

01/09/2025

David W. Slayton, Executive Officer / Clerk of Court

By: V. Trujillo Deputy

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Keith Luper

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

KEITH LUPER, an individual,

Plaintiff,

vs.

DR HORTON, INC., a Delaware corporation;
DIANNE SIMMONS, an individual; and DOES
1 through 30, inclusive,

Defendants.

Case No. 21STCV27379

[Honorable Lynn M. Hobbs, Department 61]

**~~[PROPOSED]~~ ORDER APPROVING
SETTLEMENT PURSUANT TO
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT AND
ENTERING JUDGMENT**

*[Concurrently filed with Notice of Motion
and Motion; Declaration of Michael C.
Robinson; Declaration of Jodey Lawrence]*

Motion Hearing

Date: November 26, 2024

Time: 10:00 a.m.

Place: Department 61

Reservation ID: 547756715352

Complaint Filed: July 26, 2021

Having reviewed and considered Plaintiff Keith Luper's ("Plaintiff") Motion for Order Approving Settlement Pursuant to California Labor Code Private Attorneys General Act and Entering Judgment, and good cause appearing for the same, it is hereby **ORDERED, ADJUDGED, and DECREED:**

1. The Court hereby approves the PAGA Settlement attached as Exhibit B to the Declaration of Michael C. Robinson ("Settlement Agreement" or "Settlement") as a fair, reasonable, and adequate resolution of the PAGA claims alleged in the Action.

2. The Settlement Agreement is hereby deemed incorporated herein as if expressly set forth. Final judgment is hereby entered in conformity with the Settlement. All terms used herein shall have the same meaning as defined in the Settlement Agreement.

3. This Court has jurisdiction over the subject matter of this Action, and over all Parties to this Action, including Plaintiff Keith Luper, the State of California, and all aggrieved employees, including approximately 703 individuals employed as non-exempt employees in the State of California during the period May 22, 2020, through the date of entry of this Order ("PAGA Period").

4. The Court designates Phoenix Settlement Administrators ("Phoenix") as the third-party Settlement Administrator for mailing the aggrieved employees' PAGA settlement notices, distribution of the Gross Settlement Amount, and other duties set forth in the Settlement.

5. Within twenty-one (21) calendar days after approval of this Settlement, Defendant D.R. Horton ("Defendant") will provide Phoenix the Aggrieved Employee Lists defined in the Settlement Agreement.

6. Within fourteen (14) calendar days of receipt of the Gross Settlement Amount from Defendants, Phoenix shall distribute the Gross Settlement Amount as provided in the Settlement Agreement and set forth below:

- a. Awarding Plaintiff's counsel, Robinson Di Lando, A Professional Law Corporation, attorney's fees of \$7,800 and costs of \$2,200 for reimbursement of actual litigation costs and expenses under Labor Code section 2699(g)(1).
- b. Approving the distribution of the Net Settlement Amount, currently estimated to be \$28,500.00, of which seventy-five percent (75%) shall be paid to the California Labor and Workforce Development Agency ("LWDA") and twenty-five percent (25%) shall be paid to the aggrieved

employees on a pro rata basis based upon the number of Pay Periods worked during the PAGA Period;

c. Appointing Phoenix Class Action Administration Solutions (“Phoenix”) as the Settlement Administrator and approving the payment, not to exceed, \$6500.00 to Phoenix in connection with the costs of administering the Settlement;

7. All checks to the aggrieved employees shall remain valid and negotiable for 120 days from the date of their issuance to the aggrieved employees. If any checks are not cashed within 120 days of mailing, those funds shall be transmitted the California Controller’s Unclaimed Property Fund in the name of the Aggrieved employee.

