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FILED
Superior Court of California
County of Sacramento
04/11/2024
T. Shaddix, Deputy

8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**

10 MAURECE MARTIN, individually and on
11 behalf of all other similarly situated
12 employees,

13 Plaintiff,

14 vs.

15 WESTERN ENGINEERING
16 CONTRACTORS, INC., a California
17 Corporation; and DOES 1 to 100, inclusive,

18 Defendants.
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Case No. 34-2023-00334816

*Assigned for All Purposes to Hon. Jill Talley,
Department 23*

CLASS ACTION

**~~[PROPOSED]~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No. A-334816-001

Date: March 29, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill Talley

Filed: February 15, 2023

FAC Filed: May 25, 2023

Trial Date: None set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”) in the
3 above referenced case came before this Court, on March 29, 2024 at 9:00 a.m., in Department 23
4 before the Honorable Jill Talley, presiding. Named Plaintiff Maurece Martin (“Plaintiff”) filed this
5 putative class action on February 15, 2023. The proposed operative Complaint¹ alleges that Defendant
6 Western Engineering Contractors, Inc. (“Defendant”) failed to pay overtime, failed to pay minimum
7 wages, failed to accurately record and pay for all hours worked, failed to incorporate the value of
8 prevailing wage rates into employes’ paid sick leave and regular rates of pay for purposes of
9 calculating overtime wages on non-prevailing wage jobs, failed to provide meal and rest periods or
10 pay premiums in lieu thereof, failed to provide accurate wage statements, failed to timely pay final
11 wages, failed to reimburse expenses, failed to pay accrued vacation, and unfairly competed against
12 other businesses. Plaintiff has also alleged Defendant is liable for a civil penalties under the Private
13 Attorney’s General Act (“PAGA”) based on these violations. Plaintiff sought attorneys’ fees and costs
14 as part of this Action. Defendant denied all of Plaintiff’s claims and denied that this case was
15 appropriate for class treatment. No class has been certified.

16 The parties have agreed to settle the class and PAGA claims. Defendant will provide monetary
17 consideration in exchange for a release of claims consistent with the terms of the proposed settlement
18 as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
19 (“Agreement” or “Settlement”). Any capitalized terms herein shall have the same meaning as set forth
20 in the Agreement. The Court, having received and considered Plaintiff’s Motion for Preliminary
21 Approval of Class Action and PAGA Settlement, the declarations in support, the Agreement, the
22 proposed Notice of Settlement, and other evidence, HEREBY ORDERS AND MAKES
23 DETERMINATIONS AS FOLLOWS:

24 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
25 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

26 The Court finds that certification of the following class for settlement purposes only is
27 appropriate under the California Code of Civil Procedure and related case law:

28 _____
¹ Plaintiff submitted a stipulation and order to file a Second Amended Complaint on February 12, 2024.

1 all non-exempt, hourly employees who have, or continue to, work for
2 Defendant in California, and who did not sign an arbitration agreement
with a class action waiver, from February 15, 2019 up to October 8, 2023.

3 The Court recognizes that the foregoing definition is for Class Member identification purposes
4 only and is not intended to capture the claims at issue or limit or alter the released claims under the
5 Agreement.

6 The Court finds that Class Members meet the ascertainability and numerosity requirements since
7 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
8 the definition and the number of Class Members would make joinder impractical. The commonality and
9 predominance requirements are met for settlement purposes since there are questions of law and fact
10 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
11 contentions that Defendant caused the violations outlined above by 1) failing to accurately record and
12 maintain employees' hours worked; 2) failing to pay for all hours worked, including travel time,
13 overtime and minimum wages; 3) failing to authorize and permit putative class members to take all meal
14 and rest periods; 4) failing to include the inclusive dates of the pay period and employees' last 4 digits of
15 their social security number or employee identification number on wage statements issued to putative
16 class members; 5) failing to incorporate the value of prevailing wage rates into employees' paid sick
17 leave and regular rates of pay for the purpose of calculating overtime wages on non-prevailing wage
18 jobs; 6) failing to reimburse the use of personal cell phones and vehicles; and 7) failing to pay accrued
19 and unused vacation pay at all or at an employee's final regular rate of pay at the time of separation.
20 The PAGA, waiting time penalty, and unfair competition claims also derive from these violations.
21 Additionally, Class Members seek the same remedies under state law. The typicality requirement for
22 settlement purposes is also satisfied since the claims of the Class Representative are based on the same
23 facts and legal theories as those applicable to the class members.

