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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ERIC PENNINGTON, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

EXPRESS PIPE & SUPPLY CO., LLC;
MORSCO SUPPLY, LLC; and DOES 1
through 20, inclusive,

Defendants.

Case No. 23STCV05168

Assigned for all purposes to:
Hon. David S. Cunningham
Dept. 11

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: November 4, 2024
Time: 9:00 a.m.
Dept: 11

1 WHEREAS, the above-entitled action is pending before this Court as a putative class
2 action (the “Action”);

3 WHEREAS, Plaintiff Eric Pennington (“Plaintiff”), individually and on behalf of all
4 others similarly situated and on behalf of the general public have applied to this Court for an order
5 preliminarily approving the settlement of the Action in accordance with the CLASS ACTION
6 AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE (the “Settlement” or
7 “Agreement”) entered into by Plaintiff and Defendants Express Pipe & Supply Co., LLC and
8 Morsco Supply, LLC (“Defendants”) which sets forth the terms and conditions for a proposed
9 settlement upon the terms and conditions set forth therein (Plaintiff and Defendants shall be
10 collectively referred to herein as the “Parties”); and

11 WHEREAS, the Court has read and considered Plaintiff’s Motion for Preliminary
12 Approval of Class Action Settlement.

13 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
14 THAT:

15 1. This Order incorporates by reference the definitions in the Settlement attached as
16 Exhibit 1 to the Declaration of Kristy R. Connolly in Support of Plaintiff’s Motion for Preliminary
17 Approval of Class Action Settlement and all terms defined therein shall have the same meaning in
18 this Order.

19 2. It appears to the Court on a preliminary basis that (a) the Settlement is fair,
20 adequate and reasonable; (b) the Gross Settlement Amount and Net Settlement Amount are fair,
21 adequate and reasonable when balanced against the probable outcome of further litigation relating
22 to liability and damages issues; (c) sufficient investigation and research have been conducted such
23 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
24 (d) settlement at this time will avoid additional costs by all Parties, as well as avoid the delay and
25 risks that would be presented by the further prosecution of the Action; and (e) the Settlement has
26 been reached as the result of non-collusive, arms-length negotiations.

27 3. With respect to the Class and for purposes of proceeding pursuant to California
28 Code of Civil Procedure § 382 for approval of the settlement only, the Court finds on a

1 preliminary basis that (a) Class Members are ascertainable and so numerous that joinder of all
2 Class Members is impracticable; (b) there are questions of law and fact common to the Class that
3 predominate over any questions affecting only individual Class Members; (c) Plaintiff's claims
4 are typical of the Class' claims; (d) class certification is a superior method for implementing the
5 Settlement and adjudicating this Action in a fair and efficient manner; (e) the Class
6 Representatives can fairly and adequately protect the Class' interests; and (f) Class Counsel are
7 qualified to serve as counsel for the Class.

8 4. Accordingly, solely for purposes of effectuating this Settlement, this Court hereby
9 conditionally certifies the class for settlement purposes only. The Class is defined as all persons
10 currently or formerly employed by Defendants as a non-exempt employee in the State of
11 California at any time from July 1, 2021 through June 30, 2024.

12 5. Plaintiff Eric Pennington is hereby preliminarily appointed and designated, for all
13 purposes, as the Class Representative and the attorneys of Aegis Law Firm, PC are hereby
14 preliminarily appointed and designated as counsel for the Class ("Class Counsel"). Class Counsel
15 is authorized to act on behalf of the Class Members with respect to all acts or consents required by,
16 or which may be given pursuant to, the Settlement, and such other acts reasonably necessary to
17 consummate the Settlement. Any Class Member may enter an appearance either personally or
18 through counsel of such individual's own choosing and at such individual's own expense. Any
19 Class Member who does not enter an appearance or appear on his or her own will be represented
20 by Class Counsel.

21 6. Should, for whatever reason, the Settlement not become final, the fact that the
22 Parties were willing to stipulate to certification of the Class as part of the Settlement shall have no
23 bearing on, nor be admissible in connection with, the issue of whether a class should be certified in
24 a non-settlement context.

