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

MANUEL GARDUNO, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

NEW GENERATION FRAMING, INC., a
California corporation; GOLDEN STATE
CONSTRUCTION & FRAMING, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CV-21-000544

CLASS ACTION

[Assigned to: Hon. Sonny S. Sandhu, Dept.
24]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement, Memorandum of
Points and Authorities; and Declaration of
Justin F. Marquez]

PRELIMINARY APPROVAL HEARING

Date: February 7, 2023

Time: 8:30 a.m.

Dept: 24

1 The Court has before it Plaintiff Garduno's ("Plaintiff") Motion for Preliminary
2 Approval of Class Action Settlement. Having reviewed the Motion for Preliminary Approval
3 of Class Action Settlement, the Declaration of Justin F. Marquez, the Class Action and PAGA
4 Settlement Agreement and Class Notice (which is referred to here as the "Settlement" or
5 "Settlement Agreement"), and good cause appearing, the Court hereby finds and orders as
6 follows:

7 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
9 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
10 the terms set forth in the Settlement Agreement between Plaintiff and Defendants New
11 Generation Framing, Inc. and Golden State Construction & Framing, Inc. ("Defendants"),
12 attached to the Declaration of Justin F. Marquez in Support of Plaintiff's Motion for Preliminary
13 Approval of Class Action Settlement as Exhibit 2.

14 2. The Settlement falls within the range of reasonableness of a settlement which
15 could ultimately be given final approval by this Court, and appears to be presumptively valid,
16 subject only to any objections that may be raised at the Final Approval Hearing and final
17 approval by this Court. The Court notes that Defendants have agreed to create a common fund
18 of \$750,000.00 to cover (a) settlement payments to class members who do not validly opt out;
19 (b) a \$20,000.00 payment to the State of California, Labor & Workforce Development Agency
20 ("LWDA") for its share of the settlement of claims for penalties under the Private Attorneys
21 General Act ("PAGA"), with 75% of which (\$15,000.00) being paid to the LWDA and 25%
22 (\$5,000.00) being paid to the Aggrieved Employees; (c) Class Representative service payment
23 of up to \$10,000.00 for Plaintiff; (d) Class Counsel's attorneys' fees, not to exceed 33 1/3% of
24 the Gross Settlement Amount (\$250,000.00), and up to \$25,000.00 in costs for actual litigation
25 expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to
26 \$11,750.00. The Court also notes that Defendants will pay \$500,000.00 of the Gross Settlement
27 Amount within 10 business days of the Court granting final approval of this Settlement and the
28 remaining within four months after Defendants' payment of the first installment.

1 3. The Court preliminarily finds that the terms of the Settlement appear to be within
2 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
3 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair
4 and reasonable to the class members when balanced against the probable outcome of further
5 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
6 significant informal discovery, investigation, research, and litigation have been conducted such
7 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
8 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
9 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
10 the result of intensive, serious, and non-collusive negotiations between the Parties with the
11 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
12 that the Settlement Agreement was entered into in good faith.

13 4. A final fairness hearing on the question of whether the proposed settlement,
14 attorneys' fees and costs to Class Counsel, payment to the LWDA for its share of the settlement
15 of claims for penalties under the PAGA, and the class representative's enhancement award
16 should be finally approved as fair, reasonable and adequate as to the members of the class is
17 hereby set in accordance with the Implementation Schedule set forth below.

18 5. The Court provisionally certifies for settlement purposes only the following class
19 (the "Settlement Class"): all individuals employed by New Generation Framing, Inc. or Golden
20 State Construction & Framing, Inc. in California and classified as an hourly-paid or non-exempt
21 employee during the Class Period.

22 6. "Class Period" means the period from February 2, 2017 to January 6, 2022.

23 7. "PAGA Period" means the period from February 2, 2020 to January 6, 2022.

24 8. The Court finds, for settlement purposes only, that the Settlement Class meets the
25 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
26 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
27 of law and fact that are common, or of general interest, to all Settlement Class Members, which
28 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the

Settlement Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Settlement Class Members; and (5) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

9. The Court appoints as Class Representative, for settlement purposes only, Plaintiff Manuel Garduno. The Court further preliminarily approves Plaintiff's ability to request an incentive award up to \$10,000.00.

10. The Court appoints, for settlement purposes only, Justin F. Marquez, Benjamin H. Haber, and Arrash T. Fattahi of Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total Settlement Amount (\$250,000.00), and costs not to exceed \$25,000.00.

11. The Court appoints Phoenix Settlement Administrators as the Settlement Administrator with reasonable administration costs estimated not to exceed \$11,750.00.

12. The Court approves, as to form and content the Class Notice, attached to the Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

13. The Parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

14. Any class member who does not timely and validly request exclusion from the settlement may object to the Settlement Agreement.

15. The Court orders the following Implementation Schedule:

Defendants to provide Class List to the Settlement Administrator	February 22, 2023
Settlement Administrator to mail the Notice Packets	February 27, 2023
Response Deadline	April 13, 2023

1 2 3 4 Deadline for Administrator to Submit Report	14 days before Plaintiff's Deadline to file Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Award to Plaintiff
5 6 7 Deadline to file Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Award to Plaintiff	16 court days before hearing on Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Award to Plaintiff
8 9 Final Approval Hearing	June __, 2023 at ____ a.m./p.m., or first available date thereafter, in Department 24

10 16. The Court further ORDERS that, pending further order of this Court, all proceedings
11 in this lawsuit, except those contemplated herein and in the settlement, are stayed.

12 **IT IS SO ORDERED.**

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15 DATE: _____

16 Hon. Sonny S. Sandhu
17 Stanislaus County Superior Court
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Manuel Garduno v. New Generation Framing, Inc., et al.
CV-21-000544

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

On January 13, 2023, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, 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:

JACKSON LEWIS P.C.
50 California Street, 9th Floor
San Francisco, California 94111-4615
Telephone: (415) 394-9400
Facsimile: (415) 394-9401

(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.

Executed this **January 13, 2023**, at Los Angeles, California.


Ashley Narinyans