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and Proposed Class Counsel

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

ROBERT YANEZ, on behalf of himself
and all "aggrieved employees" pursuant to
Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

THE REINFORCED EARTH
COMPANY, a Delaware corporation, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO: CIVSB2212908

Assigned to the Hon. Gilbert Ochoa, Dept. S24

**[PROPOSED] ORDER (1) GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND (2)
GRANTING LEAVE TO FILE FIRST
AMENDED COMPLAINT**

Date: November 1, 2023

Time: 8:30 a.m.

Dept.: S24

Complaint Filed: June 21, 2022

1 Plaintiff Robert Yanez's ("Plaintiff") Unopposed Motion for Preliminary Approval of Class
2 Action Settlement and for Leave to File First Amended Complaint came on for hearing before this
3 Court in Department S24, Judge Gilbert Ochoa presiding, on November 1, 2023 at or about 8:30 a.m.
4 The Court, having considered the papers submitted in support of the motion and having heard oral
5 argument of the parties, **HEREBY ORDERS THE FOLLOWING:**

6 1. The Court grants preliminary approval of the settlement based upon the terms set
7 forth in the Settlement Agreement and Release of Claims ("Settlement") filed with the Court. The
8 settlement appears to be fair, adequate, and reasonable to the Class;

9 2. The Court finds that the settlement falls within the range of reasonableness and
10 appears to be presumptively valid, subject only to any objections that may be raised at the final
11 hearing;

12 3. The Court approves, as to form and content, the Notice of Pendency of Proposed
13 Class Action Settlement and Final Hearing ("Notice"), attached as Exhibit 1 to the Settlement, and
14 Request for Exclusion ("Exclusion Form"), attached as Exhibit 2 to the Settlement, and also
15 approves the procedure for members of the Class to object to the settlement set forth in the Notice;

16 4. The Court directs the mailing of the Notice and Exclusion Form by first class mail
17 to the Settlement Class Members in accordance with the schedule set forth below. The Court finds
18 that the dates selected for the mailing and distribution of the Notice and Exclusion Form, as set
19 forth herein, meet the requirements of due process and provide the best notice practicable under the
20 circumstances and shall constitute due and sufficient notice to all persons entitled thereto;

21 5. It is ordered that the Settlement Class is preliminarily certified for settlement
22 purposes only. The Settlement Class is defined as follows: all current and former employees of
23 Defendant who were employed in California as a non-exempt, hourly paid employee during the
24 Class Period, excluding those who executed a release of Defendant;

25 6. The Court approves and appoints Daniel F. Gaines and Alex P. Katofsky of Gaines
26 & Gaines, APLC as Class Counsel, and grants preliminary approval of an award of attorneys' fees
27 of up to 33-1/3% of the Gross Settlement Amount (or \$86,666.67) and documented litigation costs
28 of up to \$15,000 to Class Counsel, subject to final approval by the Court following a further motion

by Class Counsel;

7. The Court approves and appoints Plaintiff Robert Yanez as the Class Representative and grants preliminary approval to a proposed Incentive Award and General Release Payment to the Class Representative in an amount not to exceed \$12,000;

8. The Court grants preliminary approval of the allocation of \$20,000 to penalties under the Private Attorneys General Act (Labor Code §§ 2698 et seq.), of which 75% (\$15,000) shall be paid to the LWDA and 25% (\$5,000) allocated to the Aggrieved Employees;

9. The Court hereby approves and appoints Phoenix Settlement Administrator as the Settlement Administrator and grants preliminary approval of the payment of fees and other charges of the Settlement Administrator in an amount not to exceed \$7,000;

10. The Court grants Plaintiff leave to file the First Amended Class and Representative Action Complaint attached as Exhibit 3 to the Settlement, within five (5) court days of the entry of this Order, and consents that Defendant is not required to file a responsive pleading thereto;

11. The Court orders the following schedule of dates for the specified actions/further proceedings:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including the names, last known addresses, telephone numbers, social security numbers, each Class Member's dates of employment in California during the Class Period, and such other information that the Settlement Administrator requires to identify Class Members ("Settlement Class Information")	10 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Settlement Administrator to mail Notice and Exclusion Form to Class Members	20 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Class Members to submit a written Exclusion Form to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Members to submit an Objection to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members

<u>EVENT</u>	<u>TIMING</u>
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Settlement Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days before the final settlement approval hearing date
Final settlement approval hearing	_____, 2024, at _____.m. (approximately 90 days after entry of this Order)

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT