

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order: Plaintiff, Michael Cantrell
2. Title of the proposed order: Order Preliminarily Approving Class Action Settlement.
3. The proceeding to which the proposed order relates is:
 - a. Description of proceeding: Hearing on Plaintiff's Motion for Preliminary Approval of Class Action Settlement
 - b. Date and time: June 2, 2023 at 9:00 a.m.
 - c. Place: Dept. CX 104
4. The proposed order was served on the other parties in the case.


(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME: Cantrell vs. Concrete Placement, Inc., et al.

CASE NUMBER:
30-2021-0 1225534-CU-OE-CXC**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**1. I am at least 18 years old and **not a party to this action.**

a. My residence or business address is (*specify*):
 The Spivak Law Firm
 1801 Century Park East, 25th Floor
 Los Angeles, CA 90067

b. My electronic service address is (*specify*):
 nora@spivaklaw.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):
 Samuel Knecht, Esq., Attorney for Defendant, Concrete Placement, Inc.

b. To (*electronic service address of person served*): Samuel.Knecht@lewisbrisbois.com

c. On (*date*): 04/20/2023

☒ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 04/20/2023

NORA GREER

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

SHORT TITLE: Cantrell vs. Concrete Placement, Inc.

CASE NUMBER:
30-2021-0 1225534-CU-OE-CXC**ATTACHMENT TO PROOF OF ELECTRONIC SERVICE (PERSONS SERVED)***(This attachment is for use with form POS-050/EFS-050.)***NAMES, ADDRESSES, AND OTHER APPLICABLE INFORMATION ABOUT PERSONS SERVED:****Name of Person Served****Electronic Service Address****Date of Electronic Service***(If the person served is an attorney,
the party or parties represented should
also be stated.)*Samuel Knecht, Esq., Attorney for
Defendant, Collin Fleming

Samuel.Knecht@lewisbrisbois.com

Date: 04/20/2023

Date: _____

Date: _____

Date: _____

Date: _____

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Date: _____

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Date: _____

Date: _____

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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.: _____
[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 First
26 Amended Joint Stipulation of Class Action Settlement and Release of Claims (“Settlement” or
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1 “Settlement Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

2 1. The Court grants preliminary approval of the Settlement and the Settlement Class
3 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
4 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
5 has determined there is sufficient evidence to preliminarily determine that (a) the terms of the
6 Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the
7 Settlement falls within the range of reasonableness and appears to be presumptively valid, subject
8 only to any objections that may be raised at the final hearing and final approval by this Court. The
9 Court will make a determination at the hearing on the motion for final approval of class action
10 settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and
11 reasonable to the Settlement Class.
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13 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
14 all persons hourly, non-exempt in California (collectively “Class Members”), who worked
15 anytime during the Class Period. The “Class Period” shall mean the period of time from October
16 8, 2017, through the date of the court order granting preliminary approval of the Settlement.
17 Defendants estimate that, as of November 7, 2022, there were 111 potential Settlement Class
18 Members. Settlement ¶ 4.1. The “Effective Date” means as follows: If no objection to this
19 Settlement or to any of the terms and or conditions of the Settlement are filed by Plaintiff, another
20 member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur
21 on the day that the Court enters an order of final approval of this Settlement; however, if any
22 objection to this Settlement or to any of the terms and or conditions of the Stipulation is filed by
23 a member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur
24 upon the expiration of the time for the filing any appeal of the order of final approval of this
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1 Settlement. If an appeal is filed or any writ granted, then the Effective Date shall occur after the
2 appeal has been dismissed or the writ dissolved and when there is no further time to appeal the
3 dismissal of the appeal or the dissolution of the writ. The occurrence of the Effective Date is a
4 prerequisite to any obligation of Defendants to pay any funds into the Settlement Account.

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

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

17 5. The Court finds that the dates set forth in the Settlement for mailing and
18 distribution of the Class Notice meet the requirements of due process and provide the best notice
19 practicable under the circumstances, and constitute due and sufficient notice to all persons entitled
20 thereto, and directs the mailing of the Class Notice by first class mail to the Settlement Class as
21 set forth in the Settlement. Accordingly, the Court orders the following implementation schedule
22 for further proceedings:

23 a. No later than 21 days after the Court grants Preliminary Approval of the
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1 Settlement, Defendants shall provide ILYM Group, the appointed Settlement
2 Administrator, with: (a) An electronic database of all Class Members, last
3 known mailing address, Social Security number and Defendants' employee
4 identification number ("Class Members' Data"); and (b) Corresponding to
5 each Class Member's name, Defendants shall provide a figure indicating the
6 total number of Work Weeks during the Class Period in which Defendants
7 employed the Class Member. That number of Work Weeks shall be referred to
8 as that Class Member's "Individual Work Weeks;" (c) If any of the Class
9 Members' Data are unavailable to Defendants, Defendants will so inform
10 Class Counsel and the Parties will make their best efforts to reconstruct or
11 otherwise agree upon the Class Members' Data prior to when it must be
12 submitted to the Settlement Administrator. Class Members' Data will
13 otherwise remain confidential and will not be disclosed to anyone, except as
14 necessary to applicable taxing authorities, or pursuant to Defendants' express
15 written authorization or by order of the Court.

18 b. **Mailing of Class Notice.** Approximately fourteen (14) days after receiving
19 the Class Members' Data, or as soon thereafter as it can do so, the Settlement
20 Administrator will mail the Class Notice to all identified Class Members via
21 first-class U.S. mail using the mailing address information provided by
22 Defendants, unless modified by any updated address information that the
23 Settlement Administrator obtains in the course of administration of the
24 Settlement.

26 c. **Returned Class Notice.** If a Class Notice is returned because of an incorrect
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1 address, the Settlement Administrator will promptly, and not later than three
2 (3) business days from receipt of the returned Class Notice, search for a more
3 current address for the Class Member and re-mail the Class Notice to the Class
4 Member. The Settlement Administrator will use the Class Members' Data and
5 otherwise work with Defendants' Counsel and Class Counsel to find a more
6 current address. The Settlement Administrator will be responsible for taking
7 reasonable steps, consistent with its agreed-upon job parameters, court orders,
8 and fee, to trace the mailing address of any Class Member for whom a Class
9 Notice is returned as undeliverable by the U.S. Postal Service. These
10 reasonable steps shall include the tracking of all undelivered mail; performing
11 address searches for all mail returned without a forwarding address; and
12 promptly re-mailing to Class Members for whom new addresses are found. If
13 the Class Notice is re-mailed, the Settlement Administrator will note for its
14 own records and notify Class Counsel and Defendants' Counsel of the date and
15 address of each such re-mailing as part of a weekly status report provided to
16 the Parties.

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

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

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



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31 SpivakLaw.com

32 Office:
33 1801 Century Park East
34 25th Floor
35 Los Angeles, CA 90067

1 *To Class Counsel:*

2 David G. Spivak
3 The Spivak Law Firm
4 8605 Santa Monica Bl
5 PMB 42554
6 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

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

19 *To Class Counsel:*

20 David G. Spivak
21 The Spivak Law Firm
22 8605 Santa Monica Bl
23 PMB 42554
24 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

25 The written objection should state the objecting Class Member's full
26 name, address, and the approximate dates of his or her employment
27 with Defendants. The written objection should state the basis for each
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specific objection and any legal support in clear and concise terms. The written objection also should state whether the Class Member intends to formally intervene and become a party of record in the action, and upon formally intervening, appear and argue at the Final Approval Hearing. However, the objectors will be provided with the opportunity to speak at the final approval hearing regardless of whether they have filed an appearance or submitted a written opposition beforehand.

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

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

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

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

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

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

10. The Court preliminarily approves Class Counsel's request for attorneys' fees and



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costs subject to final review by the Court.

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

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

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

14. At final approval, Plaintiff will submit contemporaneously made billing records for attorney's fees and costs, and billing records for administrative costs. Also, Plaintiff will provide a declaration addressing the enhancement factors set forth in *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251 and *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, including the amount of time and effort spent on the litigation.

15. Plaintiff will instruct the Administrator that, at final approval, it is to provide the high, low, and average individual settlement payments, along with Plaintiff's individual payout.

16. If for any reason the Court does not execute and file a final approval order and judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the



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1 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
2 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
3 litigation, as more specifically set forth in the Settlement.

4 17. The Court expressly reserves the right to adjourn or continue the Final Approval
5 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
6 prompt notice of any continuance to Settlement Class Members who object to the Settlement.
7

8 **IT IS SO ORDERED.**

9
10 DATED: _____

THE HONORABLE WILLIAM D. CLASTER
JUDGE OF THE SUPERIOR COURT



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