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FILED
ALAMEDA COUNTY

JUN 30 2017

CLERK OF THE SUPERIOR COURT
By *Yestrada* Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

10 MICHAEL STAYTON, individually, and on
11 behalf of other members of the general public
12 similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act,

13 Plaintiff,

14 vs.

15 MESA ENERGY SYSTEMS, INC., a
16 California corporation; and DOES 1 through
100, inclusive,

17 Defendants.

Case No.: RG15762333

Honorable Winifred Y. Smith
Department 21

CLASS ACTION

**ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Reservation No.: R-1836376
Date: June 30, 2017
Time: 11:00 a.m.
Department: 21

Complaint Filed: March 13, 2015
FAC Filed: December 28, 2016
Trial Date: None Set

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1 This matter has come before the Honorable Winifred Y. Smith in Department 21 of the
2 above-entitled Court, located at 1221 Oak Street, 4th Floor, Oakland, California 94612, on
3 Plaintiff Michael Stayton's ("Plaintiff") Motion for Preliminary Approval of Class Action
4 Settlement ("Motion for Preliminary Approval").

5 Having duly considered the Parties' papers and oral argument, and good cause appearing,
6 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

7 1. This Order incorporates by reference the definitions in the Joint Stipulation of
8 Settlement and Release and Amendment No. 1 to Joint Stipulation of Class Action Settlement
9 and Release ("Settlement," "Agreement," or "Settlement Agreement"), which, together with the
10 exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the
11 above-captioned lawsuit (the "Action"), and all terms defined therein shall have the same
12 meaning in this Order as set forth in the Settlement.

13 2. It appears to the Court on a preliminary basis that the Settlement is fair, adequate,
14 and reasonable. It appears to the Court that extensive and costly investigation and research have
15 been conducted such that counsel for the Parties, at this time, are able to reasonably evaluate
16 their respective positions. It further appears to the Court that the Settlement, at this time, will
17 avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be
18 presented by the further prosecution of the Action. It further appears that the Settlement has
19 been reached as the result of intensive, serious and non-collusive, arm's-length negotiations, and
20 was entered into in good faith.

21 3. The Court preliminarily finds that the Settlement appears to be within the range of
22 reasonableness of a settlement that could ultimately be given final approval by this Court.
23 Indeed, the Court has reviewed the monetary recovery that is being granted as part of the
24 Settlement and preliminarily finds that the monetary settlement awards made available to all
25 Class Members are fair, adequate and reasonable when balanced against the probable outcome of
26 further litigation relating to liability and damages issues.

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1 4. The Court hereby conditionally certifies the following Class for settlement
2 purposes only: “all current and former hourly/non-exempt employees of Defendant who worked
3 in the State of California at any time within the period from March 13, 2011 through April 5,
4 2016.”

5 5. The Court hereby appoints and designates Plaintiff Michael Stayton as Class
6 Representative for settlement purposes only. The Court also hereby appoints and designates
7 Lawyers *for* Justice, PC as Class Counsel for settlement purposes only.

8 6. Class Counsel is authorized to act on behalf of the Settlement Class Members
9 with respect to all acts or consents required by, or which may be given pursuant to, the
10 Settlement, and such other acts reasonably necessary to consummate the Settlement. Any
11 Settlement Class Member may enter an appearance through counsel of such individual’s own
12 choosing and at such individual’s own expense. Any Settlement Class Member who does not
13 enter an appearance or appear on his or her own will be represented by Class Counsel.

14 7. The Court hereby preliminarily approves the definition and disposition of the
15 Maximum Settlement Amount and related matters provided for in the Settlement.

16 8. The Court hereby preliminarily approves the allocations for an award of
17 attorneys’ fees in an amount up to Two Hundred Fifty-Three Thousand Seven Hundred Fifty
18 Dollars (\$253,750) to Class Counsel, reimbursement of litigation costs and expenses in an
19 amount up to Ten Thousand Dollars (\$10,000) to Class Counsel, Class Representative Service
20 Enhancement Payment in an amount up to Ten Thousand Dollars (\$10,000) to Plaintiff Michael
21 Stayton; Settlement Administration Costs in an amount up to Fifteen Thousand Dollars
22 (\$15,000) to the Settlement Administrator, and the allocation for the civil penalties pursuant to
23 the Private Attorney General Act (“PAGA”) in the amount of Four Thousand Dollars (\$4,000),
24 of which seventy-five percent (75%) or \$3,000 shall be paid to the California Labor and
25 Workforce Development Agency and twenty-five percent (25%) shall be distributed to the
26 Qualifying Claimants on a *pro rata* basis.

