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7 Attorneys for Plaintiff,
8 MICHAEL M. CANTRELL, and all others similarly situated
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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12 **(UNLIMITED JURISDICTION)**

13 MICHAEL M. CANTRELL, on behalf of
14 himself, all others similarly situated, and as an
"aggrieved employee" on behalf of other
15 "aggrieved employees" under the Labor Code
Private Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.

18 CONCRETE PLACEMENT, INC., a California
19 corporation; COLLIN FLEMING; and DOES 1–
20 50, inclusive,

21 *Defendants.*

Case No. 30-2021-01225534-CU-OE-CXC

**PLAINTIFF MICHAEL M.
CANTRELL'S NOTICE OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
RESERVATION NO.: 73918762**

Hearing Date: 2/24/2023
Hearing Time: 9:00 a.m.
Hearing Dept.: CX104, The Honorable
William D. Claster

Action filed: October 07, 2021
Trial Date: None set

**Submitted Herewith Under Separate
Cover:**

1. Memorandum of Points and Authorities;
2. Declaration(s) of David Spivak and Walter L. Haines; and
3. [Proposed] Order



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ADDITIONAL ATTORNEY FOR PLAINTIFF

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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on February 24, 2023 at 9:00 a.m. or as soon thereafter as
3 the matter may be heard, in Department CX104 of the Orange County Superior Court, located at
4 Civil Complex Center, 751 W Santa Ana Bl., Santa Ana, CA 92701, Plaintiff Michael M. Cantrell
5 (“Plaintiff”) will and hereby does move this Court for an order: (1) granting class certification of
6 the Settlement Class solely for settlement purposes pursuant to California Code of Civil Procedure
7 section 382; (2) preliminarily approving the Class Action and PAGA Settlement Agreement and
8 Class Notice (the “Settlement”)¹ between Plaintiff and Defendants Concrete Placement, Inc. and
9 Collin Fleming (collectively “Defendants”) (Plaintiff and Defendants are collectively the
10 “Parties”), (3) appointing David Spivak of The Spivak Law Firm and Walter L. Haines of United
11 Employees Law Group as Class Counsel; (5) appointing Plaintiff as Class Representative (“Class
12 Representative”); (6) approving the use of the proposed notice procedures and related forms; (7)
13 directing that notice be mailed to the proposed Settlement Class; and (8) scheduling a hearing
14 date for motion for final approval of class action settlement and awards of attorneys’ fees and
15 costs.

16 The “Settlement Class” or “Class Members” consists of all persons employed by
17 Defendants in California and classified as hourly, non-exempt who worked for Defendants during
18 the Class Period. “Class Period” means the period from October 8, 2017 through the date of the
19 court order granting preliminary approval of the Settlement.

20 This Motion is made on the following grounds: (1) the Settlement Class meets all the
21 requirements for class certification for settlement purposes only under California Code of Civil
22 Procedure section 382; (2) Plaintiff and his counsel are adequate to represent the Settlement Class;
23 (3) the Settlement reflects a fair, adequate, and reasonable compromise of all disputed claims in
24 view of Defendants’ potential liability exposure as compared against the risks of continued
25 litigation; (4) the proposed notice procedures and related forms adequately apprise the Class
26 Members of their rights under the Settlement and fully comport with due process; and (5) in view

27 ¹ The Settlement is attached as Exhibit 1 to the Declaration of David Spivak (“DS”), which is
28 submitted herewith under a separate cover.



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1 of the foregoing, notice should be disseminated to the Class Members and a hearing date for
2 motion for final approval of class action settlement, and awards of attorneys' fees and costs should
3 be set.

4 The Motion is based on this Notice of Motion and Motion, the attached Memorandum of
5 Points and Authorities, the Declaration of David Spivak, the Declaration of Walter L. Haines, all
6 papers and pleadings on file with the Court in this action, all matters judicially noticeable, and on
7 such oral and documentary evidence as may be presented in connection with the hearing on the
8 Motion.

9
10 Respectfully submitted,

11 THE SPIVAK LAW FIRM

12
13 Dated: January 5, 2023

14 By:



15 DAVID G. SPIVAK,
16 CHRISTINA J. PREJEAN, Attorneys
17 for Plaintiff, MICHAEL M.
18 CANTRELL, and all others similarly
19 situated



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