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

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

20 Plaintiffs,

21 vs.

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

24 Defendants.

Case No.: FCS055658

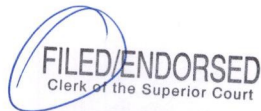
[Assigned for all purposes to the Hon. E.
Bradley Nelson, Department 4]

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

Date: January 31, 2022
Time: 9:00 a.m.
Dept.: 4

BY FAX

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



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

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

11 **I. BACKGROUND**

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

18 **A. Class Members**

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

21 **B. Operation of the Settlement**

22 Pursuant to the Preliminary Approval Order dated November 4, 2021, this Court
23 conditionally certified the Class and granted preliminary approval to the Settlement
24 Agreement. The Preliminary Approval Order also approved of the proposed forms of notice
25 and notice plan. The Court entered the Preliminary Approval Order after review and
26 consideration of all of the pleadings filed in connection herewith, and the oral presentations
27 made by counsel at the hearing.
28

1 In compliance with the Preliminary Approval Order, the Notice of Class Action
2 Settlement ("Notice Packet") was sent to all Class Members via first class mail. Follow-up
3 mailings were sent to 556 individuals and four Notice Packets remain undeliverable. The
4 notice process was timely completed. The Settlement Administrator received one request for
5 exclusion and no objections.

6 This Court finds that the Settlement appears to be the product of serious, informed,
7 non-collusive negotiations, has no obvious deficiencies, and does not improperly grant
8 preferential treatment to any individuals. The Court finds that the Settlement was entered into
9 in good faith pursuant to California Code of Civil Procedure § 877.6. The Court further finds
10 that the Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the
11 standards for final approval of a class action settlement under California law. Under the
12 provisions of California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure
13 23, as approved for use by the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d
14 800, 821 (1971), the trial court has discretion to certify a class where:

15 [Q]uestions of law or fact common to the members of the class
16 predominate over any questions affecting only individual
17 members, and that a class action is superior to the available
methods for the fair and efficient adjudication of the controversy
... Fed. R. Civ. Proc. 23.

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

19 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
20 AS FOLLOWS:

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

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

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

1 under the United States Constitution.

2 4. The Court approves the settlement of the above-captioned action, as set forth in
3 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties
4 are directed to perform in accordance with the terms set forth in the Settlement Agreement.

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

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

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

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

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

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

1 Dollars and Fifty-Seven Cents (\$12,939.57);

2 (b) a service award to the Class Representative Louis Weybrew to reimburse
3 him for his unique services in the amount of ~~Ten Thousand Dollars (\$10,000.00);~~ *seventy-five hundred dollars (\$7,500.00)*

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

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

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

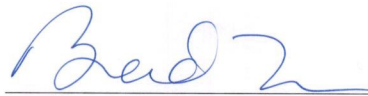
13 11. The Court approves the individual settlement payment amounts, which shall be
14 distributed by the Settlement Administrator pursuant to the terms of the Settlement Agreement
15 from the Net Settlement Amount, after payment of those amounts set forth in Paragraph 10.

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

21 13. *combined dismissal*
22 A compliance hearing is set to be held on 6/21/2022, 2022 at 9:00 a.m. in
23 Department 4 of the Solano County Superior Court in order to determine the number and
24 amount of any uncashed checks that have been distributed to the *cy pres* recipient.

25 IT IS SO ORDERED.

26 DATED: 1/31/2022



27 HON. E. BRADLEY NELSON
28 SUPERIOR COURT OF CALIFORNIA