

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN BERNARDINO

*Lizeth Sandoval v. MK Magnetics, Inc.*

Case No. CIVSB2123393

**NOTICE OF CLASS ACTION SETTLEMENT**

*A court authorized this notice. This is not a solicitation.*

*This is not a lawsuit against you, and you are not being sued.*

*However, your legal rights are affected by whether you act or don't act.*

**TO: Any and all persons who have been employed by Defendant MK Magnetics, Inc. (“Defendant”) as a non-exempt employee in California at any time from August 30, 2017, to March 13, 2023.**

The California Superior Court, County of San Bernardino has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned action (“Class Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes:

Any and all persons who have been employed by Defendant as a non-exempt employee in California at any time from August 30, 2017, to March 13, 2023. (“Class” or “Class Members”).

The purpose of this Notice is to provide a brief description of the claims alleged in the Class Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

**YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.**

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**1. Why Have I Received This Notice?**

Defendant’s personnel records indicate that you may be a Class Member. The Settlement will resolve all Class Members’ Released Claims, as described below, from the time period from August 30, 2017, to March 13, 2023. (the “Class Period”).

A Preliminary Approval Hearing was held on March 13, 2023, in the Superior Court of California, County of San Bernardino. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing.

The Court will hold a Final Approval Hearing concerning the proposed settlement on August 10, 2023, at 10:00 a.m., before Honorable David Cohn, located in Department S26 of the Courthouse located at 247 W. 3<sup>rd</sup> Street, San Bernardino, California 92415.

**2. What Is This Case About?**

Lizeth Sandoval filed a Class Action lawsuit against Defendant on August 30, 2021, in the Superior Court of California, County of San Bernardino, Case No. CIVSB2123393. Plaintiff alleged therein that Defendant: (1) failed to pay all wages, including minimum and overtime wages; (2) failed to provide meal breaks (including without limitation first and second meal breaks) each day based on the hours worked by each employee, including meal breaks that were short, late, interrupted, and/or missed altogether; (3) failed to authorize and permit legally compliant rest breaks each day based on the hours worked by each employee, including rest breaks that were short, late, interrupted, and/or missed altogether; (4) failed to reimburse necessary business expenses; (6) failed to timely pay wages during employment for each pay period for every employee; (7) failed to timely pay wages upon discharging employees; and (8) conducted unfair business practices. Plaintiff further alleged that the aforementioned resulted in inaccurate wage statements; the underpayment of wages to employees upon termination and/or resignation.

On December 3, 2021, Plaintiff filed a First Amended Complaint adding a cause of action under the Private Attorneys General Act of 2004 (“PAGA”) seeking penalties for violations of the Labor Code.

Plaintiff and Defendant attended mediation on the Class Action on October 27, 2022. With the support of a mediator, the Parties reached a settlement of the Class Action.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. The Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant; instead, both sides agreed to resolve the Class Action with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all Parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further denies any liability whatsoever to Plaintiff or to the Class.

**3. Am I A Class Member?**

You are a Class Member if you are a current or former non-exempt employee of the Defendant who worked in California at any time from August 30, 2017, to March 13, 2023.

**4. How Does This Class Action Settlement Work?**

In this Class Action, Plaintiff sued Defendant on behalf of herself and all other similarly situated employees who were employed by Defendant as non-exempt employees in California at any time during the Class Period. Plaintiff and these other current and former employees comprise a “Class” and are “Class Members.” The settlement of this Class Action resolves the Released Claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is below, and they will provide you with a copy free of charge.

**5. Who Are the Attorneys Representing the Parties?**

<b>Attorneys for Plaintiff and the Class</b>	<b>Attorneys for Defendant</b>
<b>MOON &amp; YANG, APC</b> Kane Moon Lilit Ter-Astvatsatryan 1055 W. Seventh Street, Suite 1880 Los Angeles, CA 90017 Telephone: (213) 232-3128 Facsimile: (213) 232-3125	<b>WOOD, SMITH, HENNING &amp; BERMAN LLP</b> Keith Smith Ashley Beagle Christina Loni 21804 Cactus Avenue, Suite 200 Riverside, CA 92518 Telephone: (951) 779-5015 Facsimile: (951) 755-1650

The Court has appointed Moon & Yang to represent you and all other Class Members simultaneously.