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1 9. A Final Approval Hearing shall be held before this Court on October 27, 2017 at
2 11:00 a.m., in Department 21 of the Superior Court for the State of California, for the County of
3 Alameda, located at 1221 Oak Street, Fourth Floor, Oakland, California 94612, to determine all
4 necessary matters concerning the Settlement, including: whether the proposed settlement of the
5 Action on the terms and conditions provided for in the Settlement is fair, adequate, and
6 reasonable, and should be finally approved by the Court; whether a Judgment, as provided in the
7 Settlement, should be entered herein; whether the plan of allocation contained in the Settlement
8 should be approved as fair, adequate, and reasonable to the Settlement Class Members; and to
9 finally approve the requests for an award of attorneys' fees and reimbursement of litigation costs
10 and expenses, Class Representative Service Enhancement Payment, and for approval of the
11 PAGA Payment and the Settlement Administration Costs.

12 10. Class Counsel shall file a motion for final approval of the Settlement and
13 application for attorneys' fees and litigation costs and expenses, the Class Representative Service
14 Enhancement Payment, and the Settlement Administration Costs, along with the appropriate
15 declarations and supporting evidence, including the Settlement Administrator's due diligence
16 declaration, by October 20, 2017, to be heard at the Final Approval Hearing.

17 11. The Court hereby approves, as to form and content, the Notice of Class Action
18 Settlement ("Notice") and the Claim Form (hereinafter collectively referred to as the "Settlement
19 Documents"), which are attached hereto as "**EXHIBIT A**" and "**EXHIBIT B**," respectively.

20 12. The Court hereby appoints Simpluris, Inc. as the Settlement Administrator.
21 Defendants shall provide the Settlement Administrator with the Class Data within fourteen (14)
22 calendar days of the date of this Order. At the same time Defendant provides the Class Data to
23 the Settlement Administrator, Defendant shall provide Class Counsel with the names, employee
24 ID numbers, and Qualifying Work Weeks of all Class Members. The Court hereby also directs
25 the Settlement Administrator to mail, or cause to be mailed, the Settlement Documents by First-
26 Class U.S. Mail to the Class Members within ten (10) calendar days of receiving the Class Data
27 from Defendant, using the procedures set forth in the Settlement Agreement. The Settlement
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1 Administrator shall undertake all other mailings provided for by the Settlement Agreement, in
2 conformity therewith.

3 13. The Court finds that distribution of the Settlement Documents, substantially in the
4 manner and form set forth in the Settlement and this Order, and all other mailings and dates set
5 forth in the Settlement and this Order, meet the requirements of due process, are the best notice
6 practicable under the circumstances, and shall constitute due and sufficient notice to all persons
7 entitled thereto.

8 14. The Court hereby preliminarily approves the proposed procedure for requesting
9 exclusion from the Class. Any Class Member may choose to be excluded from the Class, and
10 those Class Members who wish to exclude themselves from the Class must submit a written
11 request for exclusion to the Settlement Administrator. A request for exclusion is timely and valid
12 only if: (1) it states the Class Member's name, Social Security Number, address and telephone
13 number, (2) it unequivocally state that the Class Member requests exclusion from, or "opts out"
14 of, the Settlement, (3) it is dated and signed by the Class Member; (4) it is returned to the
15 Settlement Administrator by mail, postmarked within sixty (60) days from the date of the initial
16 mailing of the Settlement Documents (i.e., the "Claims Period"). If a Class Member submits a
17 deficient opt-out request, the Settlement Administrator shall notify the Class Member of the
18 deficiency within three (3) business days of receipt. The Class Member shall have until the end
19 of the Claims Period plus three (3) business days to cure said deficiencies, at which point his or
20 her request for exclusion will be rejected if not received. Class Members who submit a timely
21 and valid request for exclusion will not be bound by the Settlement, will not release the Released
22 Claims, and shall not be entitled to any benefit as a result of the Settlement. If a Class Member
23 submits both a Claim Form and a request for exclusion, the Claim Form will control and the
24 Class Member will be considered a Qualified Claimant, regardless of the date on either
25 document or the date the documents are postmarked.

26 15. To object to any aspect of the Settlement, a Class Member must file a written
27 objection with the Court and serve copies upon Class Counsel and Defendant's Counsel, no later
28 than the conclusion of the Claims Period, or, in the case of a Class Member to whom the

