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10 on behalf of herself and all others similarly situated
11 and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF KERN**

14 CINDY PEREZ, an individual and on behalf
15 of all others similarly situated,

16 Plaintiff,

17 v.

18 PRO SAFETY & RESCUE, INC., a California
19 corporation; and DOES 1 through 100,
20 inclusive,

21 Defendant.

CASE NO.: BCV-22-103333-TSC

(RELATED WITH CASE NO. BCV-23-
103227-BCB)

[Assigned for all purposes to the Hon. Thomas
S. Clark in Dept 17]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

1 This Court, having considered the Motion of plaintiff Cindy Perez (“Plaintiff”) for
2 Preliminary Approval of Class and Representative Action Settlement and Provisional Class
3 Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations
4 of Vedang J. Patel, David D. Bibiyan, Cindy Perez and Jodey Lawrence, the Class and PAGA Action
5 Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”), the proposed
6 Notice of Proposed Class Action Settlement and Date for Final Approval Hearing (“Class Notice”),
7 and other documents submitted in support of the Motion for Preliminary Approval, hereby
8 **ORDERS, ADJUDGES AND DECREES THAT:**

9 1. The definitions set out in the Settlement Agreement are incorporated by reference
10 into this Order; all terms defined therein shall have the same meaning in this Order.

11 2. The Court certifies the following Settlement Class Member (“Settlement Class
12 Members” or “Class Members”) for the purpose of settlement only: all persons employed by
13 Defendant Pro Safety & Rescue, Inc. (“Defendant”) in California and classified as a non-exempt,
14 hourly-paid employee who worked for Defendant during the period from December 13, 2018
15 through February 9, 2025 (“Class Period”).

16 3. The Court preliminarily appoints the named plaintiff Cindy Perez (“Plaintiff”) as
17 Class Representative, and David D. Bibiyan, and Vedang J. Patel of Bibiyan Law Group, P.C., as
18 Class Counsel.

19 4. The Court preliminarily approves the proposed class settlement upon the terms and
20 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
21 settlement appears to be within the range of reasonableness of settlement that could ultimately be
22 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
23 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
24 probable outcome of further litigation relating to liability and damages issues. It further appears that
25 extensive and costly investigation and research has been conducted such that counsel for the parties
26 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
27 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
28 delay and risks that would be presented by the further prosecution of the Action. It further appears

1 that the settlement has been reached as the result of intensive, non-collusive and arms-length
2 negotiations utilizing an experienced third-party neutral.

3 5. The Court approves, as to form and content, the Class Notice that has been submitted
4 herewith.

5 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
6 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
7 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
8 with the requirements of law and appears to be the best notice practicable under the circumstances.

9 7. The Court hereby preliminarily approves the definition and disposition of the Gross
10 Settlement Amount of \$205,000.00, which is inclusive of: attorneys' fees of not more than thirty-
11 five percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the
12 Agreement, amounts to \$71,750.00, in addition to actual costs incurred of up to \$30,000.00; service
13 award of up to \$10,000.00 to Plaintiff; costs of settlement administration of no more than \$10,500.00
14 and Private Attorneys General Act of 2004 ("PAGA") penalties in the amount of \$20,500.00, of
15 which \$15,375.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA")
16 and \$5,125.00 (25%) to "Aggrieved Employees," defined as all persons employed by Defendant in
17 California and classified as a non-exempt, hourly-paid employee who worked for Defendant during
18 the period from December 13, 2021 through the end of the Class Period ("PAGA Period").

19 8. The Gross Settlement Amount expressly excludes Employer's Share of Payroll
20 Taxes, which will be paid separately and apart by Defendant on the wages portion of the Gross
21 Settlement Amount.

22 9. Class Member's "Workweek" shall mean any week during which a Class Member
23 worked for Defendant, for at least one day during the Class Period, based on hire dates, re-hire dates
24 (as applicable), and termination dates (as applicable).

