteen (14) calendar days after Defendant funds the entire Gross Settlement Amount, the Administrator shall mail checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment. Disbursement of the Class Counsel Fees Payment, Class Counsel Expenses Payment, and Class Representative Service Payment shall not precede disbursement of the Individual Class Payments and Individual PAGA Payments.

4.1.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail with postage prepaid. Before mailing any checks, the Administrator must update the recipient's mailing addresses using the National Change of Address Database. The face of each check shall prominently state the date the check will be voided. Each check will be voided 180 days after the date of mailing ("void date"). The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members, including those for whom a Class Notice was returned undelivered. The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees and those for whom a Class Notice was returned undelivered. The Administrator may send Participating Class Members a single check combining the Individual Class Payment and Individual PAGA Payment.

4.1.2. No later than fourteen (14) calendar days after receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search for Class Members whose checks are returned undelivered without a USPS forwarding address. Thereafter, the Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. However, the Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced and who requests the replacement before the void date.

4.1.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, or for any Class Member whose envelope is returned and no forwarding address can be located for the Class Member after reasonable efforts have been made, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure section 384(b).

4.1.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members, such as 401(k) contributions or bonuses, beyond those specified in this Agreement. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

5. <u>RELEASES OF CLAIMS</u>. Effective on the date Defendant fully funds the entire Gross Settlement Amount and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments, Plaintiff, Participating Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

5.0. <u>Plaintiff's Release</u>. Plaintiff and his representatives, agents, attorneys, heirs, administrators, successor and assigns fully and finally releases and discharges the Released Parties from any and all charges, complaints, claims, and liabilities of any kind or nature whatsoever, known or unknown, suspected or unsuspected ("claim(s)") which Plaintiff at any time heretofore had or claimed to have or which Plaintiff may have or shall in the future claim to have, including, without limitation, any and all claims related or in any manner incidental to Plaintiff 's employment. Plaintiff understands that he is releasing potentially unknown claims, and that Plaintiff may have limited knowledge with respect to some of the claims being released. Plaintiff acknowledges that there is a risk that, after signing this agreement, Plaintiff may learn information that might have affected Plaintiff's decision to enter into this agreement. Plaintiff assumes this risk and all other risks of any mistake in entering into this agreement. Plaintiff agrees that this Agreement is fairly and knowingly made. Plaintiff represents and warrants that Plaintiff has all necessary authority to enter into this agreement (including, if Plaintiff is married, on behalf of Plaintiff's marital community) and that Plaintiff has not transferred any interest in any claims to any spouse or to any other third party.

5.0.1. The Parties understand the word "claim(s)" to include (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Action, (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Action, Plaintiff's PAGA Notice, or ascertained during the Action, and (c) all actions, complaints, claims, and grievances, whether actual or potential, known or unknown, and specifically but not exclusively, all claims arising out of Plaintiff's employment including, but not limited to, any and all claims under the California Fair Employment and Housing Act, the Age Discrimination in Employment Act, Title VII or any other statute, rule or regulation relating to Plaintiff's employment with Defendant and under which Plaintiff has made a claim or could make a claim against Defendant. All such claims (including related attorneys' fees and costs) are forever barred by this Agreement, without regard to whether those claims are based on any alleged breach of a duty arising in contract or tort; any alleged unlawful act; any other claim or cause of action; and regardless of the forum in which it might be brought, including, but not limited to any claim of personal injury or tort, wrongful termination, violation of public policy, violations of the California Labor Code including, but not limited to, Labor Code sections 1102.5, 204, 510, 558, 1198; or claims for breach of contract or breach of the implied covenant of good faith and fair dealing, claims for harassment, discrimination, retaliation, or any other violation of any local, state or federal law (collectively, "Plaintiff's Released Claims").

5.0.2. Plaintiff's Released Claims shall not waive: (i) claims for unemployment or workers' compensation benefits; (ii) any vested rights Plaintiff has under ERISA-covered benefit plans as applicable on the date Plaintiff signs this Agreement, including, but not limited to, the Sierra Pacific Engineering and Products Employee Stock Ownership Plan, and/or claims concerning such rights; (iii) claims that may arise after Plaintiff signs this Agreement; or (iv) claims which cannot be released by private agreement. In addition, nothing in this Agreement, including, but not limited to, the release of claims, cooperation, non-disparagement, covenant not to sue, acknowledgements and representations, shall be construed to prevent the disclosure of factual information related to any acts of sexual assault, sexual harassment, workplace harassment, or discrimination based on sex, failure to prevent an act of workplace harassment or discrimination based on sex, or act of retaliation against a person for reporting harassment or discrimination related to the Action or waives Plaintiff's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of Defendant, or on the part of the agents or employees of Defendant, when Plaintiff has been required or requested to attend such a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature, or shall prevent Plaintiff from filing a charge or complaint with or from participating in an investigation or proceeding conducted by the EEOC, NLRB, or any other any federal, state or local agency charged with the enforcement of any laws, or from exercising rights under Section 7 of the NLRA to engage in joint activity with other employees, although by signing this release, Plaintiff is waiving rights to individual relief based on claims asserted in such a charge or complaint, or asserted by any third-party on Plaintiff's behalf, except where such a waiver of individual relief is prohibited.

