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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ORANGE**
11 **(UNLIMITED JURISDICTION)**

12 MICHAEL M. CANTRELL, on behalf of
13 himself, all others similarly situated, the general
14 public, and as an “aggrieved employee” on
15 behalf of other “aggrieved employees” under the
16 Labor Code Private Attorneys General Act of
17 2004,

18 *Plaintiff(s),*

19 vs.

20 CONCRETE PLACEMENT, INC., a California
21 corporation; COLLIN FLEMING; and DOES 1–
22 50, inclusive,

23 *Defendant(s).*

Case No. 30-2021-01225534-CU-OE-CXC
Reservation No.: 73918762
[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT



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23 The Motion of Plaintiff Michael M. Cantrell (hereafter referred to as “Plaintiff”) for
24 Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court,
25 The Honorable William D. Claster presiding. The Court having considered the Motion, the Joint
26 Stipulation of Class Action Settlement and Release of Claims (“Settlement” or “Settlement
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Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined there is sufficient evidence to preliminarily determine that (a) the terms of the Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the Settlement falls within the range of reasonableness and appears to be presumptively valid, subject only to any objections that may be raised at the final hearing and final approval by this Court. The Court will make a determination at the hearing on the motion for final approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and reasonable to the Settlement Class.

2. For purposes of this Preliminary Approval Order, the “Settlement Class” means all persons hourly, non-exempt in California (collectively “Class Members”), who worked anytime during the Class Period. The “Class Period” shall mean the period of time from October 8, 2017, through the date of the court order granting preliminary approval of the Settlement. Defendants estimate that as of the date of the court order granting preliminary approval of the Settlement, there were 111 potential Settlement Class Members. Settlement ¶ 4.1. The “Effective Date” means as follows: If no objection to this Settlement or to any of the terms and or conditions of the Settlement are filed by Plaintiff, another member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur on the day that the Court enters an order of final approval of this Settlement; however, if any objection to this Settlement or to any of the terms and or conditions of the Stipulation is filed by a member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur upon the expiration of the time for the filing any



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1 appeal of the order of final approval of this Settlement. If an appeal is filed or any writ granted,
2 then the Effective Date shall occur after the appeal has been dismissed or the writ dissolved and
3 when there is no further time to appeal the dismissal of the appeal or the dissolution of the writ.
4 The occurrence of the Effective Date is a prerequisite to any obligation of Defendants to pay any
5 funds into the Settlement Account.

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7 3. This action is provisionally certified pursuant to section 382 of the California Code
8 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
9 purposes of settlement only with respect to the proposed Settlement Class.

10 4. The Court hereby preliminarily finds that the Settlement was the product of
11 serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In making
12 this preliminary finding, the Court considered the nature of the claims set forth in the pleadings,
13 the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the allocation
14 of Settlement proceeds to the Settlement Class, and the fact that the Settlement represents a
15 compromise of the Parties' respective positions. The Court further preliminarily finds that the
16 terms of the Settlement have no obvious deficiencies and do not improperly grant preferential
17 treatment to any individual Class Member. Accordingly, the Court preliminarily finds that the
18 Settlement was entered into in good faith.

19
20 5. The Court finds that the dates set forth in the Settlement for mailing and
21 distribution of the Class Notice meet the requirements of due process and provide the best notice
22 practicable under the circumstances, and constitute due and sufficient notice to all persons entitled
23 thereto, and directs the mailing of the Class Notice by first class mail to the Settlement Class as
24 set forth in the Settlement. Accordingly, the Court orders the following implementation schedule
25 for further proceedings:
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1 a. No later than 21 days after the Court grants Preliminary Approval of the
2 Settlement, Defendants shall provide ILYM Group, the appointed Settlement
3 Administrator, with: (a) An electronic database of all Class Members, last
4 known mailing address, Social Security number and Defendants' employee
5 identification number ("Class Members' Data"); and (b) Corresponding to
6 each Class Member's name, Defendants shall provide a figure indicating the
7 total number of Work Weeks during the Class Period in which Defendants
8 employed the Class Member. That number of Work Weeks shall be referred to
9 as that Class Member's "Individual Work Weeks;" (c) If any of the Class
10 Members' Data are unavailable to Defendants, Defendants will so inform
11 Class Counsel and the Parties will make their best efforts to reconstruct or
12 otherwise agree upon the Class Members' Data prior to when it must be
13 submitted to the Settlement Administrator. Class Members' Data will
14 otherwise remain confidential and will not be disclosed to anyone, except as
15 necessary to applicable taxing authorities, or pursuant to Defendants' express
16 written authorization or by order of the Court.

