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AERA ENERGY LLC

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

* * *

AARON DICKERSON, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

AERA ENERGY, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No. BCV-21-101646

JOINT STIPULATION AND SETTLEMENT OF CLASS AND PAGA ACTION

1 Subject to final approval by the Court, which counsel and the parties agree to pursue and
2 recommend in good faith, Plaintiff Aaron Dickerson ("Plaintiff"), individually and on behalf of
3 all others similarly situated and alleged aggrieved employees, on the one hand, and Defendant
4 Aera Energy, LLC on the other ("Defendant"), hereby agree to the following binding Settlement
5 of the class action designated *Dickerson v. Aera Energy, LLC*, Superior Court of the State of
6 California, County of Kern, Case No. BCV-21-101646. As detailed below, in the event the Court
7 does not enter orders consistent with the terms of the Settlement or the conditions precedent are
8 not met for any reason, this Stipulation shall be void and shall be of no force or effect
9 whatsoever.

10 **I. DEFINED TERMS**

11 As used herein, the following terms shall have the meanings specified below. To the
12 extent terms or phrases used in this Stipulation are not specifically defined below, but are defined
13 elsewhere in the Stipulation, they are incorporated by reference into this definition section:

14 1. "Action" or "Lawsuit" means the *Dickerson v. Aera Energy, LLC*, Superior Court
15 of the State of California, County of Kern, Case No. BCV-21-101646.

16 2. "Agreement," or "Stipulation" means this Stipulation and Settlement of class
17 action claims and claims brought under the California Labor Code Private Attorneys General Act
18 (Cal. Labor Code §§ 2698 *et seq.*).

19 3. "Attorneys' Fees and Cost Award" means the amount authorized by the Court to
20 be paid to Class Counsel for the services they have rendered and costs and expenses they have
21 incurred in prosecuting the Action.

22 4. "Aera" means and refers to Defendant Aera Energy, LLC.

23 5. "Claims" means all claims which have been, will be (pursuant to Section I,
24 Paragraphs 31 and 32, *infra*), or could have been asserted in the Action based on the facts
25 alleged.

26 6. "Class" or "Settlement Class" mean and refer to: All current and former non-
27 exempt employees employed by Aera in the State of California at any time during the Class
28 Period.

1 7. "Class Member" or "Settlement Class Member" refers to individual members of
2 the Class.

3 8. "Class Counsel" and "Named Plaintiff's Counsel" means and refers to S. Brett
4 Sutton and Jared Hague of Sutton Hague Law Corporation. Class Counsel represent and warrant
5 that, other than the individuals and firm referenced in this definition, no individuals or law firms
6 represent Plaintiff or the Settlement Class in connection with this Action or have any right to
7 seek reimbursement of fees or expenses in connection with this Action.

8 9. "Class List and Data Report" means the following: a list of the Class Members
9 that provides their names; last known mailing addresses and telephone numbers; social security
10 numbers; and the start and end dates of active employment during the Class Period, as reflected
11 in Defendant's existing business records and to the extent such records and information exists.
12 Defendant will diligently and in good faith compile the Class List and Data Report from their
13 records. Defendant will provide the Class List and Data Report to the Settlement Administrator
14 within fourteen (14) calendar days following Preliminary Approval of the Settlement. The Class
15 List and Data Report shall be provided in a ready to use computer-readable format approved by
16 the Settlement Administrator.

17 10. "Class Period" means the period from July 29, 2017 through the date of the
18 Preliminary Approval Order.

19 11. "Court" means the Superior Court of California, County of Kern.

20 12. "Defendant" means and refers to Aera Energy, LLC.

21 13. "Effective Date" means the date on which the Settlement is finally approved and
22 the Court's Final Judgment ("Final Judgment" or "Judgment") becomes final. For purposes of
23 this paragraph, the Court's Final Judgment "becomes final" upon the latter of: (a) if no Class
24 Member timely and properly objects pursuant to paragraph 66(c), intervenes under Code of Civil
25 Procedure § 387, or files a motion to vacate the judgment approving the Settlement Agreement
26 under Code of Civil Procedure § 663, then the date the Court enters the Final Judgment; or (b) if
27 a Class Member timely and properly objects, intervenes, or files a motion to vacate the judgment
28 approving the Settlement Agreement, and if an appeal, review, writ, or extension to appeal is not

1 sought from the judgment, the sixty-first (61st) day after service of notice of entry of judgment;
2 or (c) the dismissal or denial of an appeal, review, or writ, such that the Final Judgment is no
3 longer subject to judicial review, further adjudication, or further appeal.

4 14. "Enhancement Award" means a service payment to the Plaintiff from the Gross
5 Settlement Amount in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00). The
6 Enhancement Award shall be in addition to whatever payments to which the Plaintiff is
7 otherwise entitled as a Settlement Class Member. The Plaintiff will be issued an IRS Form 1099,
8 and its state and local equivalents, for any Enhancement Award.

9 15. "Final Approval Hearing/Settlement Fairness Hearing" means the hearing at
10 which the Court considers whether to approve the Settlement and to enter the Final Judgment.

11 16. "Final Judgment" refers to the order of the Court granting final approval of this
12 Stipulation of Settlement and entering a judgment approving this Agreement on substantially the
13 terms provided herein and dismissing the Complaint with prejudice.

14 17. "Gross Individual Settlement Payment" means the total Settlement amount for
15 each individual Class Member resulting from the calculations set forth herein for the complete
16 settlement and release of any and all non-PAGA claim.

17 18. "Gross Settlement Amount" means the total maximum amount that Defendant
18 will pay under this Agreement. The Gross Settlement Amount equals four hundred sixty-five
19 thousand U.S. dollars (\$465,000). All payments associated with the parties' settlement shall be
20 paid from the Gross Settlement Amount, including all monies allocated to Participating Class
21 Members, the PAGA Group, Class Counsel, Plaintiff in the form of an Enhancement Award, the
22 Labor and Workforce Development Agency, and the Settlement Administrator and the
23 employees' employment taxes, including the employee FICA, FUTA and SDI contributions, on
24 the wage portion of the Gross Individual Settlement Payment. Defendant's share of taxes will be
25 paid separately from and in addition to the Gross Settlement Amount and will not be deducted
26 from the Gross Settlement Amount.

1 19. "Individual PAGA Payment" means the amount payable from the Net Class
2 Settlement Fund to each PAGA Group Member. The Individual PAGA Payment shall be
3 calculated pursuant Paragraph III.15. herein.

4 20. "Individual Settlement Payment" means the amount of each Participating
5 Settlement Class Member's Gross Individual Settlement Payment, less employee portions of state
6 and federal withholding taxes, including the employee FICA, FUTA and SDI contributions and
7 any other applicable payroll deductions required by law as a result of the payment of the amount
8 allocated to such Participating Settlement Class Member under the terms of the Settlement.

9 21. "Named Plaintiff" means proposed settlement class representative Aaron
10 Dickerson.

11 22. "Net Class Settlement Fund" or "NCSF" refers to the funds available to be
12 distributed to Participating Class Members as Gross Individual Settlement Payments after
13 payment of any Attorneys' Fees and Cost Award, Settlement Administration Costs, and the
14 PAGA Payment, and less applicable taxes. Class Members shall not be required to submit a
15 claim in order to receive a share of the NCSF, and no portion of the Gross Settlement Amount
16 shall revert to Defendant.