5.0.3. Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the Civil code, which reads as follows:

> A general release does not extend to claims that the creditor or releasing party does not now or suspect to exist in his or her fact 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.

5.1. Release by Participating Class Members: All Participating Class Members, including Plaintiff, fully and finally release and discharge the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, and actions or causes of action of whatever kind or nature, contingent or accrued, that were alleged or that reasonably could have been alleged based on the facts alleged in the Action and/or that accrued in or are related to the allegations in the Action, under federal, state and/or local law. This release includes, without limitation, a release of all claims alleged in the Action and under state law for alleged failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to pay all unpaid wages at termination, failure to provide accurate itemized wage statements, any violations of California Business and Professions Code §§ 17200, *et seq*., any statutory penalties based on the foregoing (collectively, the "Released Class Claims").

5.1.1. The Participating Class Members' Release excludes the release of claims not permitted by law and is limited to claims arising during the Class Period.

5.2. Release by Aggrieved Employees: All Aggrieved Employees, including Plaintiff, fully and finally release and discharge the Released Parties from any and all claims for the recovery of civil penalties and attorneys' fees and costs permissible under PAGA which the Aggrieved Employees had, or may claim to have, against the Released Parties, arising out of the violations alleged in the First Amended Class and Representative Action Complaint or the PAGA Notice, including, but not limited to, failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to pay all unpaid wages at termination, and failure to provide accurate itemized wage statements (collectively, the "Released PAGA Claims").

5.2.1. The Aggrieved Employees' Release is limited to claims arising during the PAGA Period. In light of the binding nature of a PAGA judgment on non-party employees under *Arias v. Sup. Ct.* (*Angelo Dairy*) (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of an Aggrieved Employee who are eligible to receive an Individual PAGA Payment shall be deemed to have released the Released PAGA Claims, regardless of whether his or her check for the Individual PAGA Payment is cashed or not. Aggrieved Employees cannot opt out of the PAGA Payment.

6. <u>SETTLEMENT ADMINISTRATION.</u>

6.0. Selection of Administrator. The Parties have jointly selected APEX Class Action, LLC to serve as the Administrator and verified that, as a condition of appointment, APEX Class Action, LLC, agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

6.1. Class Data. No later than fourteen (14) calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of the Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under the Settlement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

6.2. Notice of Receipt of Class Data. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

6.3. Notice to Class Members. No later than fourteen (14) calendar days after receiving the Class Data from Defendant, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice in English and Spanish, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payments payable to the Class Member and/or Aggrieved Employee, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

6.4. Remailing of Class Notice. No later than three (3) business days after its receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by USPS. If USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send the Class Notice to Class Members whose Class Notice is returned by USPS a second time.

6.4.1. The deadlines for Class Members' Objections, Challenges to Calculation of Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional ten (10) calendar days beyond the forty-five (45) calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

6.4.2. If the Administrator, Defendant, Defense Counsel, or Class Counsel are contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, to agree on whether to include them as Class Members. If the Parties agree, such person(s) will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement no later than fourteen (14) calendar days after receipt of the Class Notice, or the deadline in the Class Notice, whichever is later.

6.5. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review Requests for Exclusion on a rolling basis to ascertain their validity and timeliness. No later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have submitted valid and timely Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion submitted, whether valid or invalid.

6.6. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that tally the number of Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion received (whether valid or invalid), Objections received, Challenges to Workweeks, and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must attach copies of all Requests for Exclusion and objections received.

6.7. Administrator's Declaration. No later than seven (7) business days after the Response Deadline, the Administrator will provide to Class Counsel and Defense Counsel a signed declaration suitable for filing in Court attesting to (i) its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, (ii) the total number of Class Notices returned as undelivered, (iii) the total number of re-mailed Class Notices, (iv) its attempts to locate Class Members, (v) the total number of Requests for Exclusion received (valid or invalid), (vi) the total number of Objections received (valid or invalid), (vii) the total number of Participating Class Members and Workweeks, (viii) the total number of Aggrieved Employees and PAGA Pay Periods, and (ix) the lowest, average, and highest Individual Class Payment and Individual PAGA Payment. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

6.8. Final Report by Settlement Administrator. No later than fourteen (14) calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with (i) a final report detailing its disbursements by employee identification number only of all payments made under this

Agreement, and (ii) a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

6.9. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

6.10. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.

6.11. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time, and location of the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval, Class Notice, Motion for Final Approval, and Final Approval and Judgment. The Administrator will also maintain and monitor an email address and toll-free telephone number to receive Class Member calls, faxes, and emails.