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19 b. **Mailing of Class Notice.** Approximately fourteen (14) days after receiving
20 the Class Members' Data, or as soon thereafter as it can do so, the Settlement
21 Administrator will mail the Class Notice to all identified Class Members via
22 first-class U.S. mail using the mailing address information provided by
23 Defendants, unless modified by any updated address information that the
24 Settlement Administrator obtains in the course of administration of the
25 Settlement.
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1 c. **Returned Class Notice.** If a Class Notice is returned because of an incorrect
2 address, the Settlement Administrator will promptly, and not later than three
3 (3) business days from receipt of the returned Class Notice, search for a more
4 current address for the Class Member and re-mail the Class Notice to the Class
5 Member. The Settlement Administrator will use the Class Members' Data and
6 otherwise work with Defendants' Counsel and Class Counsel to find a more
7 current address. The Settlement Administrator will be responsible for taking
8 reasonable steps, consistent with its agreed-upon job parameters, court orders,
9 and fee, to trace the mailing address of any Class Member for whom a Class
10 Notice is returned as undeliverable by the U.S. Postal Service. These
11 reasonable steps shall include the tracking of all undelivered mail; performing
12 address searches for all mail returned without a forwarding address; and
13 promptly re-mailing to Class Members for whom new addresses are found. If
14 the Class Notice is re-mailed, the Settlement Administrator will note for its
15 own records and notify Class Counsel and Defendants' Counsel of the date and
16 address of each such re-mailing as part of a weekly status report provided to
17 the Parties.

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20 d. **Declaration of Settlement Administrator.** Not later than fourteen (14) days
21 prior to the Final Approval Hearing, the Settlement Administrator will provide
22 the Parties for filing with the Court a declaration of due diligence setting forth
23 its compliance with its obligations under the Settlement. Prior to the Final
24 Approval Hearing, the Settlement Administrator will supplement its
25 declaration of due diligence if any material changes occur from the date of the
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1 filing of its prior declaration.

2 **e. Requests for Exclusion from Settlement; and Objections to Settlement.**

3 Class Members may submit requests to be excluded from the effect of the
4 Settlement, or objections to the Settlement, pursuant to the following
5 procedures:

- 6
- 7 **i. Request for Exclusion from Settlement.** A Class Member may
- 8 request to be excluded from the effect of the Settlement, and any
- 9 payment of amounts under the Settlement, by timely mailing a letter to
- 10 the Settlement Administrator stating that the Class Member wants to
- 11 be excluded from this Action. This letter must include the Class
- 12 Member's name, address, telephone number, and signature. To be valid
- 13 and timely, the request to be excluded must be postmarked by sixty
- 14 (60) days after the Administrator mails Notice to Class Members and
- 15 Aggrieved Employees from the initial mailing of the Class Notice by
- 16 the Settlement Administrator). A Class Member who properly submits
- 17 a valid and timely request to be excluded from the Action shall not
- 18 receive any payment of any kind in connection with the Settlement or
- 19 this Action, shall not be bound by or receive any benefit of the
- 20 Settlement, and shall have no standing to object to the Settlement. A
- 21 request for exclusion must be mailed to the Settlement Administrator
- 22 at the address provided on the Class Notice. The Settlement
- 23 Administrator shall transmit the request for exclusion to counsel for the
- 24 Parties as follows:
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To Class Counsel:

David G. Spivak
The Spivak Law Firm
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069

To Defense Counsel:

Samuel P. Knecht
Lewis Brisbois Bisgaard & Smith LLP
Mr. Samuel P. Knecht Esq.
633 W 5th St
Ste 4000
Los Angeles, CA 90071

ii. **Objections to Settlement.** The Class Notice will provide that any Class Member who does not request exclusion from the Action and who wishes to object to the Settlement should submit an objection in writing to the Settlement Administrator within sixty (60) days after the Settlement Administrator mails the Class Notice, a written objection to the Settlement which sets forth the grounds for the objection and the other information required by this paragraph. The objection should be mailed to the Settlement Administrator at the address provided on the Class Notice. The Settlement Administrator shall transmit the objections to counsel for the Parties as follows:

To Class Counsel:

David G. Spivak
The Spivak Law Firm
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069

To Defense Counsel:

Samuel P. Knecht
Lewis Brisbois Bisgaard & Smith LLP
Mr. Samuel P. Knecht Esq.
633 W 5th St
Ste 4000
Los Angeles, CA 90071

The written objection should state the objecting Class Member's full name, address, and the approximate dates of his or her employment

1 with Defendants. The written objection should state the basis for each
2 specific objection and any legal support in clear and concise terms. The
3 written objection also should state whether the Class Member intends
4 to formally intervene and become a party of record in the action, and
5 upon formally intervening, appear and argue at the Final Approval
6 Hearing. However, the objectors will be provided with the opportunity
7 to speak at the final approval hearing regardless of whether they have
8 filed an appearance or submitted a written opposition beforehand.

9
10 If the objecting Class Member does not formally intervene in the action
11 and/or the Court rejects the Class Member's objection, the Class
12 Member may still be bound by the terms of the Settlement.

13
14 f. **Report.** Not later than five (5) days after the deadline for submission of
15 requests for exclusion, the Settlement Administrator will provide the Parties
16 with a complete and accurate list of all Class Members who sent timely
17 requests to be excluded from the Action and all Class Members who objected
18 to the settlement.

19 6. The Court approves, as to form and content, the Class Notice in substantially the
20 form attached as Exhibit A to the Settlement.

21 7. The Court approves, for settlement purposes only, David Spivak of The Spivak
22 Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

23 8. The Court approves, for settlement purposes only, Michael M. Cantrell as the
24 Class Representative.

25 9. The Court approves ILYM Group, Inc. as the Settlement Administrator.



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1 10. The Court preliminarily approves Class Counsel's request for attorneys' fees and
2 costs subject to final review by the Court.

3 11. The Court preliminarily approves the estimated Settlement Administrator costs
4 payable to the Settlement Administrator subject to final review by the Court.

5 12. The Court preliminarily approves Plaintiff's Class Representative Payment subject
6 to final review by the Court.

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8 13. A Final Approval Hearing shall be held on _____ at _____.m. in the
9 Superior Court for the State of California, County of Orange, located at Civil Complex Center,
10 751 W Santa Ana Bl., Santa Ana, CA 92701 to consider the fairness, adequacy and reasonableness
11 of the proposed Settlement preliminarily approved by this Preliminary Approval Order, and to
12 consider the application of Class Counsel for attorneys' fees and costs and the Class
13 Representative Payment to the Class Representative. The notice of motion and all briefs and
14 materials in support of the motion for final approval of class action settlement and motion for
15 attorneys' fees and litigation costs shall be served and filed with this Court on or before
16 _____.
17

18 14. If for any reason the Court does not execute and file a final approval order and
19 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
20 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
21 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
22 litigation, as more specifically set forth in the Settlement.

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1 15. The Court expressly reserves the right to adjourn or continue the Final Approval
2 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
3 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

4 **IT IS SO ORDERED.**

5
6 DATED: _____

7 **THE HONORABLE WILLIAM D. CLASTER**
8 **JUDGE OF THE SUPERIOR COURT**



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