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ALAMEDA COUNTY

JAN 12 2021

CLERK OF THE SUPERIOR COURT

By *[Signature]* Deputy

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

RASON WILLIAMS, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiffs,

v.

NATIONAL CONSTRUCTION RENTALS,
INC., a California corporation; and DOES 1
through 100, inclusive;

Defendants.

Case No.: RG20075904

Honorable Brad Seligman
Department 23

CLASS ACTION

**PROPOSED ORDER OF FINAL
APPROVAL AND JUDGMENT**

[Reservation ID: R-2289459]

Hearing Date: January 11, 2022
Hearing Time: 3:00 p.m.
Hearing Place: Department 23

Complaint Filed: September 23, 2020
FAC Filed: November 17, 2020
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiffs Rason Williams', Quiandre
2 Tate's, and Matthew Pullen's ("Plaintiffs") Motion for Final Approval of a Class Action
3 Settlement, the Attorney Fee Award, the Cost Award, and the Class Representative Enhancement
4 Payments, and after considering the papers submitted in support of the motion, including the
5 Amended Joint Stipulation and Settlement Agreement ("Settlement Agreement," "Settlement," or
6 "Agreement"), **HEREBY FINDS AND ORDERS AS FOLLOWS:**

7 This is a putative class action. Plaintiffs were formerly assigned to work at Defendant
8 National Construction Rentals, Inc. ("Defendant"). The operative complaint in the action asserts
9 nine (9) causes of action for alleged violations of the Labor Code and Business and Professions
10 Code. Plaintiffs have brought this action on behalf of all non-exempt employees employed by
11 Defendant within the State of California during the Class Period ("Class" and "Class Members").
12 The Class Period is the time period from April 6, 2016, to August 23, 2021 ("Class Period"). As
13 of December 8, 2021, there are eight hundred sixteen (816) Class Members who did not submit a
14 valid and timely request to exclude themselves from the class action Settlement ("Participating
15 Class Members").¹

16 On August 30, 2021, the Court granted Preliminary Approval of the Settlement. Plaintiffs
17 now moves for Final Approval of the Settlement. The court, having considered the papers filed in
18 this action and the absence of any objections, finds the proposed settlement fair, reasonable, and
19 adequate and accordingly approves it.

20 The terms used in this Order of Final Approval and Judgment shall have the same meaning
21 as defined in the Settlement Agreement except as may otherwise be ordered.

22 The following Class is certified for purposes of settlement only: all non-exempt employees
23 employed by Defendant within the State of California during the time period from April 6, 2016,
24 to August 23, 2021.

25 Defendant will pay a Gross Settlement Amount of \$1,650,000 which includes: (1) the
26 Administration Costs in the amount of \$8,500; (2) the Private Attorneys General Act of 2004

27
28 ¹ Phoenix mailed Notice Packets to eight hundred nineteen (819) Class Members and
received three (3) requests for exclusion. Thus, there are eight hundred sixteen (816) Participating
Class Members.

1 (“PAGA”) Payment in the sum of \$100,000, seventy-five percent (75%) of which (\$75,000) shall
2 be paid to the California Labor and Workforce Development Agency (“LWDA”) and twenty-five
3 percent (25%) of which (\$25,000) shall be distributed to aggrieved employees eligible to recover
4 the PAGA Payment that consist of all non-exempt employees who worked for Defendant within
5 the State of California during the period between April 6, 2019 through August 23, 2021 (“Eligible
6 Aggrieved Employees,” “PAGA Period,” “PAGA Payment,” and “Individual PAGA Payments”),
7 on a pro rata basis; (3) the Class Representative Enhancement Payments in the amount \$10,000 to
8 each Plaintiff; (4) the Attorney Fee Award in a sum not to exceed one-third (1/3) of the Gross
9 Settlement Amount or \$550,000; and (5) the Cost Award in the sum of \$12,891.93. Defendant’s
10 portion of payroll taxes as the Class Members’ current or former employer is not included in the
11 Gross Settlement Amount and will be a separate obligation of Defendant. Class Members and
12 Eligible Aggrieved Employees are not required to submit claim forms to receive their Individual
13 Settlement Shares or Individual PAGA Payments respectively.

14 Funding of the Settlement will be made as follows:

15 No later than ten (10) calendar days after the Effective Final Settlement Date, Defendant
16 shall deposit the Gross Settlement Amount of \$1,650,000 needed to pay the entire Gross
17 Settlement Amount and the employer’s share of pay roll taxes by wiring the funds to the Settlement
18 Administrator. Defendant shall also at this time provide any tax information that the Settlement
19 Administrator may need to calculate each Participating Class Members’ Individual Settlement
20 Shares. After sixty-one (61) calendar days after the deadline to Fund of the Settlement, the
21 Settlement Administrator shall calculate and disburse all payments due under the Settlement
22 Agreement, including all Individual Settlement Shares, Individual PAGA Payments, the Attorney
23 Fee Award, the Cost Award, the Class Representative Enhancement Payments, the PAGA
24 Payment, and the Administration Costs. The Settlement Administrator will forward a check for
25 seventy-five percent (75%) of the PAGA Payment to the LWDA for settlement of the PAGA claim.

26 Participating Class Members and Eligible Aggrieved Employees must cash or deposit their
27 Individual Settlement Share and Individual PAGA Payment checks within one hundred eighty
28 (180) calendar days after the checks are mailed to them. If any checks are not redeemed or

1 deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a
2 reminder postcard. If any checks remain uncashed or not deposited by the expiration of the 90-day
3 period after mailing the reminder notice, the Settlement Administrator will, upon court approval,
4 within two hundred (200) calendar days after the checks are mailed, pay the amount of the
5 Individual Settlement Share or Individual PAGA Payment (as applicable) to Legal Aid At Work
6 consistent with Code of Civil Procedure section 384.

7 Plaintiffs have explained the risks and costs associated with continuing with the litigation
8 and the benefits conferred upon Class Members in the form of immediate compensation. Plaintiffs
9 have satisfactorily assessed the maximum value of the claims and of the reasonableness of the
10 discount accepted in the settlement considering these risks. Finally, the Declaration of the
11 Settlement Administrator, Kevin Lee, states that the Notice of Class Action Settlement ("Class
12 Notices") and the Election Not To Participate or Opt-out Form ("Exclusion Form") (collectively,
13 known as the "Notice Packets") were mailed to eight hundred nineteen (819) Class Members, and
14 there were no objections to the Settlement and only three (3) requests for exclusion from the
15 Settlement. This is further proof of the fairness of the Settlement Agreement. Finally, the
16 Declaration of Douglas Han provides sufficient information about Class Counsel's experience in
17 litigating class action lawsuits.

18 The amount of attorney's fees requested by Class Counsel in the sum of \$550,000 is one-
19 third (1/3) of the common fund created for the benefit of the Class Members and is supported by
20 use of the percentage-fee method. The Court finds that the fee request is reasonable, and it is
21 therefore approved.

22 Consistent with the Court's custom and practice, the Settlement Administrator shall
23 withhold ten percent (10%) of the Attorney Fee Award granted in the amount of \$55,000 in an
24 interest-bearing account, pending the submission and approval of a final compliance status report
25 after completion of the distribution process. The compliance status report and proposed amended
26 judgment must be filed (with a courtesy copy delivered directly to Department 23) at least five (5)
27 court days prior to the compliance hearing. A compliance hearing will be set for June 24, 2022 at
28 9:30 a.m. in Department 23.

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3 Pursuant to Code of Civil Procedure section 384, the Parties shall submit a compliance
4 status report to the court specifying the total amount paid to Class Members, and the residual of
5 the unclaimed funds that will be paid to the entity identified as the recipient of such funds in the
6 proposed settlement, along with a proposed amended judgment. No later than five (5) days after
7 receipt of notice of the entry of the amended judgment, the Parties shall submit the amended
8 judgment to the Judicial Council, pursuant to Code of Civil Procedure section 384.5 and shall file
9 a proof of service with this court confirming this.

10 The Court has also reviewed Class Counsel's declarations regarding the costs expended in
11 the prosecution of this litigation. Under the terms of the settlement, Plaintiffs may seek
12 reimbursement of up to \$30,000 in litigation costs. The Court finds that Plaintiffs have expended
13 \$12,891.93 in litigation costs and that such costs were reasonable. Therefore, the Court approves
14 the payment of the Cost Award in the amount of \$12,891.93 from the Gross Settlement Amount
15 for the reimbursement of Class Counsel's litigation costs.

16 The Court has reviewed the Declarations of Rason Williams, Quiandre Tate, and Matthew
17 Pullen, which outlines their involvement in the lawsuit. Given the risks inherent in service as the
18 Class Representatives, the duration of the case and time involved, and the benefits created for the
19 Class, the Court approves a Class Representative Enhancement Payments in the amount of \$10,000
20 to each Plaintiff.

21 The Court has reviewed the Declaration of Kevin Lee, the Case Manager for Phoenix Class
22 Action Administration Solutions ("Phoenix"), the Court-approved Settlement Administrator. The
23 Court finds that notice was provided to the Class pursuant to the Preliminary Approval Order, and
24 that notice was sufficient and that it satisfies due process. Phoenix has discharged its duties to
25 provide notice to the Class and approves a payment of Administration Costs in the amount of
26 \$8,500 for its services in administering this settlement, including the mailing of settlement awards
27 according to the terms of the Settlement Agreement.

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3 The Released Claims means all causes of action and factual or legal theories that were
4 alleged in the complaints or reasonably could have been alleged based on the facts and legal
5 theories contained in the operative complaints, including all of the following causes of action:
6 Defendant's alleged (a) failure to pay overtime, (b) failure to provide employees with meal periods,
7 (c) failure to provide employees with rest periods, (d) failure to pay minimum wage, (e) failure to
8 pay wages timely at termination, (f) failure to provide compliant wage statements, (g) failure to
9 reimburse employees for business expenses, (h) violations of Business & Professions Code section
10 17200, *et seq.* (i) civil penalties under PAGA (Labor Code section 2698, *et seq.*), and (j) alleged
11 violations of Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, 203, 204, 205.5210,
12 218.5, 221, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, and 2800
13 ("Released Claims").

14 Moreover, the PAGA Released Claims mean all allegations and claims for civil penalties
15 pursuant to PAGA based on any and all underlying Labor Code violations alleged or reasonably
16 could have been alleged based on the facts and legal theories contained in the operative complaints
17 and the PAGA Notice served on the LWDA that arose during the PAGA Period, which includes
18 Defendant's alleged failure to pay overtime, failure to provide employees with meal periods,
19 failure to provide employees with rest periods, failure to pay minimum wage, failure to pay wages
20 timely at termination, failure to provide compliant wage statements, failure to reimburse
21 employees for business expenses, and alleged violations of Labor Code sections 201, 201.3, 201.5,
22 201.6, 201.8, 201.9, 202, 203, 204, 205.5210, 218.5, 221, 226, 226.3, 226.7, 510, 512, 558,
23 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 ("PAGA Released Claims").

24 The Released Parties include Defendant and its past or present officers, directors,
25 shareholders, employees, agents, principals, heirs, representatives, accountants, auditors,
26 consultants, insurers and reinsurers, and their respective successors and predecessors in interest,
27 subsidiaries, affiliates, parents, attorneys, and any entities that may be considered joint employers
28 ("Released Parties").

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3 Defendant makes no admission of liability or wrongdoing by virtue of entering into the
4 Agreement. Additionally, Defendant reserves the right to contest any issues relating to class
5 certification and liability if the Settlement is not approved. Defendant denies that it has engaged
6 in any unlawful activity, has failed to comply with the law in any respect, has any liability to
7 anyone under the claims asserted in this lawsuit, or that but for the Settlement, a Class should be
8 certified in this lawsuit or that the PAGA claim could proceed on a representative basis. The
9 Agreement is entered solely for the purpose of compromising highly disputed claims. Nothing in
10 the Agreement is intended or will be construed as an admission by Defendant of liability or
11 wrongdoing. The Settlement and Plaintiffs' and Defendant's willingness to settle this lawsuit will
12 have no bearing on, and will not be admissible in connection with, any litigation, administrative
13 proceeding or other special proceeding (other than solely in connection with the Settlement).

14 For the reasons set forth above, the Motion for Final Approval of Class Action Settlement,
15 the Attorney Fee Award, the Cost Award, and the Class Representative Enhancement Payments is
16 GRANTED. The Settlement Administrator is directed to carry out the terms of the Settlement
17 Agreement forthwith.

18 By this Order of Final Approval and Judgment, Plaintiffs shall release, relinquish, and
19 discharge all Released Claims and PAGA Released Claims, as defined in the Settlement and
20 incorporated by reference herein. By this Order of Final Approval and Judgment, each of the Class
21 Members who did not opt out of the Settlement shall be deemed to have fully, and forever released,
22 relinquished, and discharged all Released Claims against the Released Parties as defined in the
23 Settlement and incorporated by reference herein.

24 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF THE
25 SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT 3.769,
26 THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS
27 ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE FINALITY
28 OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING JURISDICTION TO

1 ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND THE JUDGMENT
2 THEREON.

3 IT IS SO ORDERED.

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5 DATED: 1/12/22



6 HONORABLE BRAD SELIGMAN
7 SUPERIOR COURT JUDGE
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On January 13, 22, I served the foregoing document described as

PROOF OF SERVICE