

2/17/2023 3:30 PM

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ELECTRONICALLY FILED: 02/22/2023

San Luis Obispo Superior Court

By: Donahue, Courtney

Attorneys for Plaintiff APULEYO ARROYO, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and all other current and former similarly situated employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN LUIS OBISPO

APULEYO ARROYO, on behalf of himself
and all other similarly aggrieved employees,

Plaintiff,

v.

G. WIEMANN CONSTRUCTION, INC., a
California Corporation; GREGORY BRIAN
WIEMANN, an individual; and DOES 1-50,
Inclusive.

Defendants.

Case No.: 21CVP-0200

*Assigned for all purposes to: Hon. Rita
Federman; Dept.: 2*

~~PROPOSED~~ ORDER

[Filed concurrently Plaintiff's Unopposed Ex
Parte Application to Advance the June 15,
2023 Hearing on Plaintiff's Unopposed
Motion for PAGA Approval to an Earlier
Date, or, in the alternative, to Hear the Motion
on an Ex Parte Basis; Declaration of Justin
Lo; Declaration of Michaela Cotton]

Date: February 22, 2023

Time: 8:30 a.m.

Dept.: 2

Complaint Filed: July 29, 2021

Trial Date: Not Yet Set

~~PROPOSED~~ ORDER

On February 22, 2023 at 8:30 a.m. in Department 2 of the above-captioned Court, the San Luis Obispo Superior Court, Plaintiff APULEYO ARROYO's ("Plaintiff" or "Arroyo") Ex Parte Application for an order to advance the June 15, 2023 hearing date for Plaintiff's Unopposed Motion for PAGA Approval to an earlier date, or, in the alternative, to hear the Motion for PAGA Approval on an *ex parte* basis, came on for hearing. ~~May T. To of Work Lawyers PC appeared on behalf of Plaintiff. Michaela Cotton, Esq. of Andre, Morris & Buttery appeared on behalf of Defendants G. WIEMANN CONSTRUCTION, INC. and GREGORY BRIAN WIEMANN (collectively, "Defendants").~~ The Court, having read and considered the moving papers ~~and having heard oral arguments,~~ rules as follows:

1. Plaintiff's Ex Parte Application is granted.
2. The June 15, 2023 hearing date for Plaintiff's Motion for PAGA Approval is advanced to an earlier date of February 23, 2023 at 9:00 a.m. ~~[OR, the Court grants and approves Plaintiff's Motion for PAGA Approval on an ex parte basis, as set forth in the Order Approving Settlement of Claims attached hereto as Exhibit 1].~~ ***Via Zoom only.**
3. Plaintiff shall give notice.

DATED: February 22, 2023


HON. RITA F. LDERMAN
JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

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Attorneys for Plaintiff APULEYO ARROYO, as representative of the State of California and the Labor and Workforce Development Agency, and all other current and former similarly aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO COUNTY**

APULEYO ARROYO, on behalf of himself
and all others aggrieved employees,

Plaintiff,

v.

G. WIEMANN CONSTRUCTION, INC., a
California Corporation; GREGORY BRIAN
WIEMANN, an individual; and DOES 1- 50,
Inclusive,

Defendants.

CASE NO: 21CVP-0200

**~~PROPOSED~~ APPROVING SETTLEMENT
OF CLAIMS BROUGHT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL
ACT OF 2004, AWARDING ATTORNEYS'
FEES, COSTS, AND REIMBURSEMENT OF
SETTLEMENT ADMINISTRATION
EXPENSES, AND DISMISSING ACTION
WITH PREJUDICE**

Date: June 15, 2023

Time: 9:00 AM

Dept.: 2

Complaint Filed: July 29, 2021

Plaintiff Apuleyo Arroyo ("Plaintiff") Unopposed Motion for an Order: (1) granting approval of the proposed settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698 *et seq.*) ("PAGA") set forth in the parties' PAGA Settlement Agreement (the "Settlement Agreement"), attached as Exhibit 1; (2) appointing Phoenix Settlement Administrators. as the Settlement Administrator and approving payment of its fees not to exceed \$4,000 from the Settlement Sum; (3) directing disbursement of the Settlement Sum pursuant to the terms of the Settlement Agreement; (4) directing payment of attorneys' fees and litigation costs

1 from the Settlement Sum not to exceed \$43,290.00 to Plaintiffs' counsel for attorney's fees and
2 \$4,133.55 in expenses came on for hearing before this Court in Department 2, the Honorable Rita
3 Federman, on _____, 2023. Appearances were noted on the record.

4 Having reviewed the Settlement Agreement and duly considered the parties' papers and oral
5 argument, and good cause appearing,

6 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

7 1. All terms used herein shall have the same meaning as defined in the PAGA
8 Settlement Agreement, which is attached hereto as Exhibit 1.

9 2. This Court has jurisdiction over the claims of the Aggrieved Employees and the
10 State of California asserted in this proceeding and over all parties to the Action.

11 3. The Court finds that the Settlement was entered into in good faith, that the
12 Settlement is fair, reasonable and adequate, and that the Settlement satisfies the standards and
13 applicable requirements for approval of PAGA representative actions under California law. The
14 Court finds that the Settlement Sum of \$130,000.00 represents a fair compromise of the claims
15 alleged in the Action, considering the maximum potential value of the claims asserted and the risks
16 inherent in further litigation.

17 4. The Court has considered the authorities and evidence presented by Plaintiffs and
18 based thereon hereby approves the following awards and deductions from the Settlement Sum:

19 a. To Plaintiffs' counsel, Work Lawyers, PC, an award of \$43,290.00 in
20 attorneys' fees and \$4133.55 in costs. The Court finds that these amounts are fair and
21 reasonable and commensurate with applicable California law.