6.12. Class Members' Options.

6.12.1. Requests for Exclusion (Opt-Outs). Each Class Member shall have forty-five (45) calendar days after the Administrator mails the Class Notice (plus an additional ten (10) calendar days for Class Members whose Class Notice is re-mailed) to exclude themselves from the Settlement. A Class Member may exclude himself or herself from the Settlement by sending a Request for Exclusion to the Administrator. The Request for Exclusion must be valid and timely. To be valid, the Request for Exclusion must (1) include the Class Member's full name, address, telephone number, and signature, and a written statement requesting to be excluded from the Settlement; (2) state the case name and number of the Action; and (3) be mailed to the specified physical address of the Administrator. To be timely, the Request for Exclusion must be postmarked no later than the Response Deadline. The postmark date will be the exclusive means of determining whether a Request for Exclusion has been timely submitted. A Class Member who does not submit a valid and timely Request for Exclusion will be deemed a Participating Class Member and will be bound by all terms of the Settlement if it is granted Final Approval. If a Class Member's Request for Exclusion is timely, but defective as to the requirements listed herein, that Class Member will be allowed to cure the defect(s). The Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until the later of (a) the Response Deadline or (b) ten (10) calendar days from the date of the cure letter, whichever date is later, to postmark the revised Request for Exclusion. The Administrator, Class Counsel, and Defense Counsel have the authority to attempt to resolve any Class Member disputes on the validity or timeliness of a Request for Exclusion. However, the Court has the authority to make final decisions consistent with the terms of this Agreement on the validity or timeliness of a Request for Exclusion. The Court's decision shall be final and not appealable or otherwise susceptible to challenge.

6.12.1.1. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

6.12.1.2. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

6.12.2. Challenges to Calculation of Workweeks. Each Class Member shall have forty five (45) calendar days after the Administrator mails the Class Notice (plus an additional ten (10) calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and/or PAGA Pay Periods allocated to the Class Member and/or Aggrieved Employee in the Class Notice. A Class Member and/or Aggrieved Employee may challenge the allocation by sending a Challenge to Calculation of Workweeks and/or Pay Periods to the Administrator. The Challenge to Calculation of Workweeks and/or Pay Periods must be timely. To be timely, the Challenge to Calculation of Workweeks and/or Pay Periods must be postmarked no later than the Response Deadline. The postmark date will be the exclusive means of determining whether a Challenge to Calculation of Workweeks and/or Pay Periods has been timely submitted. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator shall promptly provide copies of all Challenges to Calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel. The Administrator, Class Counsel, and Defense Counsel have the authority to attempt to resolve all Class Member challenges over the calculation of Workweeks and/or

Pay Periods. However, the Court has the authority to make final decisions consistent with the terms of this Agreement on all Challenges to Calculation of Workweeks and/or Pay Periods. The Court's decision shall be final and not appealable or otherwise susceptible to challenge. All such challenges are to be resolved no later than ten (10) calendar days after the Response Deadline.

6.12.3. Objections to Settlement. Each Participating Class Members shall have forty-five (45) calendar days after the Administrator mails the Class Notice (plus an additional ten (10) calendar days for Class Members whose Class Notice is re-mailed) to object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment. Only Participating Class Members may send written Objections to the Administrator. A Participating Class Member may object to the Settlement by (1) appearing at the Final Approval Hearing and verbally objecting to the Settlement or any term thereof; and/or (2) sending a written Objection to the Administrator. The written Objection must be valid and timely. To be valid, the written Objection must (1) include the Class Member's full name, address, telephone number, and signature, the contact information for any attorney representing the objecting Class Member, if any, and the factual and legal bases for the Objection, including any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; (2) state the case name and number of the Action; and (3) be mailed to the specified physical address of the Administrator. To be timely, the written Objection must be postmarked no later than the Response Deadline. The postmark date will be the exclusive means of determining whether a written Objection has been timely submitted. The Administrator, Class Counsel, and Defense Counsel have the authority to attempt to resolve any Class Member disputes on the validity or timeliness of a written Objection. However, the Court has the authority to make final decisions consistent with the terms of this Agreement on the validity or timeliness of a written Objection. The Court's decision shall be final and not appealable or otherwise susceptible to challenge.

7. <u>ESCALATOR CLAUSE</u>

7.0. It is estimated that there are 11,708 Workweeks during the Class Period and 2,086 PAGA Pay Periods in the PAGA Period. If the actual number of Workweeks during the Class Period exceeds 11,708 by more than 10%, Defendant shall have the option of (a) increasing the Gross Settlement Amount by the percentage increase in the number of Workweeks worked by the Class Members above ten percent 10% (e.g. if the number of Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%); or (b) rolling back the Class and PAGA Periods to the date in which 11,708 Workweeks is met. Defendant shall be prepared to inform the Court of its selection at the Preliminary Approval Hearing. If Defendant exercises option (b), it shall also be prepared to inform the Court of the Class Period end date at the Preliminary Approval Hearing.

8. <u>DEFENDANT'S RIGHT TO WITHDRAW.</u>

8.0. If the number of valid and timely Requests for Exclusion exceeds fifteen percent (15%) of the total of all *terminated* Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. If Defendant elects to withdraw from the Settlement, Defendant must meet and confer with Class Counsel no later than fourteen (14) calendar days after expiration of the Response Deadline, and Defendant will be responsible for paying all settlement administration expenses incurred to that point. Further, the Settlement shall be void ab initio, have no force or effect whatsoever, and neither Party will have any further obligation to perform under this Agreement, except as provided in this Paragraph.

9. <u>FINAL APPROVAL.</u>

9.0. <u>Motion for Final Approval</u>. No later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file a Motion for Final Approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(s)(2) and a [Proposed] Final Approval Order and Judgment.

9.1. Response to Objections. Each Party retains the right to respond to any Objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days before the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement, including, but not limited to, the scope of release to be granted by Class Members, the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and/or Administration Expenses Payment shall not constitute a material term, condition, or modification to the Agreement within the meaning of this paragraph.

