

Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
Tara Zabehi (SBN 314706)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

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

KEITH LAY, individually, and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act,

Plaintiff,

vs.

ROBERT HEELY CONSTRUCTION, L.P., a
California limited partnership; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-21-100796

Honorable Thomas S. Clark
Department 17

**[PROPOSED] ORDER AND JUDGMENT
GRANTING APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL. LABOR
CODE § 2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS, GENERAL
RELEASE FEE, AND SETTLEMENT
ADMINISTRATION COSTS**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act (Cal. Labor Code §
2698, *Et Seq.*) Settlement Agreement and Award of
Attorneys' Fees and Costs, General Release Fee, and
Settlement Administration Costs; Declaration of
Plaintiff's Counsel (Tara Zabehi); and Declaration of
Plaintiff (Keith Lay) filed concurrently herewith]

Date: July 30, 2024
Time: 8:30 a.m.
Department: 17

Complaint Filed: June 8, 2020
Trial Date: None Set

1 This matter has come before the Honorable Thomas S. Clark in Department 17 of the Superior Court
2 of the State of California, for the County of Kern, on July 30, 2024, at 8:30 a.m., on Plaintiff Keith Lay
3 (“Plaintiff”) Motion for Approval of Private Attorneys General Act (Cal. Labor Code § 2698, *Et Seq.*)
4 Settlement Agreement and Award of Attorneys’ Fees and Costs, General Release Fee, and Settlement
5 Administration Costs (“Motion for Approval of Settlement”). Lawyers *for* Justice, PC appeared for Plaintiff
6 and Call & Jensen, APC appeared for Defendant Robert Heely Construction, L.P. (“Defendant”).

7 On or around April 14, 2024, Plaintiff and Defendant (together, the “Parties”) executed the Private
8 Attorneys General Act Settlement Agreement and Release (“Settlement,” “Settlement Agreement,” or
9 “Agreement”).

10 The Court has reviewed and considered (1) the Motion for Approval of Settlement, (2) the
11 Declarations of Plaintiff’s Counsel Tara Zabehi and Plaintiff Keith Lay, and (3) the Settlement Agreement.

12 Having duly considered the Parties’ papers and oral argument, and good cause appearing,

13 **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

- 14 1. The Motion for Approval of Settlement is granted.
- 15 2. All terms used herein shall have the same meaning defined in the Settlement Agreement.
- 16 3. The Court finds that Plaintiff has satisfied the prerequisites under the California Private
17 Attorneys General Act (Cal. Labor Code § 2698, *et seq.*) (“PAGA”), including, and not limited to, providing
18 the California Labor and Workforce Development Agency (“LWDA”) and Defendant with notice of the
19 specific provisions of the California Labor Code alleged to have been violated, including, and not limited
20 to, the facts and theories to support the alleged violations, in conformity with California Labor Code §
21 2699.3(a).
- 22 4. The Court also finds that the Settlement Agreement has been submitted to the LWDA in
23 conformity with California Labor Code § 2699(l)(2) and that the LWDA has not sought to intervene or
24 appear in the above-captioned action (“Action”).
- 25 5. The Aggrieved Employees covered under the Settlement consist of the following individuals:
26 (a) all current and former hourly-paid or non-exempt employees who worked for Defendant in
27 the State of California (“aggrieved employees subgroup A”) and (b) all current and former
28 salaried planners/schedulers who were employed by Defendant within the State of California
 (“aggrieved employees subgroup B”) during the PAGA Period (hereinafter collectively referred
 to as the “Aggrieved Employees”).

1 6. The Court finds that the Parties reached the Settlement as a result of arm's-length
2 negotiations.

3 7. Pursuant to California Labor Code § 2699(l)(2), the Court has reviewed the sum allocated
4 for payment of penalties under PAGA ("Net Settlement Amount"), and determines that it is fair, just,
5 reasonable, and adequate. The Court hereby approves the Net Settlement Amount. The Net Settlement
6 Amount shall be the Total Settlement Amount (\$425,000.00) less the approved Attorneys' Fees and Costs
7 to Lawyers *for* Justice, PC ("Plaintiff's Counsel"), General Release Fee to Plaintiff, and Settlement
8 Administration Costs to Phoenix Class Action Administrators (the "PAGA Settlement Administrator").
9 Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA ("LWDA
10 Payment") and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the
11 Aggrieved Employees ("Employees' Portion") in accordance with this Order and Judgment and the
12 Settlement Agreement.

13 8. The Court has considered the Settlement, and the monetary allocations provided thereby, and
14 finds that they are fair, just, reasonable, and adequate. The Court hereby directs the PAGA Settlement
15 Administrator to administer the Settlement and to make the payments as provided for by, and consistent
16 with, this Order and Judgment and the Settlement Agreement.

17 9. The Court approves the payment of \$148,750.00 to Lawyers *for* Justice, PC for attorneys'
18 fees. This amount shall be paid from the Total Settlement Amount and shall be disbursed in accordance
19 with this Order and Judgment and the Settlement Agreement.

20 10. The Court approves the payment of \$14,106.66 to Lawyers *for* Justice, PC for reimbursement
21 of litigation costs and expenses incurred in the Action. This amount shall be paid from the Total Settlement
22 Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

23 11. The Court approves payment in the amount of \$10,000.00 to Plaintiff Keith Lay for his
24 General Release Fee. This amount shall be paid from the Total Settlement Amount and shall be disbursed
25 in accordance with this Order and Judgment and the Settlement Agreement.

26 12. The Court approves payment up to the amount of \$7,500.00 to Pheonix Settlement
27 Administrators for the Settlement Administration Costs. This amount shall be paid from the Total
28 Settlement Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement

1 Agreement.

2 13. The Parties are directed to perform in accordance with the terms set forth in this Order and
3 Judgment and the Settlement Agreement.

4 14. The Court further finds that notice of the Settlement need not be provided to the Aggrieved
5 Employees; however, the Court approves the Cover Letter, attached hereto as “**EXHIBIT 1**,” and the PAGA
6 Settlement Administrator shall distribute the Cover Letter to the Aggrieved Employees at the same time that
7 it distributes payments to Aggrieved Employees for their share of the Employees’ Portion (“Individual
8 Settlement Share”).

9 15. No later than seven (7) calendar days after the date of this Order and Judgment, Defendant
10 will provide the PAGA Settlement Administrator with the PAGA Employee List, in accordance with this
11 Order and Judgment and the Settlement Agreement.

12 16. No later than fourteen (14) calendar days of the date of this Order and Judgment, Defendant
13 shall deposit the Total Settlement Amount into a qualified settlement account established by the PAGA
14 Settlement Administrator for administration of the Settlement, in accordance with this Order and Judgment
15 and the Settlement Agreement.

16 17. No later than fourteen (14) calendar days after receipt of the Aggrieved Employees List and
17 Total Settlement Amount, the PAGA Settlement Administrator shall distribute the Individual Settlement
18 Share checks to Aggrieved Employees, LWDA Payment to the LWDA, General Release Fee to Plaintiff,
19 Attorneys’ Fees and Costs to Plaintiff’s Counsel, and payment to itself for the Settlement Administration
20 Costs, as provided for by this Order and Judgment and the Settlement Agreement.

21 18. The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid
22 and negotiable for ninety (90) calendar days, and thereafter, shall be cancelled. Funds associated with such
23 cancelled checks shall be transmitted by the PAGA Settlement Administrator to the California State
24 Controller’s Office Unclaimed Property Division, in the name of the Aggrieved Employee whose check is
25 cancelled.

26 19. Aggrieved Employees shall not have the right to opt out of or object to the Settlement. Upon
27 the entry of this Order and Judgment and full funding of the Total Settlement Amount, Plaintiff and the State
28 of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily

1 released and forever discharged the Released Parties from the Released Claims.

2 20. “Released Parties” means Defendant, including Defendant’s partners, parent corporation,
3 affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former
4 employees, attorneys, officers, directors and agents thereof, both individually and in their business
5 capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and
6 insurers of such plans and programs.

7 21. “Released Claims” means any and all claims, arising during the PAGA Period, for civil
8 penalties under California Labor Code section 2698, *et seq.* (“PAGA”) as well as any interest, fees, and
9 costs available under PAGA, based on the factual allegations in the Operative Complaint and the PAGA
10 Notice, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to
11 provide compliant meal periods and associated premiums, failure to provide compliant rest periods and
12 associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon
13 termination, failure to provide compliant and accurate wage statements, failure to maintain complete and
14 accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation
15 of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d),
16 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter*
17 *alia* Wage Orders 4-2001, and 16-2001 for both aggrieved employees subgroup A and subgroup B .

18 22. “PAGA Period” means the period March 30, 2019 to approval.

19 23. No individualized notice of this Order and Judgment is required to be provided to the
20 Aggrieved Employees. This Order and Judgment shall be submitted to the LWDA through the online system
21 established for the filing of notices and documents, in conformity with California Labor Code § 2699(1)(3).

22
23 Date: _____

24 Honorable Thomas S. Clark
25 Judge of the Kern County Superior Court
26
27
28