22 b. To Phoenix Settlement Administrator., the settlement administrator, a
23 payment of up to \$4,000 to administer the Settlement through its conclusion, including
24 disbursement of the Settlement Sum and all tax reporting associated therewith.

25 c. To Plaintiff Apuleyo Arroyo, a service payment of \$1000.00 for his work
26 done on behalf of aggrieved employees.

1 5. The amount remaining of the Settlement Sum following these deductions is the Net
2 Settlement Amount of approximately \$77,576.45. The Net Settlement Amount shall be distributed
3 75% to the Labor and Workforce Development Agency and 25% to the Aggrieved Employees.

4 6. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement
5 based on the provisions and timelines set forth in the Settlement Agreement.

6 7. Upon entry of this Order, the case shall be dismissed with prejudice.

7 8. After entry of this Order, pursuant to California Code of Civil Procedure section
8 664.6, the Court shall retain jurisdiction of the Action to construe, interpret, implement, and enforce
9 the Settlement Agreement and this Order.

10
11 **IT IS SO ORDERED.**

12
13 Dated: _____

HON. RITA FEDERMAN
JUDGE OF THE SUPERIOR COURT

SAN LUIS OBISPO COUNTY SUPERIOR COURT
DEPARTMENT 2

JUDGE RITA FEDERMAN

INSTRUCTIONS FOR REMOTE APPEARANCE
BY VIDEOCONFERENCE USING ZOOM APPLICATION

VIDEO CONFERENCE IS REQUIRED FOR CIVIL HARASSMENT RESTRAINING ORDER HEARINGS OR EVIDENTIARY HEARINGS. AUDIO APPEARANCE WILL NOT BE ACCEPTABLE.

Before your hearing date:

- Visit www.zoom.us for more information on how Zoom works and how you can join hearings or meetings. Zoom works on mobile devices such as smartphones and tablets, and on computer desktops that are equipped with both a camera and microphone. You can download the Zoom application onto your device or download the Zoom program if you are using a computer. (www.zoom.us/download).
- You do not need to create or pay for a Zoom account in order to participate in the hearing.
 - **Name your device with your legal name.**
 - **For Android users: Tap the following sequence: Settings> Quick settings> About device> Device name.**
 - **For iPhone users: go to Settings> General, then tap About; Tap Name and rename your device.**
- Test the Zoom audio and video functions on your device **before** your hearing. Visit www.zoom.us/test for more information on how to test your device.

On your hearing date:

Join Zoom Gov Meeting

<https://www.zoomgov.com/j/1607006555?pwd=MklwUkhoTUh3OHN5elBYVGxnWFFpdz09>

Meeting ID: 160 700 6555

Passcode: 79513

One tap mobile

+16692545252,,1607006555# US (San Jose)

+16692161590,,1607006555# US (San Jose)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 669 216 1590 US (San Jose)

+1 646 828 7666 US (New York)

+1 551 285 1373 US

833 568 8864 US Toll-free

Meeting ID: 160 700 6555

Find your local number: <https://www.zoomgov.com/u/akBtk1GWN>

Join by SIP

1607006555@sip.zoomgov.com

Join by H.323

161.199.138.10 (US West)

- You may also access the Zoom information from the court website at <https://www.slo.courts.ca.gov>
- Click on "Remote Court Appearances via Zoom" and locate the Department you are to appear in. Click on "Join Zoom Meeting".
- Upon joining the meeting, you will be placed in a "**WAITING ROOM**". When the court is ready to start the hearing, the court will move you from the waiting room into the meeting.

During the hearing:

- Existing rules and procedures regarding making a record by a court reporter or electronic device, or obtaining a transcript after the hearing, apply to remote appearances. Participants may not record or broadcast the remote appearance except in compliance with California Rule of Court, rule 1.150. A violation of this Rule may result in the imposition of sanctions as set forth in subsection (f) of Rule 1.150.

- Participants, including attorneys, parties, and other participants must:

Participate in the remote appearance with the same degree of courtesy, decorum, use of appropriate language, and courtroom etiquette as required for a personal courtroom appearance;

Dress in the same manner as they would for a personal appearance in court, without sunglasses, hats, and/or face coverings;

Ensure that they have enough battery power for the entire remote appearance, including having a charger readily available, and having access to enough cellular data and/or Wi-Fi for the duration of the remote appearance;

Updated on 7/22/2021

Eliminate all ambient and/or distracting noise from the participant's location;

To the extent possible, place electronic mobile devices on a solid surface with the camera at eye level;

Ensure consistent lighting, avoiding rooms with bright windows and/or back-lighting, so that the participant can be seen;

Display their legal name on the videoconferencing screen;

Disable virtual background features except for the default virtual backgrounds on Zoom;

Speak directly into the microphone on the electronic device used to connect to the court session.

Exhibits:

If you want to present evidence to the Court, please follow the instructions below. **ALL EXHIBITS MUST BE PRESENTED TO THE COURT AND THE ALL THE PARTIES AT LEAST 5 DAYS PRIOR TO THE HEARING.**

- Print your exhibits and put them in one of the two drop boxes outside the San Luis Obispo courthouse. If the exhibits are too large for the drop box, drop them off inside the courthouse at Jury Services, on the second floor.
- You may e-file your exhibits with the Court, however a hard copy is **required** to be dropped off prior to your hearing. For more information, go here: <http://www.odysseyefileca.com/>

Please get your exhibits to the Court and all parties *BEFORE* the day of your hearing.