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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA

TONY CATELLI, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

INNOVATIVE CONSTRUCTION
SOLUTIONS, a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: MSC21-01257

(Assigned for all purposes to the Honorable
Charles S. Treat, Department 12)

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

Date: June 8, 2023

Time: 9:00 a.m.

Dept.: 12

Complaint Filed: June 1, 2021

Trial Date: None Set

1 Plaintiff Tony Catelli (“Plaintiff”) and Defendant Innovative Construction Solutions
2 (“Defendant”) (collectively, the “Parties” or “Settling Parties”) have entered into the Joint
3 Stipulation of Class Action and PAGA Settlement (“Settlement” or “Settlement Agreement”) to
4 settle the above-captioned class action and Private Attorneys’ General Act (“PAGA”) action,
5 subject to the Court’s approval. The Court granted preliminary approval of the Settlement on
6 January 24, 2023. This matter is now before the Court on Plaintiff’s Motion for Final Approval
7 of Class Action and PAGA Settlement. The Court has read, heard, and considered all the
8 pleadings and documents submitted, and the presentations made in connection with the Motion
9 which came on for hearing on June 8, 2023, and GRANTS the motion as provided below.

10 **I. BACKGROUND**

11 On June 1, 2021, Plaintiff initiated this action in the Contra Costa County Superior Court.
12 The operative Complaint alleges causes of action for: (1) violation of California Labor Code §
13 226; and (2) violation of Labor Code § 2698, *et seq.*, the Private Attorneys General Act
14 (“PAGA”).

15 **A. Class Members**

16 The proposed settlement would certify a class of all current and former employees of
17 Defendant who worked in California and received an Initial Physical Wage Statement during the
18 Class Period (June 1, 2020, through April 26, 2021). The Class includes 90 individuals.

19 **B. Operation of the Settlement.**

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

26 In compliance with the Preliminary Approval Order, the Notice of Class Action and
27 PAGA Settlement (“Class Notice”) was sent to all Class Members and PAGA Employees via
28 first class mail. The notice dissemination process was timely completed.

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

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

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

15 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
16 FOLLOWS:

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

19 2. The Court has jurisdiction over the subject matter of the litigation, the Class
20 Representative, the other Settlement Class Members, and Defendant.

21 3. The Court finds that the Class Notice disseminated to the Class Members,
22 constituted the best notice practicable under the circumstances to all Persons within the
23 definition of the Class, and fully met the requirements of California law and due process under
24 the United States Constitution. No objections were received by the Parties or the Court through
25 the date of this Order. The Court finds that one Class Member submitted a valid and timely
26 request for exclusion from the Settlement as determined by the Settlement Administrator.

27 4. The Court approves the settlement of the above-captioned action, as set forth in
28 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The

1 Settling Parties are directed to perform in accordance with the terms set forth in the Settlement
2 Agreement.

3 5. The Court hereby certifies the following Settlement Class for settlement purposes
4 only: All current and former employees of Defendant who worked in California and received an
5 Initial Physical Wage Statement at any time from June 1, 2020, through April 26, 2021.

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

17 7. Defendant shall fund \$30,000.00 of the total Maximum Settlement Amount
18 pursuant to the terms of the Settlement Agreement.

19 8. The Court approves the Individual Settlement Payments and Individual PAGA
20 Payments to be paid to Class Members and PAGA Employees as provided for by the Settlement
21 Agreement, which shall be distributed pursuant to the terms of the Settlement Agreement.

22 9. The \$30,000.00 Gross Settlement Amount shall be used to pay (a) Class Counsel
23 attorneys' fees in the amount of \$10,000.00 and reimbursement of costs in the amount of
24 \$3,812.74; (b) a service award to the Class Representative Tony Catelli for prosecuting this
25 action on behalf of the Settlement Class in the following amount: \$2,500.00; (c) the sum of
26 \$1,500.00 to be paid to the LWDA pursuant to the PAGA; and (d) \$4,250.00 to the settlement
27 administrator – Phoenix Settlement Administrators (the "Settlement Administrator") for its fees
28 and costs relating to the settlement administration process. The Court finds that these amounts

1 are fair and reasonable. The allocation and distribution of these amounts from the \$30,000.00
2 Gross Settlement Amount shall be performed by Settlement Administrator pursuant to the terms
3 of the Settlement Agreement. Five percent (5%) of the attorney's fees are to be withheld by the
4 Settlement Administrator pending satisfactory compliance as found by the Court. The Court also
5 finds that Plaintiff's Counsel complied with the notice procedures to the LWDA as required by
6 PAGA to settle the PAGA claims.

7 10. By means of this Final Approval Order and Judgment, all Settlement Class
8 Members are hereby deemed to have waived and released all Released Class Claims and are
9 forever barred and enjoined from prosecuting the Released Class Claims against the Released
10 Parties as fully set forth in the Settlement Agreement. By means of this Final Approval Order
11 and Judgment, all PAGA Employees and the State of California are hereby deemed to have
12 waived and released all Released PAGA Claims and are forever barred and enjoined from
13 prosecuting the Released PAGA Claims against the Released Parties as fully set forth in the
14 Settlement Agreement. The Settlement is not an admission of liability or wrongdoing by
15 Defendant, nor is this Order a finding of the validity of any claims in the Action or of any fault,
16 omission or wrongdoing by Defendant. Except as expressly provided herein, each Party shall
17 bear its own costs and attorneys' fees.

18 11. By means of this Final Approval Order and Judgment, Plaintiff, on behalf of
19 himself, his heirs and assigns is hereby deemed to have waived and released all Plaintiff's
20 Released Claims and is forever barred and enjoined from prosecuting the Plaintiff's Released
21 Claims against the Released Parties as fully set forth in the Settlement. The Settlement is not an
22 admission of liability or wrongdoing by Defendant, nor is this Order a finding of the validity of
23 any claims in the Action or of any fault, omission or wrongdoing by Defendant.

24 12. A non-appearance compliance hearing is set for _____, at 9:00 a.m. in
25 Department 12 of the above-referenced Court. At least one week prior to the compliance hearing,
26 the Settlement Administrator will provide a written declaration under oath to certify the total
27 amount that was paid to all Class Members and the amount of uncashed checks to be tendered to
28 the California State Controller to be held in the unclaimed property fund in the name of Class

1 Members.

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

7 IT IS SO ORDERED AND ADJUDGED.

8
9 DATED: _____

10 HON. CHARLES S. TREAT
11 SUPERIOR COURT OF CALIFORNIA
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