Class Counsel is working on your behalf. If you want your own attorney, you may hire one at your own cost.

**6. What Are My Options?**

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

**Important Note: Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.**

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this lawsuit and will receive an Individual Settlement Share based on the total number of workweeks you were employed as a non-exempt employee in California during the Class Period. You will release all the Released Claims, as defined in Section No. 9 below, and you will give up your right to pursue the Released Claims, as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Action. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Share and you will not give up the right to sue the Released Parties, including Defendant, for any the Released Claims as defined in Section No. 9 below.

- **OBJECT:** You may mail a legal objection to the proposed Settlement. If you would like to object, you may not opt out of this Settlement.

The procedures for opting out and objecting are set forth below in the sections entitled “How Do I Opt Out or Exclude Myself From This Settlement?” and “How Do I Object To The Settlement?”

**Regardless of which option you choose, you must advise the Settlement Administrator of any change of address.**

#### **7. How Do I Opt Out Or Exclude Myself From This Settlement?**

If you do not wish to participate in the Settlement, you may be excluded from the Settlement (*i.e.*, “opt out”) by sending a timely opt out form. You can submit your own written document that includes: (a) include your name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by you or your lawful representative; and (d) be postmarked no later than the Response Deadline. If you opt out of the Settlement, you will not be releasing the claims set forth in Section No. 9. The Exclusion Form must be signed, dated, and mailed by First Class U.S. Mail, **postmarked no later than July 17, 2023**, to: **PHOENIX CLASS ACTION ADMINISTRATION SOLUTIONS, P.O. BOX 7208, ORANGE, CA 92863**. You cannot exclude yourself by phone.

If you received a re-mailed Class Notice, whether by skip-trace or forwarded mail, your Response Deadline to postmark an Exclusion Form, or mail and serve an objection to the Settlement will be extended by ten (10) calendar days from the original Response Deadline. **The envelope should indicate whether the Class Notice has been forwarded or re-mailed. We encourage you to keep copies of all documents, including the envelope, in the event the deadline is challenged.**

The Court will exclude any Class Member who submits a complete and timely Exclusion Form as described in the paragraph above. The Exclusion Form must: (a) include the Class Member’s name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member or his or her lawful representative; and (d) be postmarked no later than the Response Deadline. Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Any Class Member who fails to submit a valid and timely Exclusion Form on or before the above-specified deadline shall be bound by all terms of the Settlement, release, and any Judgment entered in the Action if the Settlement receives final approval from the Court.

You are responsible for ensuring that the Settlement Administrator receives any request for exclusion you submit.

#### **8. How Do I Object To The Settlement?**

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by mailing it to the Settlement Administrator at P.O. Box 7208, Orange, CA 92863 by July 17, 2023. The Objections must: (a) state the objecting person’s full name, address, and telephone number and the name and address of counsel, if any; (b) have the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing; (f) be signed by the objecting Class Member or his or her attorney; and (g) state whether the objecting Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel and orally object to the Settlement. Any attorney who will represent an individual objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel no later than fifteen (15) calendar days before the Final Approval hearing.

Class Members’ timely and valid objections to the Settlement will still be considered even if the objector does not appear at the Final Approval Hearing.

Settlement Class members who fail to object in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Again, to be valid and effective, any objections must be mailed to the Settlement Administrator postmarked on or before July 17, 2023.

If the Court rejects the notice of objection, the Class Member will receive an Individual Settlement Share and will be bound by the terms of the Settlement.

#### **9. How Does This Settlement Affect My Rights? What are the Released Claims?**

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court’s Final Judgment and will fully release and discharge Defendant and each of its current and former owners, operators, officers, members, directors, shareholders, partners, affiliated companies, parent companies, subsidiary companies, holding companies, predecessors, successors, insurers, reinsurers, vendors, assigns, trustees, DBAs, franchisors, franchisees, payroll service providers, paystub providers, legal representatives, accountants, employees, independent contractors, lessors, and agents. (“Released Parties”).