9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of the Final Judgment, the Court will retain jurisdiction over the Parties, Action, and Settlement solely for purposes of (i) enforcing the Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Expenses Payment reflected set forth in this Agreement, the Parties, their respective counsel, and all Participating Class Members waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional administration expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

9.6. Failure to Approve. If the Court does not approve, either preliminarily or finally, any material term or condition of the Settlement Agreement, or if the Court effects a material change, then this Agreement will be voidable and unenforceable, subject to the Parties' agreement to the contrary, and the costs of administration shall be split equally between the Plaintiff, on one side, and Defendant, on the other.

10. AMENDED JUDGMENT.

10.0. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

11. ADDITIONAL PROVISIONS.

11.0. Entire Agreement. This Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms.

11.1. No Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law. If Final Approval does not occur, the Parties agree that this Agreement is void but remains protected by California Evidence Code section 1152.

11.2. Class Certification or Representative Manageability for Other Purposes. The Parties agree to stipulate to class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reason, Defendant reserves all available defenses to the claims in the Action, Plaintiff reserves the right to move for class certification on any grounds available, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on and will not be admissible in connection with any litigation, except for proceedings to enforce or effectuate the Settlement and this Agreement.

11.3. No Press Releases/Advertisements. Neither Plaintiff nor Plaintiff's Counsel shall issue any press release or announcement of any kind related in any way to the Settlement. Plaintiff and Class Counsel agree to limit their statements regarding the terms of the

Settlement, whether oral, written, or electronic (including the world wide web), to say the Class Action has been resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to: (1) as required by law; (2) as required under the terms of the Settlement; and/or (3) as required under counsel's duties and responsibilities as Class Counsel. This Settlement shall not be advertised or mentioned on any source, including Plaintiff's Counsel's personal or firm website.

11.4. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Agreement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

11.5. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

11.6. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

11.7. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

11.8. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

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

11.10. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.11. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.12. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11.13. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

11.14. Agreement Binding on Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of each of the Parties.

11.15. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

11.16. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.17. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11.18. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. No later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

11.19. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

11.20. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

11.21. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.22. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, intend that this Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law. Plaintiff, and not his representative(s), must personally execute this Agreement. An authorized officer of Defendant must execute this Agreement on behalf of Defendant. This Agreement shall become binding and enforceable pursuant to California Code of Civil Procedure section 664.6.

11.23. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Signatures on the following page.

Plaintiff & Class Representative:

Signed by:
Scott D. Onken
A21A00716ECE4C6...

Dated: 8/7/2025 , 2025

By: ______________________________
Plaintiff, Scott D. Onken

Plaintiff's Counsel:

Dated: August 07 , 2025

MOON LAW GROUP, P.C.

By: ______________________________
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorney for Plaintiff, Scott D. Onken

Defendant:

Dated: August 11 , 2025

On behalf of Defendant, S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc.

By: Barry Stein
Print Name

____
Signature

Chief Executive Officer/President
Title

Defendant's Counsel:

Dated: August 8, 2025

OFFIT KURMAN, P.C.

By: ______________________________
Deborah H. Petito
Attorney for Defendant, S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc.

4933-3781-4362, v. 1

EXHIBIT 2A

NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

PLEASE READ THIS NOTICE

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement or solicitation by a lawyer. You are not being sued.

In the class and representative action entitled *Onken, Scott D. v. Sierra Pacific Engineering and Products, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 24STCV22888 ("Action"), Plaintiff Scott D. Onken ("Plaintiff") alleges Defendant S.P.E.P. Acquisition Corp. dba Sierra Pacific Engineering and Products, Inc. ("Defendant") failed to properly compensate Class Members (defined below) for all hours worked, failed to pay minimum wage, failed to pay overtime compensation, failed to provide Class Members with compliant meal periods or compensation in lieu thereof, failed to provide Class Members with compliant rest breaks or compensation in lieu thereof, failed to reimburse Class Members for necessary business expenses, failed to provide Class Members with accurate itemized wage statements, failed to timely pay Class Members all wages owed during employment and/or upon termination, failed to maintain accurate payroll records, violated California Business and Professions Code sections 17200, *et seq.*, and/or owes civil penalties to the Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees (defined below) under the Private Attorneys General Act, California Labor Code sections 2699, *et seq.* ("PAGA").

Defendant denies these allegations and maintains it fully complied with all applicable laws, compensated Class Members for all wages during employment and after termination, including minimum wages and overtime, provided and compensated Class Members for all meal periods and rest breaks, reimbursed Class Members for all necessary business expenses, provided Class Members with accurate wage statements, maintained accurate payroll records, did not violate California Business and Professions Code sections 17200, *et seq*. and Defendant does not owe any penalties under PAGA. Defendant denies any liability or wrongdoing of any kind. Defendant contends, among other things, that it complied at all times with the California Labor Code, all Industrial Welfare Commission Wage Orders, the California Business and Professions Code, and all applicable law. However, in the interest of avoiding further litigation and the costs and uncertainties associated with further litigation, Plaintiff and Defendant have reached a Joint Stipulation of Class and Representative Action Settlement Agreement ("Settlement"), which has been preliminarily approved by the Court. By agreeing to the Settlement, Defendant in no way admits any violation of law and expressly denies any liability to Plaintiff or others.