17 23. "Notice" means the Notice of Class Action Settlement which describes the terms
18 of the Settlement, procedure and time period to Opt-Out of or object to the Settlement, and the
19 date set for the Final Approval Hearing (substantially in the form attached hereto as **Exhibit A**).
20 The Parties agree that the Notice does not need to be translated into Spanish or any other
21 language because, to the best of their knowledge, the majority of the Class Members are
22 sufficiently fluent in English.

23 24. "Notice Response Deadline" means the date forty-five (45) calendar days after the
24 Notice is initially mailed to Class Members by the Settlement Administrator and is synonymous
25 with Opt-Out/Objection Deadline Date, as defined immediately below.

26 25. "Opt-Out/Objection Deadline Date" means the deadline date forty-five (45)
27 calendar days after the date the Notice is initially mailed to the Class Members by which Class
28 Members must postmark an opt-out or objection to be considered timely.

1 26. "Opt-Out" means a timely letter submitted by a Class Member indicating a
2 request to be excluded from the Settlement. The Request for Exclusion must: (a) set forth the
3 name, address, and telephone number of the Class Member requesting exclusion; (b) clearly state
4 that the Class Member does not wish to be included in the Settlement; (c) be signed by the Class
5 Member; (d) be returned by mail to the Settlement Administrator at the specified address
6 indicated in the Notice; and (e) be postmarked on or before the Opt-Out/Objection Deadline
7 Date. The date of the postmark shall be the exclusive means to determine whether a Request for
8 Exclusion has been timely submitted. A Class Member who does not request exclusion from the
9 Settlement shall be deemed a Participating Class Member and will be bound by all terms of the
10 Settlement if the Settlement is granted final approval by the Court.

11 27. "PAGA Group" means and refers to all current and former non-exempt California
12 employees of Defendant employed at any time from July 29, 2020, to the date of preliminary
13 approval of the Settlement. Each member of the PAGA Group is a "PAGA Group Member."

14 28. "PAGA Payment" means the total maximum amount to be paid to the Labor
15 Workforce Development Agency and the PAGA Group pursuant to the California Private
16 Attorney General Act of 2004 ("PAGA") as set forth in Section III, Paragraph 15, *infra*.

17 29. "Participating Class Member" means a Class Member who has not Opted Out of
18 the Settlement.

19 30. "Parties" means Defendant, the Named Plaintiff, PAGA Group, and the Class
20 Members.

21 31. "Preliminary Approval Order" means the Order issued by the Court preliminarily
22 approving the terms of the Settlement set forth in this Stipulation.

23 32. "Qualified Settlement Fund" or "QSF" shall be the fund established by the
24 Settlement Administrator pursuant to Internal Revenue Code Section 1.468B-1 and funded by
25 Defendant within ten (10) business days after the Effective Date. This amount shall be the Gross
26 Settlement Amount. All payments pursuant to this Agreement shall be made from the QSF in a
27 manner consistent with the terms of this Agreement.

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1 33. "Released Claims" means and shall include, any and all claims, debts, liabilities,
2 demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees,
3 damages, actions or causes of action of whatever kind or nature, whether known or unknown,
4 contingent or accrued, under any legal theory under state law for any alleged failure to pay all
5 wages due (including minimum wage and overtime wages), failure to pay for all hours worked,
6 failure to provide meal periods, failure to timely pay wages and final wages, failure to furnish
7 accurate wage statements including claims derivative and/or related to these claims during the
8 Class Period. Released Claims shall include all claims and theories arising under the California
9 Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202,
10 203, 204 210, 226, 510, 512, 1194, 1194.2, and 1197, as well as claims under Business and
11 Professions Code section 17200 et seq., and/or Labor Code Section 2698 et seq. based on alleged
12 violations of the above Labor Code provisions, that were asserted in the lawsuit. The release
13 shall run through the date of Preliminary Approval.

14 34. "Released PAGA Claims" means and shall include, without limitation, any and all
15 claims for civil penalties that could have been assessed or collected by Plaintiff or the LWDA, a
16 State of California Executive Branch Agency under the PAGA, from the Released Parties based
17 on the allegations set forth in Plaintiff's June 30, 2021 letter to the LWDA ("PAGA Letter")
18 and/or based on the facts alleged in the Complaint, including any and all claims under California
19 Labor Code sections 201, 203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 256, 510, 512, 558, 1174,
20 1194, 1197, 1197.1, 2810.5, 2699 and 2699.3, all of which are expressly referenced in Plaintiff's
21 PAGA Letter, and any other claims for civil penalties for failure to pay minimum wages, failure
22 to pay overtime, failure to pay all wages owed each pay period, failure to provide compliant meal
23 periods, failure to issue accurate itemized wage statements, failure to pay wages due and payable
24 twice each calendar month, failure to pay wages due upon demand, failure to maintain accurate
25 payroll records for its non-exempt employees, failure to provide notice of pay, and failure to pay
26 all wages due and owing upon termination. The release shall run through the date of Preliminary
27 Approval.

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INVESTIGATION IN THE CLASS ACTION

The Parties have conducted significant investigation of the facts and law during the prosecution of the Action. This investigation included the exchange of information, including discovery regarding Defendant's policies, practices, proposed class data, and voluminous samples of employee time records and payroll records for the Settlement Class that are relevant to the Named Plaintiff's claims and the analysis by the Parties of the class-wide information to investigate the merits of Named Plaintiff's claims and potential liability. Furthermore, counsel have investigated the facts and law relating to the claims alleged and that could have been alleged based on the facts and claims alleged in the action, including the initial Complaint and all subsequent amended complaints and potential defenses thereto, and the potential damages claimed by Named Plaintiff.

Counsel for the Parties engaged in extensive discussions about the strengths and weaknesses of the claims and defenses over the course of the preceding two years. The Parties attended two separate mediation sessions supervised and conducted by Scott Markus, Esq. and extended negotiations thereafter also supervised by Mr. Markus, an experienced former employment law practitioner with decades of experience as a litigator and as a mediator in the area of employment litigation. The mediations and subsequent negotiations resulted in terms and conditions that were acceptable to the Parties as set forth in a Memorandum of Agreement dated August 26, 2022.

BENEFITS OF SETTLEMENT TO CLASS MEMBERS

Named Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to litigate the disputes through trial and through any possible appeals. Named Plaintiff has also considered the uncertainty and risk of the outcome of further litigation, the uncertain merits of the claims, and the difficulties and delays inherent in such litigation. Named Plaintiff and Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's defenses thereto. Named Plaintiff and Class Counsel have also considered the extensive settlement negotiations conducted and Defendant's agreement to enter into a settlement that

1 confers substantial benefits and relief upon the Class Members. Based on the foregoing, Named
2 Plaintiff and Class Counsel have determined that the Settlement set forth in this Agreement is a
3 fair, adequate and a reasonable Settlement, and is in the best interests of the Class.

4 **DEFENDANT'S REASONS FOR SETTLEMENT**

5 Without conceding any infirmity in its defenses, Defendant has concluded that any
6 further defense of this litigation would be protracted and expensive for all Parties. Substantial
7 amounts of time, energy and resources of Defendant have been spent and, unless this settlement
8 is made, will continue to be devoted to the defense of the Claims asserted by the Named
9 Plaintiff. Defendant has also considered the risks and uncertainties associated with further
10 litigation in reaching its decision to enter into this Settlement. Defendant has, therefore, agreed to
11 settle in the manner and upon the terms set forth in this Agreement to put to rest the Claims in
12 the Action.

