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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF SAN JOAQUIN**

9 KENNETH WILBURN, individually, and on
10 behalf of all others similarly situated,

11 *Plaintiff,*

12 v.

13 CONCRETE, INC. d/b/a KNIFE RIVER
14 CONSTRUCTION, a California corporation,
15 MDU RESOURCES GROUP, INC., d/b/a
16 KNIFE RIVER CONSTRUCTION, a Delaware
17 corporation, KNIFE RIVER
18 CONSTRUCTION, a Delaware corporation,
19 and DOES 1 through 10, inclusive,

20 *Defendants.*

Case No. STK-CV-UOE-2021-10183
[Consolidated with STK-CV-UOE-2022-
0002317]

CLASS ACTION

[Assigned for all purposes to Hon. Robert T.
Waters, Dept. 11B]

**[PROPOSED] JUDGMENT AND ORDER
GRANTING PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Final Approval of
Class Action Settlement, Memorandum of
Points and Authorities; Declarations of Justin
F. Marquez, and Tarus Dancy (Settlement
Administrator) in Support of Motion.]

FINAL APPROVAL HEARING

Date: April 24, 2024
Time: 9:00 a.m.
Dept.: 11B

Complaint filed: October 29, 2021
FAC filed: December 16, 2022
Trial date: Not set

1 The Court has before it Plaintiff Kenneth Wilburn's ("Plaintiff") Motion for Final
2 Approval of Class Action Settlement (the "Final Approval Motion"), and after review and
3 consideration of the parties' fully executed Stipulation of Class and PAGA Action Settlement
4 and Release and Class Notice (collectively, the "Settlement" or "Settlement Agreement"),
5 attached to the Declaration of Justin F. Marquez in Support of Plaintiffs' Motion for Final
6 Approval of Class Action Settlement as **Exhibit 1**, and the papers in support of the Final
7 Approval Motion, due and adequate notice having been given to the Class Members, and the
8 Court having reviewed and considered the Settlement, all papers filed, the record, proceedings
9 in the above-entitled action ("Litigation" or "Action"), and all oral and written comments
10 received regarding the Settlement, and good cause appearing therefor,

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

12 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
13 Settlement filed in this case.

14 2. The Court has jurisdiction over all claims asserted in the Action, Plaintiff, the
15 Settlement Class Members, the Aggrieved Employees and Defendants Concrete, Inc. d/b/a Knife
16 River Construction, MDU Resources Group, Inc. d/b/a Knife River Construction, and Knife River
17 Construction (collectively, "Defendants").

18 3. The Court finds that the Settlement appears to have been made and entered into in
19 good faith and hereby approves the settlement subject to the limitations on the requested fees and
20 enhancements as set forth below.

21 4. Plaintiff and all Participating Class Members shall have, by operation of this Final
22 Order and Judgment, fully, finally, and forever released, relinquished, and discharged Defendants
23 and the Released Parties from all Released Class Claims as set forth in the Settlement.

24 5. Plaintiff, the State of California, and all Aggrieved Employees shall have, by
25 operation of this Final Order and Judgment, fully, finally, and forever released, relinquished, and
26 discharged Defendants and the Released Parties from all Released PAGA Claims as set forth in
27 the Settlement.
28

1 6. The Parties shall bear their own respective attorneys' fees and costs, except as
2 otherwise provided for in the Settlement and approved by the Court.

3 7. Solely for purposes of effectuating the settlement, the Court finally certified the
4 following Class: "all persons employed by Defendants in California and classified as an hourly-
5 paid, non-exempt employee during the Class Period."

6 8. The Class Period means the period that starts on May 4, 2017 and shall end on
7 January 31, 2023.

8 9. The PAGA Period means the period that starts on May 4, 2020 and shall end on
9 January 31, 2023.

10 10. No Settlement Class Members have objected to the terms of the Settlement. No
11 Settlement Class Members have requested exclusion from the Settlement.

12 11. The Notice provided to the Class conforms with the requirements of California
13 Rules of Court 3.766 and 3.769, and constitutes the best notice practicable under the circumstances,
14 by providing individual notice to all Class Members who could be identified through reasonable
15 effort, and by providing due and adequate notice of the proceedings and of the matters set forth
16 therein to the Class Members. The Notice fully satisfies the requirements of due process.

17 12. The Court finds the Gross Settlement Amount, the Net Settlement Amount and the
18 methodology used to calculate and pay the Individual Settlement Payments to each Participating
19 Class Member are fair and reasonable and authorizes the Settlement Administrator to pay the
20 Individual Settlement Payments to the Participating Class Members in accordance with the terms
21 of the Settlement.

22 13. The Court approves the Settlement and finds that it is fair, reasonable, and adequate,
23 and worthy of final approval.

24 14. The Court also finds the PAGA Payment is fair and reasonable, and that Plaintiff
25 provided notice of the proposed Settlement to the Labor and Workforce Development Agency
26 (LWDA) and will fully and adequately comply with the notice requirements of California Labor
27 Code section 2699(1). The Court hereby approves the PAGA Settlement.
28

1 15. Defendants shall pay the total of \$535,000.00 to resolve this litigation. Defendants
2 shall deposit this amount into an account established by the Settlement Administrator. Thereafter,
3 compensation to the Participating Class Members shall be disbursed pursuant to the terms of the
4 Settlement.

5 a. From the Settlement Amount, \$18,750.00 shall be paid to the California Labor and
6 Workforce Development Agency, representing 75% of the \$25,000.00 PAGA
7 Payment under the terms of the Settlement Agreement pursuant to the Labor Code
8 Private Attorneys General Act of 2004, California Labor Code section 2698, *et*
9 *seq.* The remaining \$6,250.00, representing 25% of the total amount allocated for
10 the PAGA Payment, shall be paid to the PAGA Group Members.

11 b. From the Settlement Amount, \$10,000.00 shall be paid to Plaintiff, Kenneth
12 Wilburn, for his service as Class Representative and for his agreement to release
13 claims.

14 c. From the Settlement Amount, \$9,500.00 shall be paid to the Settlement
15 Administrator, CPT Group, Inc.

16 16. The Court hereby confirms Justin F. Marquez, Erik Dos Santos, and Zachary
17 Greenberg of Wilshire Law Firm, PLC as Class Counsel.

18 17. From the Total Maximum Settlement Amount, Class Counsel is awarded
19 \$178,333.33 for their reasonable attorneys' fees and \$18,310.69 for their reasonable costs incurred
20 in the Action. The fees and costs shall be distributed to Class Counsel as set forth in the Settlement.
21 The Court finds that the fees are reasonable in light of the benefit provided to the Class.

22 18. Notice of entry of this Final Approval Order and Final Judgment shall be given to
23 Class Members by posting a copy of the Final Approval Order and Final Judgment on CPT Group,
24 Inc.'s website for a period of at least sixty (60) calendar days after the date of entry of this Final
25 Approval Order and Judgment.

26 19. Without affecting the finality of this Final Approval Order and Final Judgment in
27 any way, this Court retains continuing jurisdiction over the implementation, interpretation, and
28 enforcement of the Settlement with respect to all Parties to this action, and their counsel of record.

20. Plaintiff's Motion for Final Approval of Class Action Settlement is hereby granted and the Court directs that judgment shall be entered in accordance with the terms of this Order.

IT IS SO ORDERED AND AJUDGED.

DATE:

Hon. Robert T. Waters
San Joaquin County Superior Court

PROOF OF SERVICE

Flores v. Fence Factory, et al.
56-2021-00559015-CU-OE-VTA

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Sandy S. Sespene, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is ssespene@wilshirelawfirm.com.

On **April 1, 2024**, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

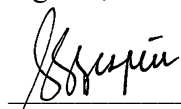
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Facsimile: (213) 306-1615

Attorneys for Defendants

- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.
- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

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

Executed on April 1, 2024, at Los Angeles, California.



Sandy S. Sespene