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7 Attorneys for Plaintiff(s),
8 JORGE L. LEON, and all others similarly situated
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF FRESNO**
12 **(UNLIMITED JURISDICTION)**

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

17 *Plaintiff(s),*

18 vs.

19 DAVIS & ROBERTS CONSTRUCTION, INC.,
20 a California corporation; and DOES 1–50,
21 inclusive,

22 *Defendant(s).*

Case No. 22CECG00407

**PLAINTIFF JORGE L. LEON’S
NOTICE OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: June 5, 2024
Hearing Time: 3:30 p.m.
Hearing Dept.: 501, The Honorable D.
Tyler Tharpe

Action filed: February 08, 2022

**Submitted Herewith Under Separate
Cover:**

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



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

2 PLEASE TAKE NOTICE that on June 5, 2024 at 3:30 p.m., or as soon thereafter as the
3 matter may be heard, in Department 501 of the Fresno County Superior Court, located at B.F.
4 Sisk Court, 1130 O Street, Fresno, CA 93721, Plaintiff Jorge L. Leon (“Plaintiff”) will and hereby
5 does move this Court for an order: (1) granting class certification of the Settlement Class solely
6 for settlement purposes pursuant to California Code of Civil Procedure section 382; (2)
7 preliminarily approving the Class Action and PAGA Settlement Agreement and Class Notice (the
8 “Settlement”)¹ between Plaintiff and Defendant Davis & Roberts Construction, Inc.
9 (“Defendant”) (Plaintiff and Defendant are referred to below collectively as the “Parties), (3)
10 appointing David Spivak of The Spivak Law Firm and Walter L. Haines of United Employees
11 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 current and former hourly,
17 nonexempt employees of Defendant in California. “Class Period” means the period from February
18 8, 2018 through the date of preliminary approval of this Settlement.

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

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



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1 motion for final approval of class action settlement, and awards of attorneys' fees and costs should
2 be set.

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

8 Respectfully submitted,

10 THE SPIVAK LAW FIRM

11 Dated: April 26, 2024

12 By: 

13 DAVID G. SPIVAK
14 CAROLINE TAHMASSIAN,
15 Attorneys for Plaintiff, JORGE L.
16 LEON, and all others similarly situated



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