13 Defendant denies any fault, wrongdoing, or liability, whether individually, as a class, or
14 in any kind of representative capacity, in connection with this lawsuit. Relying on the provisions
15 of this Agreement that the settlement embodied here shall in no event be construed as or deemed
16 to be evidence of an admission or a concession on the part of Defendant (or any of its
17 predecessors, successors, parent or subsidiary companies, affiliates, officers, directors, agents,
18 attorneys, representatives, insurers, suppliers, distributors, or vendors) of any fault, wrongdoing,
19 or liability whatsoever, or that any of the allegations in the Complaint are true or Class Members'
20 claims meritorious.

21 This Agreement is a compromise of disputed claims. Nothing contained in this
22 Agreement, no documents referred to herein, and no action taken to carry out this Agreement
23 may be construed or used as an admission by Defendant or against Named Plaintiff or Class
24 Counsel as to the merits or lack thereof of the Claims asserted.

25 **III. STIPULATION AND AGREEMENT**

26 **NOW, THEREFORE, IT IS HEREBY STIPULATED**, by and among the Named
27 Plaintiff on behalf of the Class Members and the members of the PAGA Group on the one hand,
28 and Defendant on the other hand, and subject to the approval of the Court, that the Action is

1 hereby being compromised and settled pursuant to the terms and conditions set forth in this
2 Agreement, and subject to the following terms and conditions:

3 1. Full Investigation. Named Plaintiff and Class Counsel have fully investigated the
4 factual and legal bases for the causes of action asserted in the Action.

5 2. Stipulation for Class Certification. For settlement purposes only, the Parties
6 stipulate and agree that (i) the Class Members described herein who do not Opt Out from the
7 Settlement Class may be conditionally certified as a Settlement Class, (ii) Named Plaintiff Aaron
8 Dickerson shall be appointed as representative for the Class, and (iii) Class Counsel shall be
9 appointed as Class Counsel for the Class. This stipulation to certification and appointments of
10 class representative and class counsel is in no way an admission that class action certification or
11 appointments is proper and shall not be admissible in this or in any other action except for the
12 sole purpose of enforcing this Agreement. Should, for whatever reason, the Court deny Final
13 Approval, or this Settlement not become effective, the Parties' stipulation to class certification as
14 part of the Settlement shall become null and void *ab initio* and shall have no bearing on and shall
15 not be admissible in connection with the issue of whether or not certification would be
16 appropriate in a non-settlement context. Defendant expressly reserves its rights and declares that
17 it would continue to oppose class certification and the substantive merits of Plaintiff's claims
18 should the Court deny Final Approval or should this Settlement not become effective. Plaintiff
19 expressly reserves his rights and declares that he will continue to pursue class certification and a
20 trial should the Court fail to grant Final Approval or should this Settlement not become effective.

21 3. For settlement purposes only, the Parties stipulate and agree that the Named
22 Plaintiff was deputized by the State of California, pursuant to PAGA, to negotiate and
23 compromise the Released PAGA Claims on behalf of any and all "Aggrieved Employees" as
24 defined by Labor Code section 2699(c), subject to the approval procedure set forth in Labor
25 Code section 2699(l). Should, for whatever reason, the Court deny Final Approval, or this
26 Settlement not become effective, the Parties' stipulation to Named Plaintiff's representation of
27 any and all "Aggrieved Employees" as defined by Labor Code section 2699(c) as part of the
28 Settlement shall become null and void *ab initio* and shall have no bearing on and shall not be

1 admissible in connection with the issue of whether or not this Action could proceed in a
2 representative context in a non-settlement context. Defendant expressly reserves its rights and
3 declares that it would continue to oppose this action proceeding on a representative basis and the
4 substantive merits of Plaintiff's claims should the Court deny Final Approval or should this
5 Settlement not become effective. Plaintiff expressly reserves his rights and declares that he will
6 continue to pursue representation of "Aggrieved Employees" as defined by Labor Code section
7 2699(c) and a trial should the Court fail to grant Final Approval or should this Settlement not
8 become effective.

9 4. Release as to Participating Class Members and all PAGA Group Members. As of
10 the Effective Date, the Participating Class Members, including any Participating Class Members
11 who object to this Agreement pursuant to the procedures set forth below, fully, finally, and
12 forever completely release and discharge the Released Parties from the Released Claims for the
13 Class Period. Similarly, as of the Effective Date, Plaintiff, individually and on behalf of the
14 Labor and Workforce Development Agency and members of the PAGA Group, forever
15 completely release, relinquish, and discharge the Released PAGA Claims. Participating Class
16 Members and members of the PAGA Group shall be forever barred from asserting, instituting, or
17 maintaining against any or all of the Released Parties, any and all claims, demands, actions,
18 causes of action, lawsuits, arbitrations, damages, or liabilities whether legal, equitable, or
19 otherwise, relating in any way to the claims asserted or the factual or legal allegations made in
20 the Action. Members of the PAGA Group will not have the opportunity to opt out of the PAGA
21 Group or object to the PAGA Payment and release of the PAGA Claims.

22 a. The release shall be included as part of any final judgment in this action, so
23 that all released claims and rights shall also be barred by principles of res
24 judicata. "Released Claims" does not release any person, party or entity from
25 claims, if any, by Settlement Class Members for workers compensation,
26 unemployment, wrongful termination, discrimination, harassment, retaliation,
27 or disability benefits of any nature. The Released Claims are those that
28 accrued during the Class Period.

1 5. Inapplicability of Labor Code § 206.5. Plaintiff, on behalf of himself and the
2 Settlement Class, acknowledge and agree that the claims for failure to pay all overtime wages,
3 minimum wage violations, meal period violations, wage statement violations, and waiting time
4 penalties in the Action are disputed, and that the payments set forth herein constitute payment of
5 all sums allegedly due to them regarding the allegations in this Action. Plaintiff, on behalf of
6 himself and the Settlement Class, acknowledge and agree that California Labor Code § 206.5 is
7 not applicable to the Parties hereto. That section provides in pertinent part as follows:

8 An employer shall not require the execution of any release of any claim or right on
9 account of wages due, or to become due, or made as an advance on wages to be earned,
10 unless payment of those wages has been made.

11 6. Release as to Named Plaintiff. The Named Plaintiff releases and discharges all
12 Released Parties from any and all claims, including but not limited to: any and all wage-and-hour
13 claims arising under the laws of the State of California, including, without limitation, statutory,
14 constitutional, contractual, and/or common law claims for wages, damages, restitution,
15 unreimbursed expenses, equitable relief, penalties, liquidated damages, and/or punitive damages
16 (including, without limitation, claims under any applicable Industrial Welfare Commission Wage
17 Order, PAGA, or any other provision of the California Labor Code); Title VII of the Civil Rights
18 Act of 1964; 42 U.S.C. § 1981; the Americans With Disabilities Act; Sections 503 and 504 of the
19 Rehabilitation Act of 1973; the Family Medical Leave Act; the Fair Labor Standards Act; the
20 Employee Retirement Income Security Act; the Occupational Safety and Health Act; the Worker
21 Adjustment and Retraining Notification Act, as amended; the California Unfair Competition Law
22 (Cal. Bus. & Prof. Code § 17200 et seq.); the California Fair Employment and Housing Act; any
23 state, civil, or statutory laws, including any and all human rights laws and laws against
24 discrimination; any other federal, state, or local statutes, codes, or ordinances; any common law,
25 contract law, or tort law cause of action; and any claims for interest, attorneys’ fees, and/or costs.

