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ANDREW BURDICK, and all others similarly situated
9 (Additional attorneys for Plaintiff(s) on following page)

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**
12 **(UNLIMITED JURISDICTION)**

14 ANDREW BURDICK, on behalf of himself, and
all others similarly situated, and as an
15 “aggrieved employee” on behalf of other
16 “aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

17 *Plaintiff(s),*

18
19 vs.

20 PEACH STATE ROOFING, INC., a Georgia
corporation; MARTIN KELLY, an individual;
21 CHRIS KELLY, and individual; and DOES 1
22 through 50, inclusive,

23 *Defendant(s).*

Case No. 20STCV20397

**PLAINTIFF ANDREW BURDICK’S
NOTICE OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: October 18, 2022
Hearing Time: 10:00 a.m.
Hearing Dept.: 14, The Honorable
Kenneth R. Freeman

Action filed: May 28, 2020

**Submitted Herewith Under Separate
Cover:**

1. Memorandum of Points and Authorities;
2. Declaration(s) of David Spivak and Walter L. Haines; and
3. [Proposed] Order



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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on October 18, 2022 at 10:00 a.m., or as soon thereafter as
3 the matter may be heard, in Department 14 of the Los Angeles County Superior Court, located at
4 the Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, Plaintiff Andrew
5 Burdick (“Plaintiff”) will and hereby does move this Court for an order: (1) granting class
6 certification of the Settlement Class solely for settlement purposes pursuant to California Code
7 of Civil Procedure section 382; (2) preliminarily approving the Joint Stipulation of Class Action
8 Settlement and Release of Claims (the “Settlement”)¹ between Plaintiff and Defendants Peach
9 State Roofing, Inc. and Martin Kelly² (Plaintiff and Defendants are collectively the “Parties), (3)
10 appointing David Spivak of The Spivak Law Firm and Walter L. Haines of United Employees
11 Law Group as Class Counsel; (5) appointing Plaintiff as Class Representative (“Class
12 Representative”); (6) approving the use of the proposed notice procedures and related forms; (7)
13 directing that notice be mailed to the proposed Settlement Class; and (8) scheduling a hearing
14 date for motion for final approval of class action settlement and awards of attorneys’ fees and
15 costs.

16 The “Settlement Class” or “Class Members” consists of all persons Defendants Peach
17 State Roofing, Inc. and Martin Kelly employed as non-exempt, hourly employees in California at
18 any time during the Class Period. “Class Period” means the period from May 28, 2016 through
19 April 15, 2021.

20 This Motion is made on the following grounds: (1) the Settlement Class meets all the
21 requirements for class certification for settlement purposes only under California Code of Civil
22 Procedure section 382; (2) Plaintiff and his counsel are adequate to represent the Settlement Class;
23 (3) the Settlement reflects a fair, adequate, and reasonable compromise of all disputed claims in
24 view of Defendants’ potential liability exposure as compared against the risks of continued
25

26 ¹ The Settlement is attached as Exhibit 1 to the Declaration of David Spivak (“DS”), which is
27 submitted herewith under a separate cover.

28 ² Defendant Chris Kelly is not a party to the Settlement. However, if the Court approves
Settlement, as an agent of the Defendant Peach State Roofing, Inc., he is a Released Party and
the case will be dismissed against him.



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1 litigation; (4) the proposed notice procedures and related forms adequately apprise the Class
2 Members of their rights under the Settlement and fully comport with due process; and (5) in view
3 of the foregoing, notice should be disseminated to the Class Members and a hearing date for
4 motion for final approval of class action settlement, and awards of attorneys' fees and costs should
5 be set.

6 The Motion is based on this Notice of Motion and Motion, the attached Memorandum of
7 Points and Authorities, the Declaration of David Spivak, the Declaration of Walter L. Haines, all
8 papers and pleadings on file with the Court in this action, all matters judicially noticeable, and on
9 such oral and documentary evidence as may be presented in connection with the hearing on the
10 Motion.

11 Respectfully submitted,

12 THE SPIVAK LAW FIRM

13
14 Dated: September 16, 2022

15 By: David Spivak
16 DAVID G. SPIVAK
17 CAROLINE TAHMASSIAN
18 MAYA CHEAITANI, Attorneys for
19 Plaintiff(s), ANDREW BURDICK, and
20 all others similarly situated
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