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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO**

LOUIS WEYBREW, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

BEI CONSTRUCTION, INC.; and DOES 1
through 50, inclusive,

Defendants.

Case No.: FCS055658

[Assigned for all purposes to the Hon. E.
Bradley Nelson, Department 4]

**~~[AMENDED PROPOSED]~~ ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
JUDGMENT ON ACTION**

Complaint Filed: November 10, 2020
FAC Filed: January 13, 2021
Trial Date: None Set

ENDORSED FILED
Clerk of the Superior Court

NOV 21 2022

By J.A. LINDSEY
DEPUTY CLERK

1 Plaintiff Louis Weybrew ("Plaintiff"), and Defendant BEI Construction, Inc.
2 ("Defendant") (together, the "Parties") have entered into the Joint Stipulation of Class Action
3 Settlement ("Settlement Agreement") to settle the above-captioned class action subject to the
4 Court's approval (the "Settlement").

5 This matter is now before the Court on Plaintiff's Motion for Final Approval of Class
6 Action Settlement, including approval of the Class Representative Enhancement Payment for
7 Plaintiff and Class Counsel's application for a fee and expense award. The Court has read,
8 heard, and considered all the pleadings and documents submitted, and the presentations made
9 in connection with the Motion which came on for hearing on January 31, 2022.

10 **I. BACKGROUND**

11 On November 10, 2020, Plaintiff filed a complaint on behalf of himself and all
12 similarly situated employees, against Defendant in the Superior Court of the State of California
13 for the County of Solano. The lawsuit alleged causes of action for violation of Labor Code §§
14 226(a) and 2698, *et seq.*, the Private Attorneys General Act ("PAGA"), asserting that the wage
15 statements provided to Plaintiff failed to identify the pay period start date. The first amended
16 complaint is the operative Complaint ("Complaint").

17 **A. Class Members**

18 The "Class" includes "all current and former employees of Defendant in the State of
19 California who earned wages at any time between May 16, 2019 through December 4, 2020."

20 **B. Operation of the Settlement**

21 Pursuant to the Preliminary Approval Order dated November 4, 2021, this Court
22 conditionally certified the Class and granted preliminary approval to the Settlement
23 Agreement. The Preliminary Approval Order also approved of the proposed forms of notice
24 and notice plan. The Court entered the Preliminary Approval Order after review and
25 consideration of all of the pleadings filed in connection herewith, and the oral presentations
26 made by counsel at the hearing.

27 In compliance with the Preliminary Approval Order, the Notice of Class Action
28 Settlement ("Notice Packet") was sent to all Class Members via first class mail. Follow-up

1 mailings were sent to 556 individuals and four Notice Packets remain undeliverable. The
2 notice process was timely completed. The Settlement Administrator received one request for
3 exclusion and no objections.

4 This Court finds that the Settlement appears to be the product of serious, informed,
5 non-collusive negotiations, has no obvious deficiencies, and does not improperly grant
6 preferential treatment to any individuals. The Court finds that the Settlement was entered into
7 in good faith pursuant to California Code of Civil Procedure § 877.6. The Court further finds
8 that the Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the
9 standards for final approval of a class action settlement under California law. Under the
10 provisions of California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure
11 23, as approved for use by the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d
12 800, 821 (1971), the trial court has discretion to certify a class where:

13 [Q]uestions of law or fact common to the members of the class
14 predominate over any questions affecting only individual
15 members, and that a class action is superior to the available
... Fed. R. Civ. Proc. 23.

16 Certification of a settlement class is the appropriate judicial device under these circumstances.

17 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
18 AS FOLLOWS:

19 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
20 Settlement Agreement filed in this case.

21 2. The Court has jurisdiction over the subject matter of the litigation, the Class
22 Representative, the other members of the Settlement Class, and Defendant.

23 3. The Court finds that the dissemination of the Notice Packet, as disseminated by
24 the appointed Settlement Administrator Phoenix Settlement Administrators to the Class
25 Members, constituted the best notice practicable under the circumstances to all persons within
26 the definition of the Class, and fully met the requirements of California law and due process
27 under the United States Constitution.

28 4. The Court approves the settlement of the above-captioned action, as set forth in

1 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties
2 are directed to perform in accordance with the terms set forth in the Settlement Agreement.

3 5. Except as otherwise provided in the Settlement Agreement, the Parties are to
4 bear their own costs and attorneys' fees.

5 6. The Court hereby certifies the following Class for settlement purposes only: all
6 current and former employees of Defendant in the State of California who earned wages at any
7 time between May 16, 2019 through December 4, 2020.

8 7. With respect to the Class and for purposes of approving the settlement only and
9 for no other purpose, this Court finds and concludes that: (a) the members of the Class are
10 ascertainable and so numerous that joinder of all members is impracticable; (b) there are
11 questions of law or fact common to the Class, and there is a well-defined community of
12 interest among members of the Class with respect to the subject matter of the non-exempt
13 claims in the Litigation; (c) the claims of Class Representative are typical of the claims of the
14 members of the Class; (d) the Class Representative has fairly and adequately protected the
15 interests of the members of the Class; (e) a class action is superior to other available methods
16 for an efficient adjudication of this controversy; and (f) the counsel of record for the Class
17 Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the Plaintiff in his
18 individual and representative capacity and for the Class.

19 8. Within thirty (30) days following the Effective Date of this Order, as defined by
20 the Settlement Agreement, Defendant shall remit to a Qualified Settlement Fund established by
21 the Settlement Administrator the Gross Settlement Amount of Four Hundred Eighty-Five
22 Thousand Dollars (\$485,000.00), pursuant to the terms of the Settlement Agreement.

23 9. From the Gross Settlement Amount, the Settlement Administrator shall pay:

24 (a) to Class Counsel attorneys' fees in the amount of One Hundred Sixty-
25 One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$166,666.67) and
26 reimbursement of costs in the amount of Twelve Thousand Nine Hundred and Thirty-Nine
27 Dollars and Fifty-Seven Cents (\$12,939.57);

28 (b) a service award to the Class Representative Louis Weybrew to reimburse

him for his unique services in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00);

(c) the sum of Twenty-Two Thousand Five Hundred Dollars (\$22,500.00) to the California Labor and Workforce Development Agency for its seventy-five percent (75%) share of PAGA Penalties; and

(d) the sum of Nine Thousand Five Hundred Dollars (\$9,500.00) to the Settlement Administrator, Phoenix Settlement Administrators, for its fees and costs relating to the claims administration process.

10. The Court finds that these amounts are fair and reasonable. The Settlement Administrator is directed to make such payments in accordance with the terms of the Settlement Agreement.

11. The Court approves the individual settlement payment amounts, which shall be distributed by the Settlement Administrator pursuant to the terms of the Settlement Agreement from the Net Settlement Amount, after payment of those amounts set forth in Paragraph 10.

12. The Court hereby enters final judgment in this case in accordance with the terms of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the Parties, including all Participating Class Members, for purposes of enforcing and interpreting this Order and the Settlement.

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1 13. On October 12, 2022, Taylor Mitzner of Phoenix Settlement Administrators
2 submitted a supplemental declaration identifying the total number of uncashed checks and
3 confirming that the settlement had been distributed in accordance with the Court's January 31,
4 2022 Order Granting Final Approval of Class Action Settlement and Judgment. There were
5 fifty-three (53) totaling \$9,537.70 after the expiration of the check cashing deadline. On
6 November 9, 2022, Ms. Mitzner provided a declaration confirming that, pursuant to the
7 settlement and the direction of the Court, the uncashed checks were distributed to Legal Aid at
8 Work, as a cy pres recipient.

9 IT IS SO ORDERED, ADJUDGED, AND DECREED.

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11 DATED: NOV 15 2022

E. Bradley Nelson

HON. E. BRADLEY NELSON
SUPERIOR COURT OF CALIFORNIA