26 The Named Plaintiff expressly waives the protections of California Civil Code section
27 1542, which reads as follows:

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1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
2 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
3 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
4 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
5 OR HER SETTLEMENT WITH THE DEBTOR.

6 7. Tax Liability. Defendant makes no representations as to the tax treatment or legal
7 effect of the payments called for herein, and Named Plaintiff, Participating Class Members,
8 members of the PAGA Group, and Class Counsel are not relying on any statement or
9 representation by Defendant in this regard and shall hold Defendant harmless from any claim or
10 liability for taxes, penalties or interest arising as a result of the payment. Named Plaintiff,
11 Participating Class Members, Class Counsel, and members of the PAGA Group understand and
12 agree that Named Plaintiff will be solely responsible for the payment of any taxes and penalties
13 assessed on the payments described herein. Income and other tax withholding will also be made
14 pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or
15 Forms 1099 will be distributed at the times and in the manner required by the Internal Revenue
16 Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations
17 promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement,
18 the processes set forth in this Section may be modified in a manner to comply with any such
19 changes.

20 8. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT
21 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH
22 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
23 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
24 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
25 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
26 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
27 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
28 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31

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1 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
 2 EXCLUSIVELY UPON HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL
 3 FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,
 4 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
 5 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
 6 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
 7 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
 8 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
 9 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
 10 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
 11 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
 12 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
 13 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
 14 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
 15 AGREEMENT.

16 9. No Effect on Employee Benefits. Amounts paid to Plaintiff, Participating Class
 17 Members, or members of the PAGA Group pursuant to this Settlement will not count as earnings
 18 or compensation for purposes of any benefits (e.g., pensions or retirement plans) sponsored by
 19 Defendant. It is expressly understood and agreed that the receipt of an Gross Individual
 20 Settlement Payment or Individual PAGA Payment shall not entitle any Participating Class
 21 Member or member of the PAGA Group to additional compensation or benefits under any
 22 collective bargaining agreement or under any bonus, contest, or other compensation or benefit
 23 plan or agreement in place during the period covered by the Settlement, nor shall it entitle any
 24 Participating Class Member or member of the PAGA Group to any increased pension and/or
 25 retirement, or other deferred compensation benefits. It is the intent of the Parties that Gross
 26 Individual Settlement Payments and Individual PAGA Payments, as provided for in this
 27 Stipulation, are the sole payments to be made by Defendant to Plaintiff, Participating Class
 28 Members, and members of the PAGA Group, in connection with this Settlement, and that

1 Plaintiff, the Participating Class Members and members of the PAGA Group are not entitled to
2 any new or additional compensation or benefits as a result of having received the Gross
3 Individual Settlement Payments or Individual PAGA Payments. Furthermore, the receipt of
4 monies from the Settlement shall not, and does not, by itself establish any general, special, or
5 joint employment relationship between and among the Plaintiff, Participating Class Members,
6 and members of the PAGA Group and Defendant.

7 10. Creation of the Qualified Settlement Fund and Administration of the Settlement.

8 Within ten (10) business days after the Effective Date, Defendant shall deliver the Gross
9 Settlement Amount into the Qualified Settlement Fund created by the Settlement Administrator,
10 plus shall separately pay its share of employer payroll taxes. All payments that Defendant is
11 required to make pursuant to the Settlement Agreement, including, but not limited to, all monies
12 allocated to Participating Class Members, the PAGA Group, Class Counsel, the Labor and
13 Workforce Development Agency, the Settlement Administrator, and FICA, FUTA and SDI
14 contributions and the employee's portion of all payroll taxes, shall be made from the Gross
15 Settlement Amount.

16 11. Attorneys' Fees, Cost Award and Enhancement. Class Counsel shall request, and

17 Defendant agrees to not oppose or impede, an award of attorneys' fees not in excess of one-third
18 (1/3) of the Gross Settlement Amount, or \$154,984, as well as an additional amount for actual
19 litigation costs, not to exceed \$10,000. The Attorneys' Fees and Cost Award shall be paid from
20 the Gross Settlement Amount. Named Plaintiff expressly consents to this distribution of the
21 Attorneys' Fees and Cost Award. Any amount awarded for attorneys' fees to Class Counsel less
22 than \$154,984 will result in the non-awarded amounts to be part of the Net Class Settlement
23 Fund, available for distribution to Participating Class Members. So long as there are no
24 objections, Class Counsel shall be paid any Court-approved fees and costs no later than ten (10)
25 calendar days after the Defendant delivers the Gross Settlement Amount to the Settlement
26 Administrator for deposit into the Qualified Settlement Fund. Class Counsel shall be solely and
27 legally responsible to pay all applicable taxes on the payment made pursuant to this Paragraph.

28 A Form 1099 – MISC, Box 14 shall be provided to Class Counsel by the Settlement

1 Administrator for the payment made pursuant to this Paragraph. The Attorneys' Fees and Costs
2 awarded from the Gross Settlement Amount shall constitute full satisfaction of any claim by any
3 person, attorney, or law firm for attorneys' fees, expenses, or costs in any way related to the
4 Action. Neither Class Counsel nor any other current or past counsel for Plaintiff shall be
5 permitted to petition the Court for, or to accept, any additional payments for attorneys' fees,
6 costs, interest, or any other amount from Defendant in connection with this Agreement except as
7 specified above. Defendant also agrees that it will not oppose Plaintiff's request for an
8 Enhancement Award so long as it does not exceed Seven Thousand Five Hundred Dollars
9 (\$7,500.00).

10 12. Settlement Administrator. The Settlement Administrator shall be paid for the
11 costs of administration of the settlement from the Gross Settlement Amount. The estimate of
12 such costs of administration for the disbursement of the Gross Settlement Amount is \$15,000. In
13 the event that the costs of administration by the Settlement Administrator are less than \$15,000
14 then such amount will be made part of the Net Class Settlement Fund, available for distribution
15 to Participating Class Members. In the event that the costs of administration by the Settlement
16 Administrator are more than \$15,000 then such amount will be deducted from the Gross
17 Settlement Fund, and therefore no longer available for distribution to Participating Class
18 Members. The Settlement Administrator will be responsible for the mailing of Notice to the
19 class, receipt of any requests to Opt-Out, receipt of any objections to the Settlement, resolution
20 of any disputes, payment of individual settlement amounts to the Class Members, and the
21 issuance of all related tax documents (i.e., W-2s and 1099s).

22 13. Preliminary Approval Hearing. As part of this Settlement, the Parties agree to the
23 following procedures for obtaining preliminary Court approval of the Settlement, notifying Class
24 Members, obtaining final Court approval of the Settlement and processing the Individual
25 Settlement Payments:

26 a. Named Plaintiff shall endeavor to file a Motion for Preliminary Approval
27 promptly following execution of this Stipulation. Defendant will not object to Plaintiff's motion
28 for preliminary approval, subject to its review of the motion and as long as it is consistent with

1 this Agreement. Defendant will remit to Plaintiff any proposed revisions to the Motion for
2 Preliminary Approval within three (3) business days of receipt of same. If Defendant does not
3 provide any proposed revisions to the Motion for Preliminary Approval within that timeframe,
4 Defendant will be considered to have consented to the filing of the Motion as it was provided to
5 Defendant for review.

6 b. Named Plaintiff shall request a hearing before the Court to request preliminary
7 approval of the settlement and to request the entry of the Preliminary Approval Order.

