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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

HECTOR MENDOZA PAZ, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

BORREGO SOLAR SYSTEMS, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 37-2022-00030081-CU-OE-CTL

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT**

*[Assigned for all purposes to Hon. Gregory
W. Pollack, Dept. C-71]*

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

*[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Preliminary Approval
of Class Action and PAGA Settlement;
Memorandum of Points and Authorities; and
Declarations of Justin F. Marquez and Hector
Mendoza Paz]*

PRELIMINARY APPROVAL HEARING

Date: November 3, 2023

Time: 9:30 a.m.

Dept: C-71

Complaint filed: July 29, 2022

FAC filed: May 25, 2023

Trial date: Not Set

1 The Court has before it Plaintiff Hector Mendoza Paz's ("Plaintiff") Motion for
2 Preliminary Approval of Class Action and PAGA Settlement. Having reviewed the Motion for
3 Preliminary Approval of Class Action and PAGA Settlement, the Declarations of Justin F.
4 Marquez, Hector Mendoza Paz, the Class Action and PAGA Settlement Agreement and Class
5 Notice (which is referred to herein collectively as the "Settlement" or "Settlement Agreement"),
6 and good cause appearing, the Court hereby finds and orders as follows:

7 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
9 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
10 the terms set forth in the Settlement Agreement between Plaintiff and Defendant Borrego Solar
11 Systems, Inc. ("Defendant"). Attached as **Exhibit 1** to the Declaration of Justin F. Marquez in
12 Support of Plaintiff's Motion for Preliminary Approval of Class Action is a true and correct
13 copy of the Joint Stipulation of Class Action and PAGA Settlement ("Settlement Agreement"),
14 and attached as **Exhibit 2** is the Notice of Class and PAGA Action Settlement ("Notice").

15 2. The Settlement falls within the range of reasonableness of a settlement that could
16 ultimately be given final approval by this Court. The Court notes that Defendant has agreed to
17 create a common fund of \$145,000 to cover: (a) settlement payments to the class members who
18 do not validly opt-out; (b) a \$10,000.00 payment for the settlement of claims for penalties under
19 the Private Attorneys General Act ("PAGA"), with 75% of which (\$7,750.00) being paid to the
20 State of California, Labor & Workforce Development Agency ("LWDA") and 25% (\$2,250.00)
21 being paid to the Participating PAGA Members; (c) the Class Representative service payment
22 of up to \$5,000.00 for Plaintiff; (d) Class Counsel's attorneys' fees, not to exceed 33 1/3% of
23 the Gross Settlement Amount (\$48,333.33), and up to \$15,000.00 in costs for actual litigation
24 expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to
25 \$10,000.00.

26 3. The Court preliminarily finds that the terms of the Settlement appear to be within
27 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
28 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair

1 and reasonable to the class members when balanced against the probable outcome of further
2 litigation relating to class certification, liability, and damages issues, and potential appeals; (2)
3 significant informal discovery, investigation, research, and litigation have been conducted such
4 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
5 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
6 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
7 the result of intensive, serious, and non-collusive negotiations between the Parties with the
8 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
9 that the Settlement Agreement was entered into in good faith.

10 4. A Final Fairness Hearing on the question of whether the proposed settlement,
11 attorneys' fees and costs to Class Counsel, payment to the LWDA for its share of the settlement
12 of claims for penalties under PAGA, and the class representative's enhancement award should
13 be finally approved as fair, reasonable and adequate as to the members of the class is hereby set
14 in accordance with the Implementation Schedule set forth below.

15 5. The Court provisionally certifies for settlement purposes only the following class
16 (the "Settlement Class"): "all persons employed by Defendants in California and classified as
17 an hourly-paid, non-exempt employee during the Class Period."

18 6. The Class Period is "February 1, 2018 through the date the court enters an order
19 granting preliminary approval of the Agreement."

20 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
21 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
22 members of the Settlement Class are so numerous that joinder is impractical; (2) there are
23 questions of law and fact that are common, or of general interest, to the Settlement Class, which
24 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
25 Settlement Class; (4) Plaintiff and Class Counsel will fairly and adequately protect the interests
26 of the Settlement Class; and (5) a class action is superior to other available methods for the fair
27 and efficient adjudication of the controversy.

28 8. The Court appoints as Class Representative, for settlement purposes only,

1 Plaintiff Hector Mendoza Paz. The Court further preliminarily approves Plaintiff's ability to
2 request an incentive award up to \$5,000.00.

3 9. The Court appoints, for settlement purposes only, Justin F. Marquez, Christina
4 Le, and Zachary Greenberg of Wilshire Law Firm, PLC as Class Counsel. The Court further
5 preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of
6 the Total Settlement Amount (\$48,333.33) and costs not to exceed \$15,000.00.

7 10. The Court appoints IYLM Group, Inc. as the Settlement Administrator with
8 reasonable administration costs estimated not to exceed \$10,000.00.

9 11. The Court approves as to form and content of the Notice. The Court finds, on a
10 preliminary basis, that the plan for distribution in the Notice satisfies due process, provides the
11 best notice practicable under the circumstances, and shall constitute due and sufficient notice to
12 all persons entitled thereto.

13 12. The Parties are ordered to carry out the Settlement according to the terms of the
14 Settlement Agreement.

15 13. Pursuant to the terms of the Settlement Agreement, any member of the Settlement
16 Class who does not timely and validly request exclusion from the Settlement may object to the
17 Settlement Agreement. Regardless of whether they exclude themselves from the Settlement,
18 Class Members may not object to or exclude themselves from the PAGA portion of the
19 Settlement.

20 14. The Court orders the following Implementation Schedule:

21 Defendant to provide Class List to the 22 Settlement Administrator	14 days after notice of entry of the Court's order granting Motion for Preliminary 23 Approval
24 Settlement Administrator to mail the Notice 25 Packets	14 days after receipt of the Class List from the Defendant
26 Response Deadline (Opt-out or dispute 27 Workweeks)	60 days after Notice is mailed out by the Settlement Administrator

1 2 3 4 5 6 7 8 9 10	Deadline to Provide Written Objections, if any	60 days after Notice is mailed out by the Settlement Administrator
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Deadline to file Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Award to Plaintiff's	16 court days before hearing on Motion for Final Approval, which is _____;
	Final Approval Hearing	_____ at _____ a.m./p.m., or first available date thereafter, in Department C-71. The hearing may be continued to another date without further notice to the Class Members.

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE:

Hon. Gregory W. Pollack
San Diego County Superior Court

Hector Mendoza Paz v. Borrego Solar Systems, Inc., et al.
37-2022-00030081-CU-OE-CTL

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 **October 12, 2023**, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY 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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Attorneys for Defendant

(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.

(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.

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

Executed on October 12, 2023, at Los Angeles, California.


Sandy S. Sespene