25 10. Defendant represents that there are no more than 8,475 workweeks during the Class
26 Period. In the event the number of Workweeks during the Class Period increases by more than 10%,
27 or 848 Workweeks, then, at Defendant's election: (1) the Gross Settlement Amount shall be
28 increased proportionally by the Workweeks in excess of 9,323 Workweeks multiplied by the

1 Workweek Value; or (2) the Class Period shall end on the date the number of Workweeks reaches
2 9,323. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross
3 Settlement Amount (\$205,000.00) by 8,475, which amounts to a Workweek Value of \$24.19. Thus,
4 for example, should there be 9,350 Workweeks in the Class Period, and Defendant elections option
5 1 above, then the Gross Settlement Amount shall be increased by \$653.13 ((9,350 Workweeks –
6 9,323 Workweeks) x \$23.19 per Workweek. Defendant shall make its election no later than 14 days
7 after receiving sufficient information from the Administrator that the number of Workweeks during
8 the Class Period has exceeded 9,323. Should Defendant fail to make its decision within 14 days,
9 then it will be presumed Defendant has selected option (1) above.

10 11. The Court deems Phoenix Class Action Administration Solutions (“Phoenix” or
11 “Settlement Administrator”), the settlement administrator, and preliminarily approves payment of
12 administrative costs, not to exceed \$10,500.00 out of the Gross Settlement Amount for services to
13 be rendered by Phoenix on behalf of the class.

14 12. Not later than fourteen (14) days after full execution of the Settlement Agreement,
15 Defendant will deliver the Class Data to the Administrator in the form of a Microsoft Excel
16 spreadsheet. “Class Data” means Class Member’s identifying information in Defendant’s
17 possession including the Class Member’s name, last-known mailing address, last known telephone
18 number, Social Security number, hire dates, termination dates (as applicable) and re-hire dates (as
19 applicable).

20 13. To protect Class Members’ privacy rights, the Administrator must maintain the Class
21 Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose,
22 and restrict access to the Class Data to Administrator’s employees who need access to the Class
23 Data to effect and perform under this Agreement.

24 14. Before mailing Class Notices, the Administrator shall update Class Members’ addresses
25 using the National Change of Address database.

26 15. Using best efforts to perform as soon as possible, and in no event later than fourteen
27 (14) days after receiving the Class Data, the Administrator will send to all Class Members identified
28 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice, with

Spanish translation, substantially in the form attached to this Agreement as Exhibit “A.”

16. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fifteen (15) days beyond the Response Deadline has expired.

17. Before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List.

18. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

19. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

20. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or

1 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
2 and/or Class Representative Service Payment. Participating Class Members may send written
3 objections to the Administrator by mail. In the alternative, Participating Class Members may appear
4 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
5 Hearing. A Participating Class Member who elects to send a written objection to the Administrator
6 must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an
7 additional 15 days for Class Members whose Class Notice was re-mailed).

8 21. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
9 Request for Exclusion will control, and the Objection will be disregarded.

10 22. Each Class Member shall have 45 days after the Administrator mails the Class Notice
11 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
12 number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the
13 Class Notice. The Class Member may challenge the allocation by communicating with the
14 Administrator via mail.

15 23. Defendant shall begin making monthly payments in the amount of \$10,000.00 per
16 month 14 days after full execution of the Agreement until the Gross Settlement Amount is fully
17 funded. The monthly payments shall be made to an escrow account to be established by the
18 Settlement Administrator. Defendant shall also fund the amounts necessary to fully pay Defendant's
19 share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after fully
20 funding the Gross Settlement Amount.

21 24. Payments from the Gross Settlement Amount. Within seven (7) days after Defendant
22 fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
23 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
24 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
25 Payment and the Class Representative Service Payment. Disbursement of the Class Counsel Fees
26 Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service
27 Payment shall not precede disbursement of Individual Class Payments and Individual PAGA
28 Payments.

1 25. For any Class Member whose Individual Class Payment check or Individual PAGA
2 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
3 funds represented by such checks to the *cy pres* recipient, Legal Aid at Work, for use in San
4 Francisco.

5 26. All papers filed in support of final approval, including supporting documents for
6 attorneys' fees and costs, shall be filed by _____.

7 27. A Final Approval Hearing shall be held with the Court on _____
8 at ____:____.m in Department 17 of the above-entitled Court to determine: (1) whether the proposed
9 settlement is fair, reasonable and adequate, and should be finally approved by the Court; (2) the
10 amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amount of service award
11 to the Class Representative; (4) the amount to be paid to the Settlement Administrator; and (5) the
12 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

13
14 **IT IS SO ORDERED.**

15
16 Dated: _____

Judge of the Superior Court