8 c. Named Plaintiff will request the Court to enter the Preliminary Approval
9 Order, preliminarily approving and conditionally certifying the class for settlement purposes
10 only, and setting a date for a Final Approval Hearing.

11 d. In conjunction with this hearing, Named Plaintiff will submit this Stipulation,
12 and will include the proposed form of the Notice as reviewed and approved by Defendant, and as
13 attached hereto as **Exhibit A**. The Order shall provide for Notice of the settlement to be sent to
14 Class Members as specified herein.

15 14. Settlement Administration/Management. The Individual Settlement Payments
16 shall be managed and administered as follows:

17 a. Defendant shall not have any obligation to segregate the funds to be used for
18 the Gross Settlement Amount from other assets. Defendant will retain exclusive authority over,
19 and responsibility for, the funds comprising the Gross Settlement Amount and the employer's
20 share of payroll taxes until such time as payment is due.

21 b. Phoenix Settlement Administrators, Inc. shall be retained to serve as
22 Settlement Administrator. The Parties represent that they do not have any financial interest in
23 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator
24 that could create a conflict of interest.

25 c. No payments are due to the Settlement Administrator until the Qualified
26 Settlement Fund is funded.

27 d. Defendant shall provide the Settlement Administrator with the Class List and
28 Data Report within fourteen (14) calendar days of Preliminary Approval of the Settlement.

1 e. Within ten (10) calendar days of receipt of the Class List and Data Report, the
2 Settlement Administrator shall mail the Notice to each Class Member in accordance with the
3 terms of this Agreement and as approved by the Court. The Class List and Data Report provided
4 to the Settlement Administrator will remain confidential and will not be used or disclosed to
5 anyone by the Settlement Administrator, except as required by applicable tax authorities,
6 pursuant to Defendant's express written consent, or by order of the Court.

7 f. All Class Members who do not Opt Out of the Settlement shall be
8 Participating Settlement Class Members.

9 g. With the motion for final approval of this settlement, the Settlement
10 Administrator shall provide Defendant's Counsel and Class Counsel a report showing: (i) the
11 names and number of Class Members who have objected to the settlement; (ii) the names and
12 number of Class Members who submitted valid requests to Opt Out of the settlement; and (iii)
13 the amount owed to each Participating Settlement Class Member.

14 h. The Parties agree to cooperate in the settlement administration process and to
15 make all reasonable efforts to control and minimize the costs and expenses incurred in
16 administration of the settlement.

17 i. The Settlement Administrator shall be responsible for: calculating the number
18 of Pay Periods attributable to each Settlement Class Member and PAGA Group Member that will
19 be used to calculate their individual share of the NCSF and Individual PAGA Payment;
20 calculating the Class Member's share of the NCSF and Individual PAGA Payment; printing and
21 mailing the Notices to Class Members as directed by the Court; receiving and reporting the Opt-
22 Outs and objections submitted by Class Members; mailing Individual Gross Settlement
23 Payments to Participating Settlement Class Members and Individual PAGA Payments to PAGA
24 Group members; creating and issuing W-2s and Form 1099 – MISCS to Settlement Class
25 Members; setting up all necessary tax accounts and forwarding all payroll taxes and penalties to
26 the appropriate government authorities; and other tasks as the Parties mutually agree or the Court
27 orders the Settlement Administrator to perform. The Settlement Administrator shall keep the
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1 Parties' legal counsel timely apprised of the performance of all Settlement Administrator
2 responsibilities.

3 j. The Settlement Administrator, on the Defendant's behalf, shall have the
4 authority and obligation to make payments, credits and disbursements, including payments and
5 credits in the manner set forth herein, to Participating Settlement Class Members calculated in
6 accordance with the methodology set out in this Agreement and orders of the Court. Specifically,
7 no later than ten (10) calendar days after the deposit of Defendant's payment of the Gross
8 Settlement Amount into the QSF, the Settlement Administrator will mail the Individual Gross
9 Settlement Payments, the Individual PAGA Payments, the payment for the attorneys' fees and
10 costs to Class Counsel, any Service Payments to the Class Representatives if requested, the
11 portion of PAGA Award allocated to the LWDA, and will pay itself the Settlement
12 Administration Costs. The payments sent to Class Members and members of the PAGA Group
13 shall be accompanied by a cover letter that specifies that the payment resolves the PAGA
14 Group's PAGA claims. This letter shall be drafted by Named Plaintiff and subject to the review
15 and approval of Defendant.

16 k. Any tax return filing required by this Agreement shall be made by the
17 Settlement Administrator. Any expenses incurred in connection with such filing shall be a cost of
18 administration of the settlement.

19 l. No person shall have any claim against Defendant or Defendant's Counsel, the
20 Named Plaintiff, Class Members, the Class, Class Counsel or the Settlement Administrator based
21 on distributions and payments made in accordance with this Agreement.

22 15. PAGA Allocation and Individual PAGA Payments. Subject to Court approval,
23 the Parties allocate a total of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the
24 Gross Settlement Amount to the PAGA Allocation. Pursuant to California Labor Code section
25 2699(i), the PAGA Payment shall be divided as follows: seventy five percent (75%), or \$11,250,
26 shall be paid to the LWDA, and twenty-five percent (25%), or \$3,750, shall be distributed to the
27 PAGA Group as Individual PAGA Payments.

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a. The Individual PAGA Payments shall be calculated as follows: "PAGA Pay Periods" shall be the total of all pay periods worked by PAGA Group Members for Defendant in California during the period of July 29, 2020 through the date of preliminary approval of the Settlement ("PAGA Time Frame"). The dollars per PAGA Pay Period ("PAGA Pay Period Value") will be calculated by dividing twenty-five percent (25%) of the PAGA Allocation, or \$3,750 by the PAGA Pay Periods. The PAGA Pay Period Value will be multiplied by the number of pay periods each PAGA Group Member worked for Defendant as a non-exempt employee during the PAGA Time Frame to determine the distribution for each Individual PAGA Payment.

16. Calculation of Individual Gross Settlement Payments. To determine the Gross Individual Settlement Payment for each Participating Class Member:

a. The Net Class Settlement Fund ("NCSF") shall be divided among all Class Members based on the number of Pay Periods each Class Member worked during the Class Period. The Settlement Administrator shall divide the NCSF by the total number of Pay Periods for all Participating Class Members resulting in a value for each week worked by the Participating Class Members during the Class Period ("Pay Period Value"). The Settlement Administrator shall then multiply the number of Pay Periods for each Participating Class Member by the Pay Period Value. All Class Members will be entitled to payment for at least one (1) Pay Period.

b. The Gross Individual Settlement Payment to each Participating Settlement Class Member shall be allocated as follows: four-fifths (i.e., 80%) shall be attributed to penalties and interest, to be reported on a 1099 Form; and one-fifth (i.e., 20%) shall be attributed to wages ("Wage Component"), to be reported on a W-2 Form.

c. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Kern County Superior Court under the laws of the State of

1 California. Prior to any such involvement of the Court, counsel for the Parties will confer in
2 good faith to resolve the dispute without the necessity of involving the Court.

3 d. The Gross Individual Settlement Payments will be reduced by any required
4 legal deductions for each Class Member. All standard employer and employee payroll
5 deductions will be made by the Settlement Administrator for state and federal withholding taxes,
6 as well as any other applicable payroll deductions owed by the Participating Class Members.
7 The Settlement Administrator will issue a check and W-2 Form to each Class Member for the
8 Wage Component.

9 e. No withholding shall be made on the interest and penalty portion of the Gross
10 Individual Settlement Payment (eighty percent of the payment amount). The Settlement
11 Administrator will issue a second check and IRS Form 1099 for the remaining interest and
12 penalty component, to the extent required by law.

13 f. The Settlement Administrator shall issue a single check containing a
14 Participating Settlement Class Member's Individual Settlement Payment and Individual PAGA
15 Payment, except that any Settlement Class Member who submits a timely and valid Opt-Out will
16 receive a check only for his/her Individual PAGA Payment because he/she will not receive an
17 Individual Settlement Payment under this Settlement.

18 g. For any Class Member who opts out of the settlement, that amount will inure
19 to the Net Settlement Fund, increasing the per-workweek amount available to be distributed to
20 the Class.

21 h. The Settlement Administrator shall be responsible for issuing the payments
22 and calculating and withholding all required state and federal taxes.

23 17. Notice to Class Members. Notice of the Settlement shall be provided to all Class
24 Members using the following procedures:

25 a. Notice by First-Class Mail. Within ten (10) calendar days after receipt of the
26 Class List and Data, the Settlement Administrator shall mail the Notice to the Class Members via
27 first-class regular U.S. mail. The Settlement Administrator will, among other items, identify in
28 the Notice each individual Class Member's estimated Individual Gross Settlement Payment and

1 the employee's dates of employment and Pay Period Value derived from the Class Member's
2 applicable employment dates.

3 b. Opt-Out/Objection Deadline Date: Class Members will have forty-five (45)
4 calendar days from the mailing of the Notice to opt out of or object to the Settlement.

5 c. Procedure for Undeliverable Notices. Any Notices returned to the Settlement
6 Administrator as non-delivered on or before the Opt-Out/Objection Deadline Date shall be sent
7 to the forwarding address affixed thereto within five (5) business days. If no forwarding address
8 is provided, then the Settlement Administrator shall promptly attempt to determine a correct
9 address using a single skip-trace, computer or other search using the name, address and/or Social
10 Security number of the individual involved and shall then perform a single re-mailing within five
11 (5) business days. In the event the procedures in this paragraph are followed and the intended
12 recipient of a Notice still does not receive the Notice, the intended recipient shall be considered a
13 Participating Class Member and shall be bound by all terms of the Settlement and any Final
14 Judgment entered by the Court if the Settlement is approved by the Court, and his or her
15 Individual Settlement Payment shall be distributed to the *cy pres* beneficiary, namely, Legal Aid
16 at Work, 180 Montgomery Street, Suite 600, San Francisco, CA 94104.

17 d. Presumption Regarding Receipt of Notice Packet. It will be conclusively
18 presumed that if an envelope has not been returned within thirty (30) days of the mailing that the
19 Settlement Class Member received the Notice Packet.

20 e. Participating Class Members shall be bound by all terms of the Settlement and
21 any Final Judgment entered by the Court if the Settlement is approved by the Court.

22 18. Procedure for Objecting to or Opting Out of the Class Action Settlement. Each
23 Class Member will be fully advised of the Settlement, the ability to object to the Settlement, and
24 the ability to opt-out or request exclusion from the Settlement. The Notice Packet will inform
25 the Settlement Class Members of the Court-established deadlines for filing objections or
26 requesting exclusion from the Settlement in accordance with the following guidelines:

27 a. Procedure for Objecting. The Notice shall provide that those Class Members
28 who wish to object to the Settlement must mail a written statement of objection ("Notice of

1 Objection") to the Settlement Administrator no later than the Opt-Out/Objection Deadline Date.
2 The postmark date of the mailing shall be deemed the exclusive means for determining that a
3 Notice of Objection is timely. The Notice of Objection must identify the Class Member's full
4 name, address, telephone number, and the last four digits of the Class Member's social security
5 number; the case name and number; a statement of the Class Member's basis for any objections
6 to the Parties' settlement; a statement advising whether the objecting Class Member plans to
7 address the Court at the Settlement Fairness Hearing and any legal briefs, papers or memoranda
8 the objecting Class Member proposes to submit to the Court; and, if the objecting Class Member
9 is represented by counsel, the name and address of his or her counsel. The Settlement
10 Administrator shall promptly forward to Class Counsel and Defendants' Counsel complete copies
11 of all objections received, including the postmark dates for each objection. Any objector may
12 also appear at the Final Approval Hearing, in person or through an attorney retained at his or her
13 own expense, but such appearance shall not be a prerequisite to the Court's consideration of any
14 timely-filed objection. Class Members may withdraw their objections at any time. Class Members who
15 submit an objection shall remain part of the Class and be bound by the release provisions in this
16 Agreement or the applicable release provisions in any order granting Final Approval. At no time will any
17 of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written
18 objections to the Settlement or appeal from the Order and Judgment. Class Counsel will not represent any
19 Class Members with respect to any such objections to this Settlement. Plaintiff and Defendant shall not
20 be responsible for any fees, costs, or expenses incurred by any Class Member and/or his or her
21 counsel related to any objections to the Settlement.

22 b. Procedure for Opting Out. The Notice shall provide that those Class Members
23 who wish to opt out of the Settlement must mail a written signed statement expressing his or her
24 desire to opt-out from the parties' settlement, and any such statement shall include the name (and
25 former names, if any), current address, telephone number, and the last four (4) digits of Social
26 Security Number of the Class Member and state that "I wish to opt out from the *Dickerson v,*
27 *Aera Energy* settlement." Any Class Member who wishes to opt out of the settlement must
28 submit a request to be excluded from the settlement to the Settlement Administrator postmarked

1 no later than the Opt-Out/Objection Deadline Date. The date of the postmark on the mailing
2 envelope shall be the exclusive means used to determine whether an Opt-Out has been timely
3 submitted. Any Class Member who submits a valid and timely Opt-Out request shall no longer
4 be a member of the Class; shall be barred from participating in this Settlement, as to the class
5 claims; shall be barred from objecting to this Settlement; shall receive no benefit from this
6 Settlement, except as to their Individual PAGA Payment; and will not be bound by this
7 Agreement, or the Judgment, except as to the PAGA Claims. Any Class Member who does not
8 Opt-Out by submitting a request for exclusion as described herein, (i) will be bound by the terms
9 of this settlement and conditions of this Agreement, the Judgment, and the releases set forth
10 herein; (ii) be deemed to be Participating Class Members for all purposes under this Agreement;
11 and (iii) except as otherwise provided herein, will be deemed to have waived all objections and
12 oppositions to the fairness, reasonableness, and adequacy of the Settlement.

13 c. Failure to Object. Absent good cause found by the Court, any Settlement
14 Class Member who desires to object but fails to timely submit a written objection waives any
15 right to object and will be foreclosed from making any objection to this Settlement. Any
16 Settlement Class Member who does not timely and properly become a party of record by
17 intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the
18 Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such
19 as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil
20 Procedure section 473, and/or extraordinary writs.

21 d. Responses to Objections. Counsel for the Parties may file a response to any
22 objections submitted by Objecting Settlement Class Members at least five (5) court days before
23 the date of the Final Approval Hearing.

24 e. Disputed Information on Notice. Each Class Member shall have an
25 opportunity to dispute the employment dates and/or number of Pay Periods attributed to him or
26 her in the Notice, and must submit such a dispute to the Settlement Administrator on or before
27 the Opt-Out/Objection Deadline Date. To the extent a Class Member disputes the employment
28 dates or number of Pay Periods listed in the Notice, the Class Member may produce evidence to

1 the Settlement Administrator showing that such information is inaccurate. Absent evidence
2 rebutting Defendant's records, Defendant's records will be presumed determinative. However, if
3 a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate
4 the evidence submitted by the Class Member and will make the final decision as to the number
5 of eligible Pay Periods that should be applied.

6 f. No Solicitation of Settlement Objections or Opt-Outs. The Parties agree to
7 use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties
8 or their counsel seek to solicit or otherwise encourage or influence Class Members to submit
9 written objections to the settlement, to Opt-Out of the Settlement or to appeal from the Order and
10 Final Judgment.

11 g. No Opt-Outs or Subsequent Lawsuits By Any Parties Represented by Class
12 Counsel. Class Counsel agrees that Named Plaintiff waives his right to opt-out of or object to
13 this Settlement.

14 19. Procedure for Payment of Individual Settlement Payments. The procedure for
15 payment to Class Members of Individual Settlement Payments is as follows:

16 a. All Class Members who do not Opt-Out of the Settlement will receive an
17 Individual Settlement Payment, distributed through the Settlement Administrator.

18 b. Individual Settlement Payments for Class Members shall be paid pursuant to
19 the Workweek formula set forth herein and shall be mailed within ten (10) calendar days after
20 Defendant delivers the Gross Settlement Amount to the Settlement Administrator for deposit into
21 the Qualified Settlement Fund.

22 c. Individual Settlement Payments shall be made by check and shall be made
23 payable to each Participating Class Member as set forth in this Stipulation.

24 d. Should any question arise regarding the determination of eligibility for, or the
25 amounts of, any Individual Settlement Payment under the terms of this Agreement, Class
26 Counsel and Defendant's Counsel shall meet and confer in an attempt to reach agreement. If
27 they cannot agree, the Settlement Administrator shall make the final determination, and that
28 determination shall be conclusive, final and binding on all Parties, including all Class Members.

1 20. Non-Negotiated Settlement Checks/ *Cy Pres* Beneficiary. Any checks issued by
2 the Settlement Administrator to Participating Class Members shall be negotiable for one hundred
3 and eighty (180) calendar days. Those funds represented by settlement checks returned as
4 undeliverable and the funds which correspond with the settlement checks that are not negotiated
5 within one hundred and eighty (180) calendar days after issuance shall be cancelled, and the
6 funds associated with such cancelled checks, plus any accrued interest that has not been
7 distributed, shall be tendered by the Settlement Administrator to the *cy pres* beneficiary, namely,
8 Legal Aid at Work, 180 Montgomery Street, Suite 600, San Francisco, CA 94104.

9 21. Certification By Settlement Administrator. Upon completion of administration of
10 the distributions, the Settlement Administrator shall provide written certification of such
11 completion to the Court and counsel for all Parties. The Settlement Administrator shall attach
12 any objections to its certification and Class Counsel shall file the certification with the Court at
13 least 14 days prior to the Final Approval Hearing.

14 22. Final Settlement Approval Hearing and Entry of Final Judgment. Upon
15 expiration of the Opt-Out/Objection Deadline Date, Class Counsel shall submit, subject to
16 Defendant's review, the proposed Final Judgment and a motion for final approval of the
17 settlement requesting the Court (i) approve the Settlement, adjudging the terms thereof to be fair,
18 reasonable and adequate, and directing consummation of its terms and provisions; (ii) approve
19 Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs
20 and expenses, any Service Payment to Plaintiff, and the payment to the Settlement Administrator
21 for costs of administering the settlement; (iii) enter judgment approving settlement, thereby
22 permanently barring all Class Members from prosecuting any Released Claims against any of the
23 Released Parties; and (iv) dismiss this Action with prejudice. With the Court's permission, a
24 hearing ("Final Fairness Hearing") shall then be conducted to determine final approval of the
25 Settlement along with the amount properly payable for: (i) Attorneys' Fees and Costs Award, (ii)
26 any Enhancement Award, and (iii) Settlement Administration Costs. After entry of the Final
27 Judgment, the Court shall have continuing jurisdiction solely for purposes of addressing: (i) the
28 interpretation and enforcement of the terms of the settlement, (ii) settlement administration

1 matters, and (iii) such post-Final Judgment matters as may be appropriate under court rules or as
2 set forth in this Agreement.

3 23. Agreement to Increase Gross Settlement Amount Under Specified Circumstances.

4 The Parties agree that the Class Agreement is premised on information based on data exchanged
5 by the Parties during the course of settlement discussions reflecting that the number of Class
6 Members is approximately 458, and that the estimated number of pay periods attributable to
7 Class Members is approximately 46,445. If, as of preliminary approval, the number of pay
8 periods encompassed by this Stipulation has increased by more than seven and one-half percent
9 (7.5%), then Defendant will proportionally increase the Gross Settlement Amount according to
10 the following formula: $(\text{[Total Number of Pay Periods]}/49,928) * \text{Gross Settlement Amount}$.

11 24. Defendant’s Option to Nullify Joint Stipulation of Settlement. The Parties further

12 agree that if more than ten percent (10%) of the number of Class Members opt-out of this
13 Agreement, Defendant shall have, in its sole discretion, the option to terminate this Agreement.
14 If Defendant decides to void this Agreement pursuant to this term, then this Agreement and
15 conditional class certification shall be considered void, and neither this Agreement, conditional
16 class certification, nor any of the related negotiations or proceedings, shall be of any force or
17 effect, and the Parties shall stand in the same position, without prejudice, as if this Agreement
18 had been neither entered into nor filed with the Court.

19 25. Nullification of Settlement Agreement. In the event: (i) the Court does not enter

20 the Preliminary Approval Order; (ii) the Court does not finally approve the Settlement as
21 provided herein; (iii) the Court does not enter a Final Judgment as provided herein, which
22 becomes final on the Effective Date; (iv) the LWDA does not approve the settlement; (v)
23 Defendants exercise their option to nullify the Agreement based on an excessive number of opt-
24 outs, as describe in the above paragraph; (vi) the Named Plaintiff exercises his option to nullify
25 the Agreement, as describe in the above paragraph or (vii) the Settlement does not become final
26 for any other reason, this Settlement Agreement shall be null and void. Any order or judgment
27 entered by the Court in furtherance of this settlement shall be treated as void, and the
28 Stipulations and Recitals contained herein, except for Section III, Paragraph 27, *infra*, shall be of

1 no force or effect and shall not be treated as an admission by the Parties or their Counsel. In such
2 a case, the Parties and any funds to be awarded under this settlement shall be returned to their
3 respective statuses as of the date and time immediately prior to the execution of this Agreement,
4 and the Parties shall proceed in all respects as if this Settlement Agreement had not been
5 executed, except that any fees already incurred by the Settlement Administrator shall be paid in
6 equal parts by Named Plaintiff and Defendant, but if Defendant or Named Plaintiff elect to
7 nullify the Agreement pursuant to Paragraph 18 *supra*, then the fees incurred by the Settlement
8 Administrator shall be paid entirely by the party who elects to nullify the agreement. If the
9 Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further
10 obligations under the Settlement, including any obligation by Defendant to pay the Settlement
11 Amount, or any amounts that otherwise would have been owed under this Settlement, and the
12 Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

13 26. Non-Monetary Settlement Consideration. The Parties agree that as a condition of
14 settlement, Defendant will take steps to ensure recordation of the precise start and stop times of
15 its non-union employees' meal periods, as required by Donohue v. AMN Services, LLC (2021)
16 11 Cal.5th 58, and will provide a supporting declaration affirming its compliance with this term
17 to be included with Plaintiff's anticipated Motion for Final Approval of Settlement.