## **A. Released Claims.**

Released Class Claims: Upon Effective Final Settlement Date the claims that Plaintiff and Participating Class Members are releasing in exchange for the consideration provided for by this Agreement are all known and unknown claims, rights, demands, damages, liabilities and causes of action, in law or in equity, arising at any time during the Class Period alleged in the Complaint or that could have been alleged based on the facts pleaded, including but not limited to California Labor Code §§ 201-203, 204, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, and the related applicable IWC Wage Orders.

Released PAGA Claims: Upon Effective Final Settlement Date the claims that Plaintiff, the Eligible Aggrieved Employees, and the State of California are releasing in exchange for the consideration the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Complaint and the Notice to the LWDA.

### **10. How Much Can I Expect to Receive From This Settlement?**

The total maximum amount that Defendant could be required to pay under the Settlement Agreement shall be up to but no more than Three Hundred Eighty-Five Thousand Dollars and Zero Cents (\$385,000.00). (“Total Consideration” or “TC”).

The “Net Settlement Amount” or “NSA” means the portion of the Total Consideration available for distribution to Class Members after the deduction of (1) the Class Representative Enhancement Payment to Plaintiff in an amount up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for the prosecution of the Class Action, risks undertaken for the payment of attorneys’ fees and costs, and a general release of all claims; (2) the Administration Costs to the Settlement Administrator in an amount up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00); (3) the PAGA Payment of Thirty Thousand Dollars and Zero Cents (\$30,000.00), seventy-five percent (75%) of which, Twenty-Two Thousand and Five Hundred Dollars and Zero Cents (\$22,500.00), shall be paid to the LWDA, and twenty-five percent (25%) of which, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), shall be distributed to Eligible Aggrieved Employees, on a pro rata basis; (4) the Attorney Fee Award to Class Counsel in an amount not to exceed one-third (1/3) or One Hundred Twenty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$128,333.33) of the TC; and (5) payment to Class Counsel of Cost Award in an amount not to exceed Seventeen Thousand Dollars and Zero Cents (\$17,000.00) for litigation costs. All these payments are subject to court approval.

After deducting the above-referenced items, the remaining Net Settlement Amount will be proportionately distributed among all Class Members who have not opted out. The Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to: (i) the number of workweeks he or she worked as a non-exempt employee during the Class Period based on the Class List provided by Defendant, divided by (ii) the total number of workweeks worked by any and all Participating Class Members collectively, during the Class Period based on the same Class List, which is then multiplied by the Net Settlement Amount. One day worked in a given workweek will be credited as one workweek for purposes of this calculation. Therefore, the value of each Participating Class Member’s Individual Settlement Share ties to the amount of workweeks that he or she worked as a non-exempt employee during the Class Period.

Although your exact share of the Net Settlement Amount cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$695.72, less taxes. This is based on Defendant’s records which show you worked 41 workweeks as a non-exempt employee during the Class Period.

If you believe the number of eligible workweeks records is incorrect, you must provide documentation and/or an explanation to show contrary information to the Settlement Administrator at P.O. Box 7208, Orange, CA 92863 on or before July 17, 2023. If you do not provide any documents supporting your dispute, the number of workweeks reported in Defendant’s records will be presumed correct, and your challenge will be rejected by the Settlement Administrator. Any evidence submitted will be reviewed and the Class Counsel and Counsel for Defendant will make a final determination.

Twenty percent (20%) of your Individual Settlement Share will be treated as unpaid wages. Applicable taxes will be withheld from the wages portion of your Individual Settlement Share only and reported on an IRS Form W-2. The remaining eighty percent (80%) of your Individual Settlement Share will be treated as non-wage statutory damages and interest and will be paid pursuant to an IRS Form 1099.

No later than seventy-five (75) calendar days after the entry of the order granting final approval of the Settlement, Defendant shall deposit the Total Consideration by wiring the funds to the Settlement Administrator. Defendant shall also at this time provide any tax information that the Settlement Administrator needs to calculate each Participating Class Member’s Individual Settlement Share.

Within seven (7) calendar days after the funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs. The Settlement Administrator will also forward a check for the LWDA-portion of the PAGA Payment to the LWDA for settlement of the PAGA claim.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within one hundred eighty (180) calendar days after the checks are mailed, cancel the checks, and pay the amount to the Unclaimed Property Fund of the State’s Controller’s Office in your name.

**11. What is the PAGA Payment and Am I Eligible for it?**

Under the Settlement terms, Thirty Thousand Dollars and Zero Cents (\$30,000.00) is designated as a PAGA Payment. This portion is the total amount of civil penalties collected on behalf of California. Twenty-Two Thousand and Five Hundred Dollars and Zero Cents (\$22,500.00) will be sent to the LWDA. Eligible Aggrieved Employees will share Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) proportional to the number of pay periods each Eligible Aggrieved Employee worked during the PAGA Period of August 30, 2022, to March 13, 2023.

You are an “aggrieved employee” eligible (“Eligible Aggrieved Employee”) to share the PAGA Payment under the settlement, if you are an individual employed as a non-exempt employee who worked for Defendant within California from August 30, 2022, to March 13, 2023. (“PAGA Period”).

The Settlement Administrator shall pay each Eligible Aggrieved Employee according to their proportional share, which will be based upon the total number of pay periods he or she was employed as a non-exempt employee during the PAGA Period. The individual share will be calculated by determining the total number of pay periods the Eligible Aggrieved Employees were employed as a non-exempt employee during the PAGA Period (*i.e.*, the sum of all pay periods of employment for each eligible aggrieved employee) and dividing that number into the Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) allocated to Eligible Aggrieved Employees to determine the monetary value assigned to each pay period. That number will then be multiplied by the individual Eligible Aggrieved Employee’s total number of pay periods employed as a non-exempt employee during the PAGA Period to determine that individual’s proportional share.

Settlement checks issued to the Eligible Aggrieved Employees pursuant to the Agreement shall expire one hundred eighty (180) days from the date they are issued by Defendant. Any unclaimed funds after the one hundred eighty (180) days shall be turned over to the Unclaimed Property Fund of the State’s Controller’s Office in your name.

Based on your total number of eligible pay periods, your estimated employee-portion of the PAGA Payment is \$51.89. One hundred percent (100%) of this payment will be considered non-wage damages and will be issued an IRS form 1099 if it exceeds six-hundred dollars (\$600.00). You are responsible for paying any federal, state or local taxes owed as a result of this payment.

Because these penalties can only be sought by California, you cannot exclude yourself from the PAGA portion of the settlement if the Court gives final approval.

If you are not an Eligible Aggrieved Employee, this Section does not apply to you.

**12. How Will the Attorneys for the Class and the Class Representative Be Paid?**

The attorneys for Plaintiff and the Class will be paid from the Total Consideration. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed one-third (1/3) of the Total Consideration or One Hundred Twenty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$128,333.33) of the TC for attorney fees and up to Seventeen Thousand Dollars and Zero Cents (\$17,000.00) for litigation costs.

As set forth in Section No. 10 above, Plaintiff will also be paid a Class Representative Enhancement Payment, subject to Court approval.

**13. Final Approval Hearing**

The Court will hold a Final Fairness Hearing concerning the proposed settlement on August 10, 2023, at 10:00 a.m., before the Honorable David Cohn, located in Department S26 of the Courthouse located at 247 W. 3<sup>rd</sup> Street, San Bernardino, California 92415. You are not required to appear at this hearing. Any changes to the hearing date will be available on the website <https://www.phoenixclassaction.com/sandoval-v-mk-magnetics/>.

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact the Settlement Administrator at the telephone number listed below, toll free. Please refer to the “MK Magnetics Class Action Settlement.”

**PLEASE DO NOT TELEPHONE THE COURT OR COURT’S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.**