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and Proposed Class Counsel
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**
11

12 LLUSBYSARET CISNEROS, on behalf of
herself and all "aggrieved employees"
13 pursuant to Labor Code § 2698 *et seq.*,

14 Plaintiff,

15 v.

16 NIXON-EGLI EQUIPMENT CO. OF
SOUTHERN CALIFORNIA, INC., a
17 California corporation, and DOES 1
through 10, inclusive,

18 Defendants.
19

CASE NO: CIVSB2119108

*Assigned to the Honorable Gilbert Ochoa, Dept.
S24*

**[PROPOSED] ORDER (1) GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND (2)
GRANTING LEAVE TO FILE FIRST
AMENDED COMPLAINT**

DATE: February 24, 2022

TIME: 9:00 a.m.

DEPT.: S24

Action Filed: July 1, 2021

1 Plaintiff Llusbysaret Cisneros' ("Plaintiff") Unopposed Motion for Preliminary Approval
2 of Class Action Settlement and for Leave to File First Amended Complaint came on for hearing
3 before this Court in Department S24, Judge Gilbert Ochoa presiding, on February 24, 2022. The
4 Court, having considered the papers submitted in support of the motion and having heard oral
5 argument of the parties, **HEREBY ORDERS THE FOLLOWING:**

6 1. The Court grants preliminary approval of the settlement based upon the terms set
7 forth in the Settlement Agreement and Release of Claims ("Stipulation") filed with the Court. The
8 settlement appears to be fair, adequate, and reasonable to the Class;

9 2. The Court finds that the settlement falls within the range of reasonableness and
10 appears to be presumptively valid, subject only to any objections that may be raised at the final
11 hearing;

12 3. The Court approves, as to form and content, the Notice of Pendency of Proposed
13 Class Action Settlement and Final Hearing ("Class Notice") and the Request for Exclusion form,
14 and also approves the procedure for members of the Class to object to the settlement set forth in
15 the Class Notice;

16 4. The Court directs the mailing of the Class Notice and Request for Exclusion form
17 by first class mail to the Settlement Class Members in accordance with the schedule set forth below.
18 The Court finds that the dates selected for the mailing and distribution of the Class Notice and
19 Request for Exclusion form, as set forth herein, meet the requirements of due process and provide
20 the best notice practicable under the circumstances and shall constitute due and sufficient notice to
21 all persons entitled thereto;

22 5. It is ordered that the Settlement Class is preliminarily certified for settlement
23 purposes only. The Settlement Class is defined as follows: all individuals who worked for Nixon-
24 Egli Equipment Co. of Southern California, Inc. as hourly and/or non-exempt employees in
25 California at any time between July 1, 2017 and January 31, 2022 (the "Class Period");

26 6. The Court approves and appoints Daniel F. Gaines and Alex P. Katofsky of Gaines
27 & Gaines, APLC as Class Counsel, and grants preliminary approval of an award of attorneys' fees
28 of up to 40% of the Maximum Settlement Amount (or \$114,000) and documented litigation costs

of up to \$12,000 to Class Counsel, subject to final approval by the Court following a further motion by Class Counsel;

7. The Court approves and appoints Plaintiff Llusbysaret Cisneros as the Class Representative and grants preliminary approval to a proposed Service Payment in an amount not to exceed \$10,000;

8. The Court grants preliminary approval of the allocation of \$10,000 to civil penalties under the Private Attorneys General Act ("PAGA"), Labor Code §§ 2698 et seq., of which 75% (\$7,500) shall be paid to the LWDA and 25% (\$2,500) shall be distributed to PAGA Members on a pro rata basis based on the number of weeks worked by each PAGA Member for Defendant in a non-exempt position in California at any time between April 23, 2020 and January 31, 2022 (the "PAGA Period");

9. The Court hereby approves and appoints ILYM Group, Inc. as the Settlement Administrator and grants preliminary approval of the payment of fees and other charges of the Settlement Administrator in an amount not to exceed \$5,000;

10. The Court grants Plaintiff leave to file the First Amended Class and Representative Action Complaint attached as Exhibit 3 to the Stipulation, within five (5) court days of the entry of this Order, and consents that Defendant is not required to file a responsive pleading thereto;

11. The Court orders the following schedule of dates for the specified actions/further proceedings:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including their last known addresses, telephone numbers, social security numbers, and their dates of employment in a non-exempt position in California during the Class Period ("Settlement Class Information")	10 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Settlement Administrator to mail Class Notice and Request for Exclusion form to Class Members	14 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Class Members to submit a written Request for Exclusion form to the Settlement	45 calendar days after the initial mailing of the Class Notice to Class Members

<u>EVENT</u>	<u>TIMING</u>
Administrator	
Last day for Class Members to submit an Objection to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Settlement Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days before the final settlement approval hearing date
Final settlement approval hearing	_____, 2022, at _____.m. (approximately 80 days after entry of this Order)

IT IS SO ORDERED.

Dated: _____

HON. GILBERT OCHOA
JUDGE OF THE SUPERIOR COURT