

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Tiara Gose-Hardy (SBN 323823)
tgose@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
LEONEL LUNA

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
LEONEL LUNA

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

LEONEL LUNA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

DEMCON CONCRETE CONTRACTORS,
INC., a California corporation; D AND D
CONCRETE CONSTRUCTION, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 37-2023-00004126-CU-OE-CTL

*[Assigned for All Purposes to Hon. Carolyn M.
Caietti, Dept. C-70]*

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE'S SERVICE AWARD,
AND ATTORNEYS' FEES AND COSTS**

Date: September 26, 2024
Time: 10:30 a.m.
Dept.: C-70

Complaint Filed: January 30, 2023

1 This matter came on regularly for hearing before this Court on September 26, 2024,
2 pursuant to California Rule of Court 3.769 and this Court's April 29, 2024 Order Granting
3 Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"). Having
4 considered the parties' Stipulation of Settlement (referred to hereinafter as "Settlement" or
5 "Settlement Agreement")¹ and the documents and evidence presented in support thereof, and
6 recognizing the sharply disputed factual and legal issues involved in this case, the risks of further
7 prosecution and the substantial benefits to be received by the Settlement Class pursuant to the
8 Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair, reasonable,
9 and adequate, and is the product of good faith, arm's-length negotiations between the parties.
10 Good cause appearing therefor, the Court hereby GRANTS Plaintiff's Motion for Final Approval
11 of Class Action Settlement and ORDERS as follows:

12 1. The conditional class certification contained in the Preliminary Approval Order is
13 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
14 Class consisting of:

15 All current and former non-exempt, hourly employees of Defendants
16 Demcon Concrete Contractors, Inc. and D and D Concrete Construction,
Inc. who worked at any time during the Class Period.

17 2. For purposes of the Settlement, the "Class Period" shall mean the time period of
18 January 30, 2019 through December 17, 2023.

19 3. Plaintiff Leonel Luna is hereby confirmed as Class Representative, and Scott M.
20 Lidman and Milan Moore of Lidman Law, APC and Paul K. Haines of Haines Law Group,
21 APC are hereby confirmed as Class Counsel.

22 4. Notice was provided to the Settlement Class as set forth in the Settlement. The
23 form and manner of notice were approved by the Court on April 29, 2024, and the notice process
24 has been completed in conformity with the Court's Order. The Court finds that said notice was
25 the best notice practicable under the circumstances. The Notice Packet (consisted of the Notice
26

27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
28 assigned to them in the Settlement.

of Pendency of Class Action and Proposed Settlement and Notice of Settlement Award) provided due and adequate notice of the proceedings and matters set forth therein, informed Settlement Class members of their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e), California Rule of Court 3.769, and due process.

5. The Court finds that no Settlement Class member objected to the Settlement, no Settlement class member has opted out of the Settlement, and that the 100% participation rate in the Settlement supports final approval.

6. The Court hereby approves the settlement as set forth in the Settlement Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement according to its terms.

7. For purposes of settlement only, the Court finds that (a) the members of the Settlement Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined community of interest among members of the Settlement Class with respect to the subject matter of the litigation; (c) the claims of the Class Representative are typical of the claims of the members of the Settlement Class; (d) the Class Representative has fairly and adequately protected the interests of the Settlement Class members; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel for the Class Representative and the Settlement Class.

8. The Court finds that given the absence of objections to the Settlement, and objections being a prerequisite to appeal, that this Order shall be considered final as of the date of notice of entry.

9. The Court orders that Demcon Concrete Contractors, Inc. and D and D Concrete Construction, Inc. deliver the Settlement Amount of \$1,100,000.00 to Phoenix Class Action Administration Solutions, the Settlement Administrator, as provided for in the Settlement. Specifically, Defendants shall fully fund the Gross Settlement Amount, including all amounts

necessary to fully pay Defendants' share of payroll taxes, by transmitting such funds to the Administrator by May 1, 2025.

10. Any Settlement funds that remain uncashed after 180 calendar days after they are mailed shall be delivered to the California State Controller's Office – Unclaimed Property Fund in the name of the Settlement Class member.

11. The Court finds that the settlement payments, as provided for in the Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments in conformity with the terms of the Settlement.

12. The Court finds that an enhancement payment in the amount of \$10,000.00 for Plaintiff Leonel Luna is appropriate for his risks undertaken and service to the Settlement Class. The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this payment in conformity with the terms of the Settlement.

13. The Court finds that attorneys' fees in the amount of \$366,666.67, and actual litigation costs of \$7,062.46 for Class Counsel, are fair, reasonable, and adequate, and orders that the Settlement Administrator distribute these payments to Class Counsel in conformity with the terms of the Settlement.

14. The Court orders that the Settlement Administrator shall be paid \$10,000.00 from the Settlement Amount for all of its work done and to be done until the completion of this matter, and finds that sum appropriate.

15. The Court finds that the payment to the California Labor & Workforce Development Agency ("LWDA") in the amount of \$37,500.00 for its 75% share of the settlement of Plaintiff's representative action under the California Labor Code Private Attorneys General Act ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute this payment to the LWDA in conformity with the terms of the Settlement. The remaining 25% or \$12,500.00 of the PAGA Amount is to be distributed to the Aggrieved Employees in conformity with the terms of the Settlement.

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1 16. After the above deductions, attorneys' fees (\$366,666.67), attorneys' litigation
2 costs (\$7,062.46), incentive payment to Plaintiff (\$10,000.00), Settlement Administrator costs
3 (\$10,000.00), and the PAGA Amount to the LWDA (\$37,500.00), the Net Settlement Amount
4 of \$656,270.87 is to be distributed to the Settlement Class members in conformity with the terms
5 of the Settlement.

6 17. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for
7 the portion of the Net Settlement Amount allocated to wages shall be paid by Defendants
8 separately, and in addition to, the Class Settlement Amount.

9 18. The Court finds and determines that upon satisfaction of all obligations under the
10 Settlement and this Order, all Settlement Class members will be bound by the Settlement, will
11 have released the Released Claims as set forth in the Settlement, and will be permanently barred
12 from prosecuting against Defendants any of the Released Claims pursuant to the Settlement.

13 19. The Settlement is not an admission by Defendants nor is this Order a finding of
14 the validity of any allegations or of any wrongdoing by Defendants. Neither this Order, the
15 Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement,
16 shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of
17 Defendants.

18 18. The Court will retain jurisdiction to enforce the Settlement, this Final Approval
19 Order, and the Judgment entered in connection with the Settlement.

20 19. The Settlement Administrator shall file a declaration regarding the disbursement
21 of Settlement funds on or before June 1, 2025.

22 **IT IS SO ORDERED.**

23
24 Dated: _____, 2024

Honorable Carolyn M. Caietti
Judge of the Superior Court