You are subject to the terms of the Settlement because you have been identified by Defendant's records as a Class Member and/or Aggrieved Employee. "Class Members" means all current and former non-exempt employees of Defendant in the State of California from September 5, 2020, to June 7, 2025 ("Class Period"). "Aggrieved Employees" means all current and former non-exempt employees of Defendant in the State of California from August 31, 2023, to June 7, 2025 ("PAGA Period").

YOUR LEGAL RIGHTS AND OPTIONS WITH RESPECT TO THE SETTLEMENT	
Participate in the Settlement	If you want to participate in the Settlement, remain in the Class, and receive your Individual Class Payment and Individual PAGA Payment, **then you do not need to do anything.**
Object to the Settlement	If you want to object to the terms of the Settlement but remain in the Class, **then you need to follow the instructions in Section 7.** If you object to the Settlement, you will still be bound by the terms of the Settlement if it is approved by the Court.

Exclude Yourself From the Settlement	If you do not want to participate in the Settlement or remain in the Class, **<u>then you need to follow the instructions in Section 6.</u>** If you exclude yourself from the Settlement, you will not receive your Individual Class Payment, and you will not release the Released Class Claims against the Released Parties (defined in Section 4, below). However, if the Settlement is approved by the Court and you are an Aggrieved Employee, you will receive your Individual PAGA Payment, and you will release the Released PAGA Claims, even if you exclude yourself from the Settlement.

1. WHY DID I GET THIS NOTICE?

You have received this Notice because Defendant's records reflect that you are a Class Member and/or Aggrieved Employee (defined above). Because the Settlement, which has been preliminarily approved by the Court, affects Class Members' and Aggrieved Employees' legal rights, the Court ordered that this Notice be sent to you. This Notice provides you with information about (1) the Action, (2) the monetary terms of the Settlement, (3) your estimated Individual Class Payment, provided you are a "Participating Class Member" (i.e., a Class Member who does not request to be excluded from the Settlement), (4) your estimated Individual PAGA Payment, (5) the terms of the Settlement, including the claims that are being released, (6) how to participate in, object to, or exclude yourself from the Settlement, and (7) where to find additional information regarding the Action and Settlement.

2. WHAT IS THIS CASE ABOUT?

Plaintiff claims Defendant violated the California Labor Code, all Industrial Welfare Commission Wage Orders, and the California Business and Professions Code, and that he is therefore entitled to seek penalties under PAGA for alleged violations of the California Labor Code. Specifically, Plaintiff alleges Defendant: (1) failed to pay Class Members minimum wages for all hours worked; (2) failed to pay Class Members overtime compensation; (3) failed to provide Class Members compliant meal periods or compensation in lieu thereof; (4) failed to provide Class Members compliant rest breaks or compensation in lieu thereof; (5) failed to indemnify Class Members for necessary business expenses; (6) failed to timely pay Class Members all compensation due upon termination or resignation; (7) failed to provide Class Members accurate itemized wage statements; (8) engaged in unfair competition in violation of California Business and Professions Code sections 17200, *et seq*.; and/or (9) owes civil penalties under PAGA.

Defendant denies these allegations and maintains it fully complied with all applicable laws, provided and compensated Class Members for all meal periods and rest breaks, compensated Class Members for all wages during employment and after termination, reimbursed Class Members for all necessary business expenses, provided Class Members with accurate wage statements, maintained accurate payroll records, did not violate California Business and Professions Code sections 17200, *et seq*. and owes no penalties under PAGA. Defendant denies any liability or wrongdoing of any kind. Defendant contends, among other things, that it complied at all times with the California Labor Code, all Industrial Welfare Commission Wage Orders, the California Business and Professions Code, and all applicable law.

The Court has not ruled on the merits of the claims alleged by Plaintiff. By preliminarily approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose the Action on the merits. Rather, the Court has determined only that there is sufficient evidence to determine, on a preliminary basis, that the proposed Settlement is fair, adequate, and reasonable and that any final determination of this question will be made at the Final Approval Hearing. Defendant reserves the right, if for any reason the Settlement fails, to contest any factual or legal allegations, including to contest whether the Action should proceed as a class and/or representative action.

3. THE MONETARY TERMS OF THE SETTLEMENT AND CALCULATION OF YOUR INDIVIDUAL CLASS PAYMENT AND INDIVIDUAL PAGA PAYMENT

Without admitting any wrongdoing, and to avoid the business disruptions caused by litigating these claims, Defendant has agreed to pay a Gross Settlement Amount of $440,000.00 to settle the Action. The following amounts will be paid from the Gross Settlement Amount:

- An Administrator Expenses Payment not to exceed $____,000.00. for reimbursement of the Administrator's reasonable fees and expenses;
- A Class Representative Service Payment not to exceed $7,500.00 to the Class Representative for his services in support of the Action and General Release;
- PAGA Penalties in the amount of $20,000.00 allocated to the LWDA and Aggrieved Employees for the payment of civil penalties under PAGA;
- A Class Counsel Expenses Payment not to exceed $15,000.00 to Class Counsel for reimbursement of the reasonable expenses incurred to prosecute the Action; and
- A Class Counsel Fees Payment not to exceed $146,666.67 to Class Counsel for reimbursement of the reasonable fees incurred to prosecute the Action.

Net Settlement Amount: The amount remaining from the Gross Settlement Amount after the above deductions is called the "Net Settlement Amount." The Net Settlement Amount will be allocated to all Participating Class Members and calculated as follows:

1. The Administrator will determine the number of weeks each Participating Class Member was engaged in any productive work activity for Defendant for which they were paid as a non-exempt employee, not including paid time off or leaves of absence, during the Class Period ("Workweeks");
2. The Administrator will determine the value of a single Workweek by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members; and
3. Each Participating Class Member shall receive an Individual Class Payment equal to his or her Workweeks multiplied by the value of a single Workweek.

You have been credited with ___ Workweeks. Based on these Workweeks, your Individual Class Payment, prior to any applicable withholdings, is estimated to be $__________.

Individual PAGA Payment: A total of $20,000.00 of the Gross Settlement Amount has been allocated to PAGA Penalties. Of this amount, 65% (i.e., $13,000.00) will be paid to California's LWDA ("LWDA PAGA Payment"), and 35% (i.e., $7,000.00) ("Individual PAGA Payment") will be paid on a *pro rata* basis to Aggrieved Employees and calculated as follows:

1. The Administrator will determine the number of pay periods each Aggrieved Employee worked for Defendant for at least one day during the PAGA Period ("PAGA Pay Periods");
2. The Administrator will determine the value of a single PAGA Pay Period by dividing the Individual PAGA Payment by the total number of PAGA Pay Periods worked by all Aggrieved Employees; and
3. Each Aggrieved Employee shall receive an Individual PAGA Payment equal to his or her PAGA Pay Periods multiplied by the value of a single PAGA Pay Period.

You have been credited with ___ PAGA Pay Periods. Based on these PAGA Pay Periods, your Individual PAGA Payment is estimated to be $__________.

If you dispute the above information, you may submit a challenge to the number of Workweeks and/or PAGA Pay

Periods allocated to you ("Dispute") to the Administrator. Your Dispute should (1) contain your name, address, and telephone number and the case name and number of the Action (i.e., *Onken, Scott D. v. Sierra Pacific Engineering and Products, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 24STCV22888); (2) clearly state the number of Workweeks and/or PAGA Pay Periods you believe is correct; and (3) attach any documentary evidence you have to prove the number of contended Workweeks and/or PAGA Pay Periods. Your Dispute must be postmarked on or before [Response Deadline] and returned to the Administrator at the address listed below.

[Administrator]
[contact info]

For tax purposes, twenty percent (20%) of each Individual Class Payment will be allocated to wages and subject to all applicable employee state and federal tax withholdings; and eighty (80%) of each Individual Class Payment will be considered penalties, liquidated damages, interest, and any other non-wage related payments. The amount allocated as wages will be reported on an IRS form W-2, and the remaining amount allocated as penalties, liquidated damages, interest and other non-wage payments will be reported on an IRS form 1099. One hundred percent (100%) of each Individual PAGA Payment will be allocated as penalties and reported on an IRS form 1099.

In addition to the Gross Settlement Amount, Defendant will pay all employer-payroll taxes and contributions in connection with the portion of the Settlement allocated towards wages. Class Members are responsible for paying taxes on other amounts received. This Notice is not tax advice, and you should consult your tax advisor. Checks will be valid for one hundred and eighty (180) days. After that, checks will become void, and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within one hundred and eighty (180) days of mailing, or are returned to the Administrator, will be cancelled, and the Administrator shall send the funds associated with uncashed checks to the California Controller's Unclaimed Property Fund in the name of the Class Member. Class Members who do not timely cash their checks should contact the Administrator to determine how they can obtain their payment. **Class Members will be bound by the Settlement even if they do not cash their settlement checks.**

4. WHAT AM I RELEASING AS A CLASS MEMBER UNDER THE SETTLEMENT?

As of the Effective Date and the date Defendant fully funds the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all Class Members who do not opt out of the Settlement (*i.e.*, Participating Class Members), including Plaintiff, will fully and finally release and discharge the Released Parties from the Released Class Claims.

"Released Parties" means Defendant and all of its present and former members, parent companies, subsidiaries, affiliates, joint venturers, and licensees, and all of their shareholders, officers, directors, employees, affiliates, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting under them.

"Released Class Claims" means any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, and actions or causes of action of whatever kind or nature, contingent or accrued, that were alleged or that reasonably could have been alleged based on the facts alleged in the Action and/or that accrued in or are related to the allegations in the Action, under federal, state and/or local law. This release includes, without limitation, a release of all claims alleged in the Action and under state law for alleged failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to pay all unpaid wages at termination, failure to provide accurate itemized wage statements, any violations of California Business and Professions Code §§ 17200, *et seq*., any claims under PAGA, and any claims for penalties based on the foregoing.

5. WHAT AM I RELEASING AS AN AGGRIEVED EMPLOYEE UNDER THE SETTLEMENT?

As of the Effective Date and the date Defendant fully funds the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all Aggrieved Employees, including Plaintiff, will fully and finally release and discharge the Released Parties from the Released PAGA Claims. Released Parties is defined in Section 4 of this Notice, above.

"Released PAGA Claims" means any and all claims for the recovery of civil penalties and attorneys' fees and costs permissible under PAGA which the Aggrieved Employees had, or may claim to have, against the Released Parties, arising out of the violations alleged in the First Amended Class and Representative Action Complaint or the PAGA Notice, including, but not limited to failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to pay all unpaid wages at termination, and failure to provide accurate itemized wage statements.

