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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BERT RYAN BENTON, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

HOT LINE CONSTRUCTION, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendant.

Case No.: 21STCV47377

[Honorable Lawrence P. Riff,
Department 7]

**AMENDED ~~[PROPOSED]~~ ORDER AND
JUDGMENT GRANTING PLAINTIFF BERT
RYAN BENTON'S MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA ACTION
SETTLEMENT AGREEMENT**

[Filed with Plaintiff Bert Ryan Benton's
Supplemental Briefing and the Supplemental
Declaration Of Kane Moon In Support Thereof]

FINAL APPROVAL HEARING

Date: July 19, 2024

Time: 10:00 a.m.

Department: 7

Complaint Filed: December 29, 2021

Trial Date: Not Set

1 The Court issued an Order Granting Plaintiff Bert Ryan Benton’s Motion for Preliminary
2 Approval of Class and PAGA Action Settlement Agreement on February 7, 2024. Plaintiff Bert Ryan
3 Benton (“Plaintiff”) now seeks an Order and Judgment Granting Final Approval of the same Joint
4 Stipulation of Class and PAGA Action Settlement Agreement ("Settlement") between Plaintiff and
5 Defendant Hot Line Construction, Inc. (“Defendant”), attached to the Declaration of Kane Moon in
6 Support of Plaintiff’s Motion for Final Approval of Class and PAGA Action Settlement Agreement
7 as **Exhibit 2**.

8 The Court, having considered Plaintiff’s Notice of Motion and Motion for Final Approval of
9 Class and PAGA Action Settlement Agreement (“Motion”), the supporting Declarations and Exhibits
10 therein, the records and files in this Action, and the absence of any written objections to the
11 Settlement; and good cause appearing, **HEREBY ORDERS, ADJUDGES, AND DECREES AS**
12 **FOLLOWS:**

13 The Court, for purposes of this Final Order and Judgment, refers to all defined terms as set
14 forth in the Settlement.

15 The Court has jurisdiction over all claims asserted in this Action, Plaintiff, all Participating
16 Class Members, all Aggrieved Employees, and Defendant.

17 The Settlement appears to have been made and entered into in good faith and is hereby
18 approved, subject to any limitations set forth below.

19 For purposes of effectuating the Settlement, the following Class is hereby certified: all current
20 and former hourly paid or non-exempt employees of Defendant who worked for Defendant in
21 California at any time from December 29, 2017, through February 7, 2024. *Settlement*, ¶ 1.5.

22 No Class Members have objected to the terms of the Settlement, and three Class Members,
23 Nicklaus Lamberton, David Inman, and Zachary Bonkosky, have requested exclusion from the
24 Settlement. *Declaration of Lisa Pavlik* (“*Pavlik Decl.*”), ¶¶ 12, 13.

25 Effective on the date Defendant fully funds the entire Gross Settlement Amount and all
26 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, all
27 Participating Class Members, and all Aggrieved Employees will release claims against all Released
28 Parties as stated in the Settlement and reproduced here. *Settlement*, ¶ 5.

- 1 **1. Plaintiff's Release:** Plaintiff and his respective former and present spouses,
2 representatives, agents, attorneys, heirs, administrators, successors, and assigns
3 generally, release, waive, settle and discharge Released Parties from all claims,
4 transactions, or occurrences that occurred during the Class Period, including, but not
5 limited to: (a) all claims that were, or reasonably could have been, alleged, based on
6 the facts contained in the Operative Complaint, including, without limitation, claims
7 for unpaid wages, including minimum, overtime, and regular rate wages; missed meal
8 and rest periods; unreimbursed business expenses; waiting time penalties; pay stub
9 violations; and unfair business practices; and (b) all PAGA claims that were, or
10 reasonably could have been, alleged based on facts contained in the Operative
11 Complaint and PAGA Notice, and (c) any and all charges, complaints, claims,
12 liabilities, obligations, promises, agreements, controversies, damages, actions, causes
13 of action, suits, rights, demands, costs, losses, debts, and expenses (including back
14 wages, statutory penalties, civil penalties, liquidated damages, exemplary damages,
15 interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of
16 time through the execution of this Agreement, whether known or unknown, suspected
17 or unsuspected, including but not limited to all claims arising out of, based upon, or
18 relating to Plaintiff's employment with Defendant or the remuneration for or
19 termination of such employment. *Settlement*, ¶ 5.1.
- 20 **2. Participating Class Members' Release:** All Participating Class Members, on behalf
21 of themselves and their respective former and present representatives, agents,
22 attorneys, heirs, administrators, successors, and assigns, shall be deemed to have fully,
23 finally, and forever waived, settled, compromised, discharged and released Released
24 Parties from any and all Released Claims, which includes all claims, allegations and
25 assertions that were alleged, or reasonably could have been alleged, based on the
26 facts, allegations, assertions and claims in the Operative Complaint and ascertained in
27 the course of the Action, which arose and/or existed during the Class Period,
28 including, (a) failure to pay minimum wages (Labor Code §§ 204, 218.5, 218.6, 1194,