8. Upon the Effective Date, Luper, the Aggrieved Employees, and the State of California, on behalf of itself and its administrators, representatives, agencies, departments, and assigns, shall be deemed to and shall have knowingly and voluntarily released and forever discharged Simmons and the Company, including the Company’s parent corporation(s), affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, including, but not limited to, D.R. Horton Los Angeles Holding Co., Inc., D.R. Horton L.A. North, Inc., D.R. Horton, Inc. – Sacramento (aka D.R. Horton CA2, Inc.), D.R. Horton Bay, Inc., D.R. Horton, Inc. – Fresno, and D.R. Horton, Inc. - Midwest, and each of their current and former employees, attorneys, officers, directors and agents thereof (collectively, the “Released Parties”), of and from any and all claims for relief under PAGA (civil penalties, attorneys' fees, interest, costs or other relief), asserted or unasserted, or which could have been asserted in the Action, and which reasonably arise out of or reasonably relate to the factual allegations in the operative complaint, the case, or the PAGA Notice, during the period from May 22, 2020 to the date of Court approval, including those for alleged failure to pay overtime wages in violation of Labor Code § 510, *et seq.* and IWC Wage Order 5-2001, alleged failure to pay minimum/regular wages , failure to pay all wages due upon separation of employment in violation of Labor Code §§ 201-204, *et seq.*, failure to provide accurate itemized wage statements in violation of Labor Code § 226, for alleged waiting time penalties under Labor Code § 203, , or for alleged violations under Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 510, 512, 558,

1 1102.5, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 1199, 2699, 2699.3, and all applicable Industrial
2 Welfare Commission Wage Order(s).

3 The Released Claims described above expressly exclude all claims made by the
4 aggrieved employees for individual wage claims, vested benefits, wrongful termination,
5 unemployment insurance, disability, social security, workers' compensation, claims while classified
6 as exempt, and claims outside of the PAGA Period.

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8 9. The Court finds that Plaintiff gave notice to the California Labor Workforce and
9 Development Agency ("LWDA") and to Defendant of his intention to pursue claims for civil
10 penalties under PAGA arising out of the facts and legal theories alleged in the operative
11 Complaint, that the LWDA did not give notice that it intended to investigate these claims within
12 sixty-five (65) days of receiving Plaintiff's notice, and that Plaintiff is therefore authorized to
13 pursue these claims on behalf of the LWDA. The Court further finds that Plaintiff gave notice of
14 this proposed settlement of those claims under PAGA to the LWDA in accordance with Labor
15 Code section 2699(l)(2), and that the LWDA has not expressed any objection to the proposed
16 settlement. Accordingly, this Judgment also bars the LWDA, or any other agency of the State of
17 California, or any person acting on its behalf, from collecting any penalties due to any of them, or
18 any unpaid wages due to PAGA Class Members, to the extent those penalties or unpaid wages arise
19 out of the PAGA Released Claims or the facts giving rise to those claims. *Arias v. Super.Ct.*, 46
20 Cal.4th 969, 985-86 (2009).

21 10. Plaintiff's Counsel are directed to submit a copy of this Order and Judgment to the
22 California Labor and Workforce Development Agency within ten (10) calendar days of
23 entry of the Judgment.

24 11. Without affecting the finality of this Order and Judgment, the Court shall retain
25 continuing jurisdiction over this Action and the Parties, and over all matters pertaining to the
26 implementation and enforcement of the terms of the Settlement Agreement pursuant to the Civil
27

28 Procedure section 664.6. Except as provided to the contrary herein, any disputes or

1 controversies arising with or with respect to the interpretation, enforcement, or implementation of
2 the Settlement Agreement shall be presented to the Court for resolution.

3 12. A hearing on the Final Accounting (Nonappearance) is scheduled for a final report on
4 the disbursement of the PAGA Payment Shares shall be filed court days in advance of the Final
5 Accounting (Nonappearance hearing).
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8 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

9 DATED: 01/09/2025



Lynne M. Hobbs

Lynne M. Hobbs / Judge

HON. LYNN HOBBS
JUDGE OF THE SUPERIOR COURT