AGGRIEVED EMPLOYEES CANNOT OPT-OUT OF THE PAGA SETTLEMENT OR THE RELEASE OF RELEASED PAGA CLAIMS, AND THEY WILL RECEIVE AN INDIVIDUAL PAGA PAYMENT EVEN IF THEY OPT-OUT OF THE CLASS SETTLEMENT.

6. WHAT IF I DO NOT WANT TO PARTICIPATE IN THE CLASS SETTLEMENT?

You have the right to request exclusion from the Settlement as a Class Member and with regard to the settlement of Released Class Claims, but you are not able to exclude yourself as an Aggrieved Employee. If you wish to exclude yourself from the release of Released Class Claims, you must mail a written Request for Exclusion to the Administrator at the address listed in Section 3 of this Notice, above. The Request for Exclusion must be valid and timely. To be valid, the Request for Exclusion must (1) include your full name, address, telephone number, and signature, and a written statement requesting to be excluded from the Settlement; (2) state the case name and number of the Action (i.e., *Onken, Scott D. v. Sierra Pacific Engineering and Products, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 24STCV22888); and (3) be mailed to the specified physical address of the Administrator. To be timely, the Request for Exclusion must be postmarked no later than the [Response Deadline]. The postmark date will be the exclusive means of determining whether a Request for Exclusion has been timely submitted. A Request for Exclusion form is attached to this Notice. You may complete and submit this form to exclude yourself from the Settlement. It is your responsibility to ensure the Administrator timely receives your request to be excluded from the Settlement. Unless you timely request to be excluded from the Settlement, you will be bound by the Final Judgment upon Final Approval.

Class Members who request to be excluded from the Settlement will NOT receive their Individual Class Payment and will not release any of the Released Class Claims. However, Class Members who are Aggrieved Employees will receive their Individual PAGA Payment and will release the Released PAGA Claims regardless of whether they submit a Request for Exclusion .

7. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

You have the right to object to the Settlement or to any settlement term as a Participating Class Member. If you wish to object, you may (1) appear at the Final Approval Hearing and verbally object to the Settlement or any term thereof; and/or (2) send a written Objection to the Administrator at the address listed in Section 3 of this Notice, above. The written Objection must be valid and timely. To be valid, the written Objection must (1) include your full name, address, telephone number, and signature, the contact information for any attorney representing the objecting Class Member, if any, and the factual and legal bases for the Objection, including any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; (2) state the case name and number of the Action (i.e., *Onken, Scott D. v. Sierra Pacific Engineering and Products, Inc.*, Superior Court of the State of California, County of Los

Angeles, Case No. 24STCV22888); and (3) be mailed to the specified physical address of the Administrator. To be timely, the written Objection must be postmarked no later than the [Response Deadline]. The postmark date will be the exclusive means of determining whether a written Objection has been timely submitted.

Filing an objection will ***not*** exclude you from the Settlement. If the Court grants Final Approval of the Settlement, you will still receive an Individual Class Payment and you will be barred from pursuing the Released Class Claims. **Do not file both an Objection and Opt-Out Request. You may file one or neither**. If you file neither, then you will be automatically included in the Settlement and do not need to take any further action to receive a payment.

8. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing is scheduled to take place on ____________, at ____ a.m. in the Superior Court of the State of California, County of Los Angeles, Department 15, located at 312 North Spring Street, Los Angeles, California 90012. Participating Class Members may appear in Court (or hire an attorney to appear in Court) to offer comments and/or present verbal objections at the Final Approval Hearing.

9. WHO ARE THE ATTORNEYS?

Attorneys for Plaintiff and the Class are:	Attorneys for Defendant are:
Kane Moon Allen Feghali Jacquelyne VanEmmerik **MOON LAW GROUP, P.C.** 725 South Figueroa Street, 31st Floor Los Angeles, California 90017 Telephone: (213) 232-3128	Deborah H. Petito **OFFIT KURMAN, P.C.** 445 South Figueroa Street, 18th Floor Los Angeles, California 90071 Telephone: (213) 629-5700 Facsimile: (213) 624-9441

The Court has permitted, for purposes of settlement, the Attorneys for Plaintiff and the Class to represent the Participating Class Members. Other than the Class Counsel Fees Payment and Class Counsel Expenses Payment approved by the Court and to be paid out of the Gross Settlement Amount, you will not be charged for their services.

10. SHOULD I GET MY OWN LAWYER?

You do not need to get your own lawyer. If you want your own lawyer to speak for you or appear in Court, you have the right to hire one, but you will have to pay for that lawyer yourself.

11. FURTHER INFORMATION

The foregoing is only a summary of the Settlement. For the precise terms and conditions of the Settlement and other important case documents, please see the Settlement available at www.____________.com, by contacting Class Counsel at the address or telephone number provided in Section 9, above.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

REQUEST FOR EXCLUSION FORM

I, ________________________________, wish to be excluded from the Settlement of Class Claims in *Onken, Scott D. v. Sierra Pacific Engineering and Products, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 24STCV22888.