1194.2 and 1197); (b) failure to pay overtime wages (§§204, 510, 1174, 1194 and 1198); (c) failure to provide meal periods (§§226.7, 512); (d) failure to authorize rest breaks (§226.7, 512); (e) failure to indemnify necessary business expenses (§2802); (g) failure to timely pay final wages at termination (§§201-203, 218.5, 218.6, 1194); (h) failure to provide accurate, itemized wage statements (§226); and (i) unfair Business Practices (California Business and Professions Code §17200, et seq.). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period. *Settlement*, ¶¶ 1.39, 5.2.

3. **PAGA Release by the State of California:** The LWDA, the State of California, and all Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns (to the extent they have any interest in the claims or right to pursue such claims on a representative basis), shall be deemed to have fully, finally, and forever waived, settled, compromised, discharged and released Released Parties from all PAGA Claims, which includes all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts, allegations, and assertions in the Operative Complaint and PAGA Notice filed by Plaintiff on December 24, 2021, which arose and/or existed during the PAGA Period, including (a) failure to pay minimum wages (Labor Code §§ 204, 1194, 1194.2 and 1197); (b) failure to pay overtime wages (§§1194 and 1198); (c) failure to provide meal periods (§§226.7, 512); (d) failure to authorize rest breaks (§226.7); (e) failure to indemnify necessary business expenses (§2802); (f) failure to timely pay final wages at termination (§§201-203); and (g) failure to provide accurate, itemized wage statements (§226). *Settlement*, ¶¶ 1.40, 5.3.

4. **Released Parties** means Defendant and its respective future, present and former parents, owners, subsidiaries, and any affiliated or related persons or entities and each

of their respective directors, officers, shareholders, owners, members, partners, attorneys and agents, insurers, predecessors, successors, assigns, subsidiaries, and affiliates. *Settlement*, ¶ 1.41.

5. **Effective Date.** The Effective Date is the date both of the following have occurred:

(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. *Settlement*, ¶ 1.19. The Judgment is final on the latest of the following: (a) if no Participating Class Member objects to the Settlement, sixty-one (61) days after the order granting final approval and entry of the order; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment or other collateral attack; or if a timely appeal from the Judgment is filed, the Effective Date is the day after the appellate court affirms the Judgment and issues a remittitur and the Judgment becomes final, supporting all material aspects of the appeal and is no longer subject to appeal or collateral attack. *Id.*

6. **Funding.** No later than fourteen (14) days after the Effective Date, Defendant shall fully fund one half (1/2) of the Gross Settlement Amount (“First Payment”) by transmitting the funds to the Administrator; and no later than sixty (60) days after the First Payment, Defendant shall fully fund the remaining amount of the Gross Settlement Amount, along with an amount necessary to fully pay Defendant’s share of payroll taxes, by transmitting the funds to the Administrator (“Final Payment”). *Settlement*, ¶ 4.3. No later than fourteen (14) days after Defendant funds the Gross Settlement Amount with the First Payment and Final Payment, the Administrator will mail checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment. *Settlement*, ¶ 4.4.