18 27. Notice to LWDA. Pursuant to California Labor Code section 2699(1), Class
19 Counsel shall have the obligation to provide notice to the California Labor and Workforce
20 Development Agency in compliance with Labor Code section 2699(1), including but not limited
21 to this Agreement and any judgment or order pertaining to the Court's approval of this
22 Agreement.

23 28. No Retaliation. Defendant shall not take any adverse action against any Class
24 Member because of the Action or because of the existence of, and/or participation in, the
25 Settlement, or because they choose to benefit from the Settlement or to object to the Settlement.
26 Defendant shall not take action to discourage Class Members from participating in the
27 Settlement.

1 29. Notices. Unless otherwise specifically provided herein, all notices, demands or
2 other communications regarding this Agreement or given hereunder shall be in writing and shall
3 be deemed to have been duly given as of the third business day after mailing by United States
4 registered or certified mail, return receipt requested, addressed:

5 To the Settlement Class:
6 S. Brett Sutton
7 Jared Hague
8 SUTTON HAGUE LAW CORPORATION
9 5200 N. Palm Avenue, Suite 203
10 Fresno, California 93704
11 Telephone: (559) 325-0500

12 To Defendant:
13 Adam Levin
14 Jeremy Mittman
15 Gabriel Hemphill
16 MITCHELL SILBERBERG &
17 KNUPP LLP
18 2049 Century Park East, 18th Floor
19 Los Angeles, CA 90067-3120
20 Telephone: (310) 312-2000
21 Facsimile: (310) 312-3100

22 30. Exhibits and Headings. The terms of this Agreement include the terms set forth
23 in any attached exhibits, which are incorporated by this reference as though fully set forth herein.
24 Any exhibits to this Agreement are an integral part of the settlement. The descriptive headings
25 of any paragraphs or sections of this Agreement are inserted for convenience of reference only
26 and do not constitute a part of this Agreement.

27 31. Interim Stay of Proceedings. The Parties agree to the Court staying and holding
28 all proceedings in the Action, except such proceedings necessary to implement and complete the
settlement, in abeyance pending the Final Approval Hearing to be conducted by the Court.

 32. Tolling of 5-Year Deadline. The Parties agree and hereby stipulate to toll and
extend the five-year deadline to bring this case to trial, as set forth in Code of Civil Procedure
section 583.330, for the period of time from August 26, 2022 through and including the later of
the following dates: (a) 45 calendar days following the Court's entry of an order denying, in its

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Law Corporati
5200 N. Palm
Suite 203
Fresno, CA 93

1 entirety and with prejudice, Plaintiff's Motion for Preliminary Approval; or (b) if the Court
2 grants Plaintiff's Motion for Preliminary Approval, 45 calendar days following the Court's entry
3 of an order denying, in its entirety and with prejudice, Plaintiff's Motion for Final Approval; or
4 (c) if there are objections to this Settlement and subsequent appeals, then 45 calendar days after
5 those appeals have been resolved and this Action is remanded to the Court. The Parties agree
6 and stipulate that this clause regarding the tolling of the 5-year deadline shall remain in full force
7 and effect even if this Agreement is nullified and/or found void for any reason whatsoever and/or
8 is revoked by any Party.

9 33. Amendment or Modification. This Agreement may be amended or modified
10 only by a written instrument signed by counsel for all Parties or their successors-in-interest.

11 34. Entire Agreement. This Agreement and any attached exhibits constitute the
12 entire agreement among these Parties, and no oral or written representations, warranties or
13 inducements have been made to any Party concerning this Agreement or its exhibits other than
14 the representations, warranties and covenants contained and memorialized in such documents.

15 35. Authorization to Enter into Settlement Agreement. Counsel for all Parties
16 warrant and represent that they are expressly authorized by the Parties whom they represent to
17 negotiate this Agreement and to take all appropriate action required or permitted to be taken by
18 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
19 documents required to effectuate the terms of this Agreement. The Parties and their counsel will
20 cooperate with each other and use their best efforts to affect the implementation of the
21 settlement. In the event the Parties are unable to reach agreement on the form or content of any
22 document needed to implement the settlement, or on any supplemental provisions that may
23 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance
24 of the Court to resolve such disagreement. The person(s) signing this Agreement on behalf of
25 Defendant represent and warrant that he or she is authorized to sign this Agreement on the
26 Defendant's behalf.

27 36. Binding on Successors and Assigns. This Agreement shall be binding upon,
28 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

1 37. California Law Governs. All terms of this Agreement and the exhibits hereto
2 shall be governed by and interpreted according to the laws of the State of California.

3 38. Counterparts. This Agreement may be executed in one or more counterparts.
4 All executed counterparts and each of them shall be deemed to be one and the same instrument,
5 provided that counsel for the Parties to this Agreement shall exchange among themselves
6 original signed counterparts.

7 39. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
8 Settlement is a fair, adequate and reasonable Settlement of this Action and have arrived at this
9 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
10 present and potential.

11 40. Jurisdiction of the Court. The Court shall retain jurisdiction with respect to
12 the interpretation, implementation and enforcement of the terms of this Agreement and all orders
13 and judgments entered in connection therewith, and the Parties and their counsel hereto submit to
14 the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the
15 Settlement embodied in this Agreement and all orders and judgments entered in connection
16 therewith.

17 41. Cooperation and Drafting. Each of the Parties has cooperated in the drafting
18 and preparation of this Agreement. Hence, in any construction made to this Agreement, the
19 same shall not be construed against any of the Parties.

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

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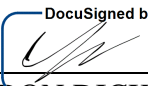
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43. Named Plaintiff's Waiver of Right to be Excluded and Object. The Named Plaintiff agrees to sign this Agreement, and by signing this Agreement is bound by the terms herein stated, and further agrees not to opt out of the Agreement or to object to any of the terms of this Agreement. Non-compliance by the Named Plaintiff with this paragraph shall be void and of no force or effect. Any such objection shall therefore be void and of no force or effect.

NAMED PLAINTIFF

Dated: 9/15/2022, 2022

DocuSigned by:

By: _____
AARON DICKERSON

DEFENDANT

AERA ENERGY, LLC

Dated: _____, 2020

By: _____
AUTHORIZED REPRESENTATIVE
AERA ENERGY, LLC

1 43. Named Plaintiff's Waiver of Right to be Excluded and Object. The Named
2 Plaintiff agrees to sign this Agreement, and by signing this Agreement is bound by the terms
3 herein stated, and further agrees not to opt out of the Agreement or to object to any of the terms
4 of this Agreement. Non-compliance by the Named Plaintiff with this paragraph shall be void
5 and of no force or effect. Any such objection shall therefore be void and of no force or effect.

6
7 **NAMED PLAINTIFF**

8
9 Dated: _____, 2022

By: _____
AARON DICKERSON

10
11
12 **DEFENDANT**

13 AERA ENERGY, LLC

14
15 Dated: 9/14/2022, 2022

By: Martin Cozyn
AUTHORIZED REPRESENTATIVE
AERA ENERGY, LLC