____
Full Name (Printed)

________________________________ ________________ __________________
Address City State and Zip Code

____
Telephone Number

____
Signature

[Note: This Request for Exclusion Form must be mailed to the following physical address of the Administrator on or before [Response Deadline]]:

[Administrator]

[contact info]

4914-9112-0471, v. 1

EXHIBIT 4

APEX
CLASS ACTION ADMINISTRATION

Quotation Request:		**Case Name:**	**Onken v. S.P.E.P. Acquisition**
Jacquelyne VanEmmerik		Date:	Monday, August 4, 2025
Moon Law Group, PC		RFP Number:	15882016
JVanEmmerik@moonlawgroup.com			
213.232.3128			

Prepared By:
Sean Hartranft
Apex Class Action LLC
Sean@apexclassaction.com
949.878.3676

Settlement Specifications	
Estimated Class Size:	**82**
Certified Language Translation:	**Yes**
Static Settlement Website	**Yes**
Percentage of Undeliverable Mail	**20%**

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	$125.00	1	$125.00
Data Analyst	Per Hour	$150.00	2	$300.00
*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of $150/hr.				
			Sub Total:	$425.00
Mailing of Class Notice				
Form Set Up	Per Hour	$120.00	1	$120.00
Print & Mail Class Notice	Per Piece	$1.50	82	$123.00
USPS First Class Postage	Per Piece	$0.78	82	$63.96
Remail Undeliverable Mail (Skip-Trace)	Per Piece	$2.00	16	$32.80
Receive and Process Undeliverable Mail	Per Hour	$75.00	1	$75.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	$75.00	1	$75.00
NCOA Address Update (USPS)	Static Rate	$41.88	1	$41.88
Certified Language Translation: Spanish	Static Rate	$1,200.00	1	$1,200.00
			Sub Total:	$1,731.64
Project Management				
Project Management	Per Hour	$150.00	2	$300.00
Project Coordinator	Per Hour	$90.00	2	$180.00
Data Analyst and Reporting	Per Hour	$140.00	1	$140.00
			Sub Total:	$620.00

APEX
CLASS ACTION ADMINISTRATION

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	$65.00	1	$65.00
Settlement Website: Static Apex URL	Static Rate	$500.00	1	$500.00
Settlement Status Reports	Static Rate	$750.00	1	Waived
			Sub Total:	$565.00
Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	$120.00	2	$240.00
Account Management and Reconciliation	Per Hour	$140.00	2	$280.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	$1.50	82	$123.00
USPS First Class Postage	Per Piece	$0.78	82	$63.96
Remail Distribution to Updated Address (Skip Trace)	Per Piece	$2.00	8	$16.40
Individual Income Tax Preparation & Reporting	Per Hour	$100.00	4	$400.00
QSF Income Tax Reporting (per calendar year)	Per Year	$800.00	1	$800.00
Unclaimed Funds: State Controller's Unclaimed Property Fund	Static Rate	$250.00	1	$250.00
			Sub Total:	$2,173.36
Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	$135.00	1	$135.00
Project Management Reconciliation	Per Hour	$100.00	1	$100.00
Declarations	Per Hour	$120.00	2	$240.00
			Sub Total:	$475.00
			WILL NOT EXCEED:	**$5,990.00**

Thank you for your business!

APEX
CLASS ACTION ADMINISTRATION

Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. Services: Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. Payment Terms: As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. Incurred Expenses: In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. Invoicing: Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. Case Duration: The duration of these Terms and Conditions, except for the data storage obligations, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. Termination of Services: Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (I) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. Independent Contractor: As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.

9. Limitation of Liability: The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. Indemnification: The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. Confidentiality: Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of this these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.

13. Apex may derive financial benefits from financial institutions in connection with the deposit and investment of funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

14. COMPLETE AGREEMENT. These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.

16. Force Majeure: In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.

18. Severability: This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. Nonwaiver: This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

EXHIBIT 5

Activities Export

08/08/2025
3:59 PM

Date	Type	Description	Matter	User	Qty	Rate ($)	Non-billable ($)	Billable ($)
05/02/2025	$	Berger Consulting Group; KM Wire payment Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$5,355.00	-	$5,355.00
02/25/2025	$	Onken v. Sierra Pacific Engineering and Products Michael Ludwig mediator Paid via link Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Kane Moon	1.00	$7,000.00	-	$7,000.00
01/10/2025	$	ACE - Joint Stip Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$83.00	-	$83.00
01/03/2025	$	Journal - Stip to Cont ISC Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$32.31	-	$32.31
01/02/2025	$	Journal - FAC Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$11.76	-	$11.76
12/27/2024	$	Journal - Joint Stip Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$32.31	-	$32.31
10/25/2024	$	Journal - Notice of Order Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$11.76	-	$11.76
							$0.00 0.00h	**$14,559.41** 0.00h

Activities Export

08/08/2025
3:59 PM

Date	Type	Description	Matter	User	Qty	Rate ($)	Non-billable ($)	Billable ($)
10/25/2024	$	LASC - Docs Purchased Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$8.40	-	$8.40
10/09/2024	$	ACE - Service of Process Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$543.15	-	$543.15
09/05/2024	$	Journal - Complaint Unbilled	02773-Onken Onken v. S.P.E.P. ACQUISITION CORP. (Limonjyan)	Support Account	1.00	$1,481.72	-	$1,481.72
							$0.00 0.00h	**$14,559.41** 0.00h