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1 Defendant shall pay a total of \$2,041,000.00 to resolve this Action. *Settlement*, ¶¶ 1.23, 3.1.
2 The Gross Settlement Amount and methodology used to calculate and pay the Individual Class
3 Payments and Individual PAGA Payments are fair and reasonable. The Administrator is authorized
4 to pay the Individual Class Payments and Individual PAGA Payments to the Participating Class
5 Members and Aggrieved Employees in accordance with the terms of the Settlement.

6 From the Gross Settlement Amount, PAGA Penalties in the amount of \$150,000.00 shall be
7 paid to the California Labor and Workforce Development Agency (“LWDA”) and Aggrieved
8 Employees. The LWDA shall receive 75% of the PAGA Penalties, or \$112,500.00, and the
9 Aggrieved Employees shall receive 25% of the PAGA Penalties, or \$37,500.00, pursuant to the
10 California Private Attorneys General Act of 2004, Labor Code sections 2699, et seq. *Settlement*, ¶¶
11 3.2.5, 3.2.6.

12 From the Gross Settlement Amount, a Class Representative Service Payment in the amount
13 of \$7,500.00 shall be paid to Plaintiff Bert Ryan Benton for his service to the Class and general
14 release of claims. *Settlement*, ¶ 3.2.1. Bert Ryan Benton is hereby confirmed as Class Representative.

15 From the Gross Settlement Amount, an Administration Expenses Payment in the amount of
16 \$23,000.00 shall be paid to the designated Administrator, Simpluris, Inc. *Settlement*, ¶ 3.2.3; *Pavlik*
17 *Decl.*, ¶ 19.

18 From the Gross Settlement Amount, a Class Counsel Fees Payment of one-third of the Gross
19 Settlement Amount, or \$680,333.33, and a Class Counsel Litigation Expenses Payment of
20 \$18,466.27 shall be paid to Class Counsel for their reasonable fees and actual costs incurred in
21 furtherance of this Action. *Settlement*, ¶ 3.2.2; *Moon Decl.*, Exh. 4 (indicating actual costs of
22 \$19,216.27, less the \$750.00 “Admin Fee”). The Parties shall otherwise bear their own respective
23 attorneys' fees and costs, except as provided for in the Settlement and approved by the Court. The
24 fees and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds that
25 the fees are reasonable in light of the benefit provided to the Class. Moon Law Group, P.C. is hereby
26 confirmed as Class Counsel.

27 The Notice provided to the Class conformed with the requirements of California Rules of
28 Court rules 3.766 and 3.769, and constituted the best notice practicable under the circumstances,

1 providing individual notice to all Class Members who could be identified through reasonable effort
2 and due and adequate notice of the proceedings and matters set forth therein to the Class Members.
3 *Pavlik Decl.*, ¶¶ 5-9. The Notice fully satisfies the requirements of Due Process.

4 The Parties are ordered to have notice of this Final Order and Judgment provided to all
5 Participating Class Members and Aggrieved Employees, in accordance with California Rules of
6 Court section 3.771(b), and to have the Individual Class Payments and Individual PAGA Payments
7 issued via First Class U.S. Mail to their last known addresses and to the LWDA, pursuant to Labor
8 Code section 2699(1). *Settlement*, ¶ 4.4.1.

9 Following entry of Judgment, the Court shall retain jurisdiction over the Parties, Action, and
10 Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing
11 settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted
12 by law. *Settlement*, ¶ 10.3.

13 This Judgment is intended to be a final disposition of the Action in its entirety and is intended
14 to be immediately appealable.

15 Plaintiff's Motion is hereby granted, and the Court directs that Judgment shall be entered in
16 accordance with the terms of this Order.

17 The Court sets a Non-Appeal Hearing (Case Review) Re: Distribution on
18 May 6, 2025, 2025 at 9:00 a.m. in Department 7. Class Counsel is ordered to file a final
19 report and declaration regarding distribution no later than five court days in advance.

20 **IT IS SO ORDERED.**

21 DATE: 07/29/2024



A handwritten signature in black ink, appearing to read "Lawrence P. Riff".

Lawrence P. Riff / Judge

Honorable Lawrence P. Riff, Judge of the Superior Court of
California for the County of Los Angeles