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and Proposed Class Counsel

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 21 2024

BY Jennifer Medina
JENNIFER MEDINA, DEPUTY

**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

CLASS ACTION

**[PROPOSED] ORDER AND JUDGMENT
GRANTING FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: February 21, 2024

Time: 9:00 a.m.

Dept.: S24

Complaint Filed: June 21, 2022

1 Plaintiff's Motion for an Order Granting Final Approval of Class Action Settlement came
2 before this Court on February 21, 2024. The above-captioned Action is a class action lawsuit
3 brought by Plaintiff Robert Yanez ("Plaintiff") against Defendant The Reinforced Earth Company
4 ("Defendant") (collectively, the "Parties"). Plaintiff alleges, on behalf of a class of Defendant's
5 current and former employees, that Defendant failed to pay all wages due, failed to provide meal
6 and rest periods or compensation in lieu thereof, failed to pay wages due timely upon separation of
7 employment, and failed to comply with itemized wage statement provisions. Defendant denies any
8 and all alleged wrongdoing, and denies any liability to the Plaintiff or to members of the Class.
9 Defendant contends that that it has complied at all times with California law, including the
10 California Labor Code, the Industrial Commission Wage Orders, and the California Business and
11 Professions Code.

12 On November 16, 2023, this Court entered an Order Granting Preliminary Approval of
13 Settlement, resulting in certification of the Settlement Class described as follows: All current and
14 former employees of Defendant who were employed in California as a non-exempt, hourly paid
15 employee during the Class Period, excluding those who executed a release of Defendant.

16 That Order further directed the Parties to provide Notice to the Class, which informed absent
17 class members of: (a) the proposed Settlement, and the Settlement's key terms; (b) the date, time
18 and location of the Final Approval Hearing; (c) the right of any Class Member to object to the
19 proposed Settlement, and an explanation of the procedures to exercise that right; (d) the right of
20 any Class Member to exclude themselves from the proposed Settlement, and an explanation of the
21 procedures to exercise that right; and (e) an explanation of the procedures for class members to
22 participate in the proposed settlement.

23 The Court, upon Notice having been given as required in the Preliminary Approval Order,
24 and having considered the Settlement Agreement and Release of Claims, as well as all papers filed,
25 hereby ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

26 1. This Court has jurisdiction over the subject matter of the Action and over all Parties
27 to the Action, including all members of the Settlement Class and all Aggrieved Employees.
28

1 2. The Court finds that the Settlement Class is properly certified for settlement
2 purposes only.

3 3. The Notice provided to the Settlement Class conforms with the requirements of
4 California Code of Civil Procedure section 382, California Civil Code section 1781, California
5 Rules of Court 3.766 and 3.769, the California and United States Constitutions, and any other
6 applicable law, and constitutes the best notice practicable under the circumstances, by providing
7 individual notice to all Class Members who could be identified through reasonable effort, and by
8 providing due and adequate notice of the proceedings and of the matters set forth therein to the
9 Class Members. The notice fully satisfied the requirements of due process.

10 4. The Court finds the settlement was entered into in good faith, that the settlement is
11 fair, reasonable and adequate, and that the settlement satisfies the standards and applicable
12 requirements for final approval of this class action settlement under California law, including the
13 provisions of California Code of Civil Procedure section 382 and California Rules of Court, Rule
14 3.769.

15 5. The Court approves the Gross Settlement Amount of \$260,000.

16 6. Zero (0) Class Members have objected to the terms of the Settlement.

17 7. Two (2) Class Members have requested exclusion from the Settlement. Marcal
18 Thomas and George Flores shall not be bound by the Released Class Claims, but will be bound by
19 the Released PAGA Claims as defined in the Settlement.

20 8. Upon entry of this Order, compensation to the participating members of the
21 Settlement Class and all Aggrieved Employees shall be affected pursuant to the terms of the
22 Settlement Agreement.

23 9. In addition to any recovery that Plaintiff may receive from the Net Settlement
24 Proceeds, and in recognition of the Plaintiff's efforts on behalf of the Settlement Class, the Court
25 hereby approves the payment of an Incentive Award to Plaintiff Robert Yanez in the amount of
26 Twelve Thousand Dollars (\$12,000). This shall be paid from the Gross Settlement Amount.
27
28

1 10. The Court approves the payment of attorneys' fees to Class Counsel, Gaines &
2 Gaines, APLC, in the sum of Eighty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven
3 Cents (\$86,666.67), and the reimbursement of litigation expenses in the sum of Twelve Thousand
4 Eight Hundred Sixty-Nine Dollars and Thirty Cents (\$12,869.30). This shall be paid from the
5 Gross Settlement Amount.

6 11. The Court approves and orders payment in the amount of Six Thousand Nine
7 Hundred Fifty Dollars (\$6,950) to Phoenix Settlement Administrators for performance of its
8 settlement administration services. This shall be paid from the Gross Settlement Amount.

9 12. The Court approves and orders payment in the amount of Fifteen Thousand Dollars
10 (\$15,000) to the California Labor and Workforce Development Agency for its 75% share of PAGA
11 penalties. This shall be paid from the Gross Settlement Amount.

12 13. Upon the entry of this Order and Judgment, and subject to the occurrence of the
13 Effective Date, Plaintiff, all participating Class Members, and all Aggrieved Employees shall be
14 bound by the releases of claims as set forth in the Settlement Agreement.

15 14. This "Judgment" is intended to be a final disposition of the above captioned action
16 in its entirety, and is intended to be immediately appealable.

17 15. This Court shall retain jurisdiction with respect to all matters related to the
18 administration and consummation of the settlement, and any and all claims, asserted in, arising out
19 of, or related to the subject matter of the lawsuit, including but not limited to all matters related to
20 the settlement and the determination of all controversies relating thereto.

21 **IT IS SO ORDERED.**

22 **FEB 21 2024**

23 Dated: _____

24 
25 JUDGE OF THE SUPERIOR COURT
26 **GILBERT G. OCHOA**