24 The Court also finds that preliminarily and conditionally certifying the settlement class is
25 required to avoid each Class Member from litigating similar claims individually. This Settlement will
26 achieve economies of scale for Class Members with relatively small individual claims and conserve the
27 resources of the judicial system.

1 The Court finds that Plaintiff Maurece Martin and Plaintiff's counsel, Galen T. Shimoda
2 Justin P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC, to be adequate
3 representatives of the settlement class. The Court appoints them as Class Representative and Class
4 Counsel, respectively.

5 **II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

6 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
7 A. The Court finds, on a preliminary and conditional basis, that the Settlement is fair, reasonable, and
8 adequate and falls within the range of reasonableness of a settlement that could ultimately be given final
9 approval by this Court. The Court finds the Settlement was agreed upon only after extensive
10 investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who
11 took reasonable steps and measures to weigh the potential value of the disputed claims against the risks
12 of continued litigation. The Court also acknowledges that Class Members may present any objections to
13 the Settlement at a fairness hearing approved by this Court or opt-out of being bound by the
14 preliminarily approved Agreement. The Court preliminarily approves the Agreement and all terms
15 therein as if stated here in full, including the \$417,500 Gross Settlement Amount.

16 The Court approves of Apex Class Action acting as the Settlement Administrator in this case and
17 hereby appoints them to fulfill those duties as outlined in the Agreement.

18 The Court finds that an award of fees under the common fund doctrine may be appropriate in this
19 case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits
20 that Plaintiff and Class Counsel were able to negotiate on behalf of Class Members can be accurately
21 traced as set forth in the Agreement, and the fee can be shifted with exactitude to those benefiting as the
22 fee request is a specific, lump-sum percentage of the Gross Settlement Amount. *See Laffitte v. Robert*
23 *Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268,
24 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers
25 a common fund for the benefit of persons other than . . . her client is entitled to a reasonable attorney’s
26 fee from the fund as a whole.”). The amounts allocated under the Agreement for attorney’s fees and
27 costs, for an Enhancement Payment to the Class Representative, and Settlement Administrator Costs
28 shall be included in the Notice of Settlement to enable Class Members to review and comment thereon.

1 The Court will consider the reaction of Class Members when evaluating the reasonableness of the
2 requested amounts at final approval. *See In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, 71
3 (C.D. Cal. 2005) (“the absence of objections or disapproval by class members to class counsel’s fee
4 request further supports finding the fee request reasonable”). Plaintiff and Class Counsel are directed to
5 provide information in connection with the motion for final approval that will enable the Court to assess
6 the appropriateness of any requested fee percentage, to perform a lodestar cross check of the requested
7 fee percentage, and to quantify the amount of time spent by Plaintiff on this case and any further risks
8 and/or burdens incurred as a result of acting as Class Representative. Class Counsel is also directed to
9 provide an updated declaration and itemization regarding actual litigation costs incurred. The
10 Settlement Administrator shall also submit a declaration attesting to Settlement Administrator Costs
11 incurred. The Court will review these amounts and allocations in connection with the final approval
12 hearing. To the extent the Court ultimately awards less than the amounts allocated under the Agreement
13 for attorney’s fees and costs, for an Enhancement Payment to the Class Representative, and/or
14 Settlement Administrator Costs, the difference between the amounts awarded and the amounts requested
15 shall be added to the Net Settlement Amount for distribution to Participating Class Members pro rata as
16 set forth in the Agreement.

17 The Court approves of the \$41,750 PAGA Payment, which shall be paid from the Gross
18 Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged PAGA
19 claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and Workforce
20 Development Agency (“LWDA”) and Twenty-Five percent (25%) will be paid to Aggrieved Employees
21 on a pro rata basis as described in the Agreement. The Court also finds that the Agreement provides a
22 recovery that creates an effective, substantial deterrent to any potential future non-compliance,
23 furthering the purpose of the Labor Code and LWDA.

24 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any
25 checks issued to Participating Class Members and/or Aggrieved Employees that are not cashed by the
26 deadline to do so shall be donated to Sacramento Food Bank and Family Services. *See In re Microsoft I-*
27 *V Cases*, 135 Cal.App.4th 706, 718 (2006). No portion of the Gross Settlement Amount will revert to
28 Defendant for any reason.

1 The releases and waivers for Class Members who do not opt out of being bound by the
2 Agreement (*i.e.* Participating Class Members), Aggrieved Employees, and the Class Representative are
3 also approved by the Court as set forth in the Agreement.

4 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**
5 **INCLUDING THE NOTICE OF SETTLEMENT**

6 The Court finds that the proposed Notice of Settlement, attached to this Order as Exhibit 1 and
7 incorporated by reference, fairly and adequately advises Class Members of the terms of the Agreement,
8 the rights being waived, their right to opt out, the ability to dispute the number of workweeks worked
9 during the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the
10 settlement, how to file documentation in opposition to the proposed settlement, and when to appear at
11 the fairness hearing to be conducted on the date set forth below. The Court further finds that the Notice
12 of Settlement and proposed distribution of such notice by first class mail to each identified Class
13 Member at his or her most recent address based on a National Change of Address database search from
14 the Class Members' last known address and a skip trace on any Class Members who have the Notice of
15 Settlement returned as "undeliverable" or "not at this address" comports with all constitutional
16 requirements, including those of due process.

17 The Court also finds that because there is a strong interest in providing Class Members the
18 opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to
19 privacy rights, the sharing of employment information, including social security numbers, is not a
20 serious intrusion on their privacy rights. Hence, the Court orders Defendant to provide Class Member
21 information to the Settlement Administrator as set forth in the Agreement, including the name, last
22 known mailing address, last known telephone number, Social Security Number, weeks Class Members
23 worked during the Class Period, weeks Aggrieved Employees worked during the PAGA Claim Period
24 and any other information the Settlement Administrator needs to effectuate notice to Class Members and
25 Aggrieved Employees. The Class Member information will be provided to the Settlement Administrator
26 only, and not to Plaintiff or Class Counsel, in order to process this settlement as contemplated within the
27 Agreement and approved by this Order. The Settlement Administrator shall only use this information
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1 for the purposes identified in the Agreement and shall keep this information confidential consistent with
2 the terms of the Agreement.

3 **IV. IMPLEMENTATION SCHEDULE**

4 Accordingly, with good cause shown, the Court hereby approves and orders that the following
5 implementation schedule be adhered to:

6 7 8 Last day for Defendant to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
9 10 11 Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendant
12 13 14 Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
15 16 Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
17 18 19 20 21 Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendant's Counsel	Within 7 calendar days after the Effective Date
22 23 Last day for Defendant to fund settlement	Within 30 calendar days after the Effective Date
24 25 26 27 28 Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendant has funded the settlement

Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date of August 9, 2024, at 9:00 a.m., with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Participating Class Members who object in a timely manner as set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

If for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and rights of the parties to the litigation, including all challenges to personal jurisdiction and to class certification for any purpose other than approving a settlement class. The parties will revert to their respective positions as if no settlement had been reached at all.

IT IS SO ORDERED.

Date: 04/11/2024

By: *Jill Talley*
 Judge of the Superior Court
 Rq/Aa/^^

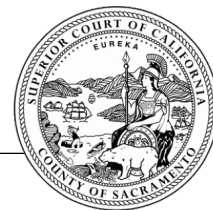


Exhibit 1

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO

MAURECE MARTIN, individually and on
behalf of all other similarly situated employees,

Plaintiff,

vs.

WESTERN ENGINEERING CONTRACTORS,
INC., a California Corporation; and DOES 1 to
100, inclusive,

Defendants.

Case No. 34-2023-00334816

**NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT, AND HEARING
DATE FOR FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: all non-exempt, hourly employees who have, or continue to, work for Western Engineering Contractors, Inc. in California, and who did not sign an arbitration agreement with a class action waiver, from February 15, 2019 up to October 8, 2023 (the “Class Members”) and all non-exempt, hourly employees who have, or continue to, work for Western Engineering Contractors, Inc. in California from February 14, 2022 up to October 8, 2023 (“Aggrieved Employees”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION AND PAGA LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the Sacramento County Superior Court (“Court”) granting Plaintiff’s motion for preliminary approval of a Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement” or “Settlement”) as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Maurece Martin (“Plaintiff” or “Class Representative”), and Defendant Western Engineering Contractors, Inc. (“Defendant”) on behalf of Class Members and Aggrieved Employees as defined above. The terms of the Settlement are outlined herein. You are receiving this notice because Defendant’s records indicate you fall within the definition of “Class Member” and/or Aggrieved Employee. Defendant’s records also indicate that you worked [redacted] weeks during the applicable Class Period and/or PAGA period (as defined below), which means your total share of the settlement proceeds is estimated to be [redacted]. Your actual share of the settlement proceeds may vary depending on the total number of Class Members that choose to participate and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On February 15, 2023, Plaintiff filed a Complaint against Defendant in the Sacramento County Superior Court of California on behalf of himself and Class Members. The term “Action” means this putative class action pending in Sacramento County Superior Court, Case No. 34-2023-00334816. The Class Period is from February 15, 2019 up to October 8, 2023 (the “Class Period”). On February 14, 2023, Plaintiff filed a Private Attorneys General Act (“PAGA”) notice with the Labor Workforce Development Agency and, on May 25, 2023, Plaintiff filed a First Amended Complaint adding a cause of action under the Private Attorneys General Act on behalf of himself and Aggrieved Employees. The PAGA Claim Period is from February 14, 2022 up to October 8, 2023 (the “PAGA Claim Period”). Plaintiff filed an amended PAGA notice on December 5, 2023 and filed a Second Amended Complaint on [redacted date].

In the Action, Plaintiff sought to obtain unpaid wages, interest, unpaid expenses, statutory penalties, civil penalties, fees, and costs on behalf of himself, Class Members, and Aggrieved Employees by alleging claims for failure to pay overtime wages, failure to pay minimum wages, meal period violations, rest period violations, wage statement violations, waiting time penalties, failure to provide paid sick leave, unfair competition, violations of the Private Attorneys General Act, failure to reimburse business expenses, and failure

to pay accrued vacation. Plaintiff alleged that Defendant violated California law by 1) failing to accurately record and maintain employees' hours worked; 2) failing to pay for all hours worked, including travel time; 3) failing to authorize and permit putative class members to take all meal and rest periods or to pay premiums in lieu thereof; 4) failing to include the inclusive dates of the pay period and employees' last 4 digits of their social security number or employee identification number on wage statements issued to putative class members; 5) failing to incorporate the value of prevailing wage rates into employees' paid sick leave and regular rates of pay for the purpose of calculating overtime wages on non-prevailing wage jobs; 6) failing to reimburse the use of personal cell phones and vehicles; and 7) failing to pay accrued and unused vacation pay at all or at an employee's final regular rate of pay at the time of separation. Defendant has denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendant continues to deny all allegations and claims. Defendant does not admit any liability to Plaintiff or to any other current or former employees, and Defendant does not admit that any violations of Plaintiff's rights, or the rights of any other current or former employees has occurred. The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit.

Defendant has entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, which are defined as all non-exempt employees who have, or continue to, work for Defendant in California, and who did not sign an arbitration agreement with a class action waiver, from February 15, 2019 up to October 8, 2023. The Agreement also applies to Aggrieved Employees, which are defined as all non-exempt, hourly employees who have, or continue to, work for Defendant in California from February 14, 2022 up to October 8, 2023. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendant has agreed to pay a total sum of Four Hundred and Seventeen Thousand Five Hundred (\$417,500) ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed 35% of the Gross Settlement Amount, attorneys' costs not to exceed \$10,000, Settlement Administrator Costs estimated not to exceed \$10,000, Class Representative's Enhancement Payment of \$10,000, and \$41,750 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendant in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$41,750 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees based on the number of workweeks worked during the PAGA Claim Period.

The number of weeks you worked during the Class Period and your estimated total share of the Net Settlement Amount and PAGA Payment ("Individual Settlement Amount") is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims.

B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees

Defendant will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action, that all Individual Settlement Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-

wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Each Participating Class Member's share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Participating Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. The PAGA Claim Period is defined as from February 14, 2022 up to October 8, 2023. Defendant's records indicate that you worked [REDACTED] weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be [REDACTED]. This amount is included in your estimated Individual Settlement Amount stated on the first page of this notice, not in addition to it. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member or do not meet the definition of Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendant's Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendant's records. Defendant's records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendant's records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member or Aggrieved Employee. If a Class Member / Aggrieved Employee disputes the accuracy of Defendant's records, all supporting documents evidencing additional workweeks must be submitted by the Class Member or Aggrieved Employee. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [REDACTED]. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class Members who do not opt out will be deemed to have released any and all claims that are alleged in the operative Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the operative Complaint, through the Class Period. This release includes but is not limited to claims for (1) failure to pay overtime wages (CA Labor Code §§ 510, 558, 558.1, 1194, 1815 and Wage Order 16, § 3); (2) failure to pay minimum wages (CA Labor Code § 1194, 1194.2, 1197.1 and Wage Order 16 § 4); (3) meal period violations (CA Labor Code §§ 226.7, 512 and Wage Order 16 § 11(A), (B)); (4) rest period violations (CA Labor Code § 226.7 and Wage Order 16 § 12(A)); (5) wage statement penalties (CA Labor Code §§ 226, 226.3, 1174, 1815, 1198 and Wage Order 16, § 6(A)); (6) waiting time penalties (CA Labor Code §§ 201-203, 256); (7) Failure to Provide Paid Sick Leave (CA Labor Code §§ 246, 246.5, 248.5); (8) unfair competition (CA Business & Professions Code § 17200, et seq.); (9) Private Attorneys General Act, (10) Failure to Reimburse for Business Expenses (CA Labor Code § 2802); and (11) Failure to Pay Accrued Vacation (CA Labor Code § 227.3). This release excludes the release of claims not permitted by law. This release will cover all Class Members who do not opt out.

Aggrieved Employees will be deemed to have released any and all claims for civil penalties that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in Plaintiff's operative Complaint, Plaintiff's PAGA letters to the Labor Workforce Development Agency and any additional wage and hour PAGA claims that could have been brought based on the facts alleged in the operative Complaint and PAGA letters during the PAGA Claim Period. This release includes but is not limited to claims for (1) Failure to Pay Overtime Wages (CA Labor Code §§ 510, 1194, 1815; IWC Wage Order 16, § 3); (2) Failure to Pay Minimum Wages (CA Labor Code §§ 1194, 1197.1, IWC Wage Order 16, §4); (3) Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof (CA Labor Code §§ 226.7, 512 and Wage Order 16, § 11(A), (B)); (4) Failure to Provide Rest Breaks or Pay Premiums in Lieu Thereof (CA Labor Code § 226.7 and IWC Wage Order 16, § 12(A)); (5) Failure to Provide Accurate Wage Statements (CA Labor Code §§ 226, 226.3); (6) Failure to Pay Final Wages (CA Labor Code §§ 201-203, 256); (7) Violation of Provisions Regulating Hours and Days of Work in any Industrial Welfare Commission Order (CA Labor Code §§ 558, 558.1, 1193.6, 2802); (8) Failure to Maintain Accurate Records (CA Labor Code §§ 226.3, 1174, 1815, 1198 and IWC Wage Order 16, § 6(A)); (9) Failure to Provide Paid Sick

Leave (CA Labor Code §§ 246, 246.5, 248.5); (10) Failure to Reimburse for Business Expenses (CA Labor Code § 2802); and (11) Failure to Pay Accrued Vacation (CA Labor Code § 227.3). Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released (“Released Parties”) include Defendant, as well as Defendant’s current and former officers, shareholders, directors, agents, employees, attorneys, and insurers, including but not limited to Don J. Carroll, Theresa W. Carroll, Lyndsey C. Gregory and Josh Wertz

Class Members and/or Aggrieved Employees can talk to the Court-approved Settlement Administrator, Apex Class Action, if they have any questions..

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement as a Class Member

The Court will exclude you from the being a Class Member if you request this by [redacted]. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (*i.e.*, “opt out”) by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or want to be excluded from this Settlement; (c) identify the case name and number (*i.e.* *Martin v. Western Engineering Contractors, Inc.*, 34-2023-00334816); (d) be signed; and (e) be post-marked no later than [redacted]. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by [redacted], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and not received their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You **cannot** ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e.* *Martin v. Western Engineering Contractors, Inc.*, 34-2023-00334816) (e) be signed; and (f) be post-marked no later than [redacted]. The objection must be sent to the Settlement Administrator at the address identified in Section III.B and to counsel for Plaintiff and Defendant at the addresses identified in Section VI of this notice.

You may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendant.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and each and every Aggrieved Employee, will release Defendant and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendant in California during the Class Period, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendant and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 27, 720 9th Street Sacramento, California 95814, on [redacted] at [redacted] to determine whether the Agreement should be finally approved as fair, reasonable and adequate. To join by Zoom link: <https://saccourt-ca.gov.zoomgov.com/my/sscdept27>. To join by phone: (833) 568-8864 / ID: 16120204632. The Court also will be asked to approve Class Counsel’s request for attorneys’ fees and costs, the Settlement Administrator Costs, and the Class Representative’s Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. SETTLEMENT CHECKS

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. Any check not negotiated within 180 days of issuance shall be distributed to Sacramento Food Bank and Family Services. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

VII. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel’s motion for preliminary approval, the Agreement, and any other documents required by the Court at the Settlement Administrator’s website: [admin web address]. If final approval is granted, a notice of entry of order and copy of the order will be available on the Court’s Public Case Access website: <https://services.saccourt.ca.gov/PublicCaseAccess/>. You can also contact Class Counsel or Defendant’s Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
On behalf of Plaintiff

Carrie E. Bushman
Cook Brown LLP
2407 J Street Second Floor
Sacramento, CA 95816
Telephone: 916-442-3100
On behalf of Defendant

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT