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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

PABLO SERGIO NEVAREZ, individually, and
on behalf of all others similarly situated,

Plaintiff,

v.

ON-TIME AIR CONDITIONING & HEATING,
LLC, a California limited liability corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV375216

CLASS ACTION

[Assigned for all purposes to: Hon. Sunil R.
Kulkarni, Dept. 1]

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

FINAL APPROVAL HEARING

Date: November 3, 2022

Time: 1:30 p.m.

Dept. 1

1 This matter coming before the Court on Plaintiff Pablo Sergio Nevarez’s (“Plaintiff”) Motion for Final Approval of Class Action Settlement (the “Final Approval Motion”), and
2 after review and consideration of the parties’ fully-executed Stipulation of Settlement
3 (collectively, the “Settlement” or “Settlement Agreement”) and the papers in support of the
4 Final Approval Motion, due and adequate notice having been given to the Class, and the Court
5 having reviewed and considered the Settlement, all papers filed, the record, proceedings in the
6 above-entitled action (“Litigation” or “Action”), and all oral and written comments received
7 regarding the Settlement, and good cause appearing therefor,

8
9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

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

12 2. The Court has jurisdiction over all claims asserted in the Action, Plaintiff, the
13 Settlement Class Members, and Defendant On-Time Air Conditioning & Heating, LLC
14 (“Defendant”).

15 3. The Court finds that the Settlement appears to have been made and entered into in
16 good faith and hereby approves the settlement subject to the limitations on the requested fees and
17 enhancements as set forth below.

18 4. Plaintiff is permitted to file the First Amended Class and Representative Action
19 Complaint, as attached as Exhibit C to the Settlement Agreement.

20 5. Plaintiff and all Participating Class Members shall have, by operation of this Final
21 Order and Judgment, fully, finally, and forever released, relinquished, and discharged Defendant
22 and the Released Parties from all released claims as set forth in the Settlement.

23 6. Plaintiff, the State of California, and all Participating PAGA Members shall have,
24 by operation of this Final Order and Judgment, fully, finally, and forever released, relinquished,
25 and discharged Defendant and the Released Parties from all released PAGA claims as set forth in
26 the Settlement.

27 7. The Parties shall bear their own respective attorneys’ fees and costs, except as
28 otherwise provided for in the Settlement and approved by the Court.

1 8. Solely for purposes of effectuating the settlement, the Court finally certified the
2 following Class: “All persons who worked for Defendant in California as an hourly-paid or non-
3 exempt employee during the Settlement Period.”

4 9. The Settlement Period is January 14, 2017 through October 16, 2021.

5 10. No Settlement Class Members have objected to the terms of the Settlement.

6 11. One Settlement Class Member has requested exclusion from the Settlement.

7 12. The Notice provided to the Class conforms with the requirements of California
8 Rules of Court 3.766 and 3.769, and constitutes the best notice practicable under the
9 circumstances, by providing individual notice to all Class Members who could be identified
10 through reasonable effort, and by providing due and adequate notice of the proceedings and of
11 the matters set forth therein to the Class Members. The Notice fully satisfies the requirements of
12 due process.

13 13. The Court finds the Settlement Amount, the Net Settlement Amount, and the
14 methodology used to calculate and pay the Net Settlement Payments to each Participating Class
15 Member are fair and reasonable and authorizes the Settlement Administrator to pay the Net
16 Settlement Payments to the Participating Class Members in accordance with the terms of the
17 Stipulation.

18 14. The Court approves the Settlement and finds that it is fair, reasonable, and
19 adequate, and worthy of final approval.

20 15. The Court also finds the PAGA Settlement is fair and reasonable, and that Plaintiff
21 provided notice of the proposed Settlement to the Labor and Workforce Development Agency
22 (LWDA) and will fully and adequately comply with the notice requirements of California Labor
23 Code section 2699(1). The Court hereby approves the PAGA Settlement.

24 16. Defendant shall pay the total of \$525,000.00 to resolve this litigation. No later
25 than fourteen (14) calendar days after the date this Court grants Final Approval of the Settlement,
26 Defendant shall deposit this amount and employer taxes into an account established by the
27 Settlement Administrator. Thereafter, compensation to the Participating Class Members shall be
28 disbursed pursuant to the terms of the Settlement (i.e., within twenty-one (21) calendar days

1 following the Order granting Final Approval of the Settlement.

2 (a) From the Settlement Amount, \$5,625.00 shall be paid to the California
3 Labor and Workforce Development Agency, representing 75% of the
4 penalties awarded under the terms of the Settlement Agreement pursuant to
5 the Labor Code Private Attorneys General Act of 2004, California Labor
6 Code section 2698, *et seq.*

7 (b) From the Settlement Amount, \$10,000.00 shall be paid to the named
8 Plaintiff, Pablo Sergio Nevarez for his service as class representative and
9 for his agreement to release claims.

10 (c) From the Settlement Amount, \$9,750 shall be paid to the Settlement
11 Administrator, Phoenix Settlement Administrators.

12 17. The Court finds that JVS SoCal is approved as the designed *cy pres* beneficiary
13 and shall receive unpaid residue in accordance with the terms of the Settlement Agreement.

14 18. The Court hereby confirms Justin F. Marquez, Benjamin H. Haber, and Arrash T.
15 Fattahi of Wilshire Law Firm, PLC as Class Counsel.

16 19. From the Settlement Amount, Class Counsel is awarded \$175,000.00 for their
17 reasonable attorneys' fees and \$15,718.12 for their reasonable costs incurred in the Action. The
18 fees and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds
19 that the fees are reasonable in light of the benefit provided to the Class.

20 20. Notice of entry of this Final Approval Order and Judgment shall be given to Class
21 Members by posting a copy of the Final Approval Order and Judgment on Phoenix Settlement
22 Administrator's website for a period of at least sixty (60) calendar days after the date of entry of
23 this Final Approval Order and Judgment.

24 21. Without affecting the finality of this Final Judgment in any way, this Court retains
25 continuing jurisdiction over the implementation, interpretation, and enforcement of the
26 Settlement with respect to all Parties to this action, and their counsel of record.

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28 ///

1 22. Plaintiff's Motion for Final Approval of Class Action Settlement is hereby granted
2 and the Court directs that judgment shall be entered in accordance with the terms of this Order.

3 **IT IS SO ORDERED.**

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6 DATE:

7 Hon. Sunil R. Kulkarni
8 Judge of the Santa Clara County Superior
9 Court
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Nevarez v. On-Time Air Conditioning & Heating, LLC, et al.
21CV375216

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

On **October 12, 2022**, I served the foregoing **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND JUDGMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Karina B. Sterman (SBN 193182)
ksterman@greenbergglusker.com
 James W. Hill (SBN 293971)
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 Maricela Lopez-Krulak
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 Los Angeles, California 90067
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 Facsimile: (310) 553-0687

Attorneys for Defendant

(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **October 12, 2022**, at Los Angeles, California.

Min Jee Kim
Type or Print Name

Signature _____