25 7. The Court hereby preliminarily approves the definition and disposition of the Gross
26 Settlement Amount and Net Settlement Amount and related matters provided for in the Settlement,
27 subject to modification at final approval.
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1 8. The Court hereby preliminarily approves Class Counsel attorneys' fees of up to one-
2 third the Gross Settlement Amount, Class Counsel litigation expenses not to exceed \$25,000.00,
3 Service Award up to \$5,000.00 to the Named Plaintiff, payment to the LWDA in the amount of
4 \$30,000.00, and costs of administration not to exceed \$12,000.00, subject to final approval.

5 9. The Court hereby approves, as to form and content, the Class Notice, to be
6 distributed to Class Members. The Court finds that distribution of the Class Notice, substantially in
7 the manner and form set forth in the Settlement and this Order, meets the requirements of due
8 process, is the best notice practicable under the circumstances, and shall constitute due and
9 sufficient notice to all persons entitled thereto.

10 10. The Court hereby appoints Phoenix Settlement Administrator as Settlement
11 Administrator and hereby directs the Settlement Administrator to mail or cause to be mailed to
12 Class Members the Class Notice using the procedures set forth in the Settlement Agreement. Class
13 Members who wish to participate in the settlement provided for by the Settlement Agreement do
14 not need to respond to the Class Notice.

15 11. All costs of mailing of the Class Notice, whether foreseen or not, shall be paid
16 from the Gross Settlement Amount, including the cost of searching for Class Members' addresses
17 as provided in the Settlement, and all other reasonable costs of the Settlement Administrator up
18 to \$12,000.00 as provided in the Settlement.

19 12. Any Class Member may choose to opt-out of and be excluded from the Class as
20 provided in the Class Notice. Any such person who chooses to opt-out of and be excluded from the
21 Class will not be entitled to any recovery under the Settlement and will not be bound by the
22 Settlement or have any right to object, appeal or comment thereon. Class Members who have not
23 requested exclusion/opted-out shall be Participating Class Members and bound by all
24 determinations of the Court, the Settlement, and the Final Judgment.

25 13. A Final Fairness and Approval Hearing shall be held before this Court on **April 8,**
26 **2025 at 9:00 a.m.** in Department 11 of the Superior Court for the State of California, County of
27 Los Angeles, located at 312 North Spring Street, Los Angeles, CA 90012. All papers in support of
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1 final approval and related awards for fees, costs, and Plaintiff's incentive award must be filed and
2 served at least 16 court days before the final approval hearing.

3 14. Any Participating Class Member must object to the Settlement by following the
4 instructions for submitting written objections that are set forth in the Settlement Agreement and
5 Class Notice, and may appear at the Final Fairness and Approval Hearing. The Court shall retain
6 final authority with respect to the consideration and admissibility of any objections. Any
7 Participating Class Member who objects to the Settlement shall be bound by the order of the Court.

8 15. The Settlement is not a concession or admission, and shall not be used against the
9 Released Parties, as an admission or indication with respect to any claim of any fault or omission
10 by the Released Parties. Whether or not the Settlement is finally approved, neither the Settlement,
11 nor any document, statement, proceeding or conduct related to the Settlement, nor any reports or
12 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as
13 or deemed to be evidence of a presumption, concession, indication or admission by Defendant of
14 any liability, fault, wrongdoing, omission, concession or damage in the Action, or in any other
15 action or proceeding, except for purposes of enforcing the Settlement once it receives final approval.

16 16. Pending the Final Approval and Fairness Hearing, all proceedings in this Action,
17 other than proceedings necessary to carry out or enforce the terms of the Settlement and this Order,
18 are hereby stayed.

19 17. Jurisdiction is hereby retained over this Action, the Parties to the Action, and each
20 of the Class Members for all matters relating to this Action, and this Settlement, including
21 (without limitation) all matters relating to the administration, interpretation, effectuation, and/or
22 enforcement of this Settlement and this Order.

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1 18. The Court reserves the right to adjourn or continue the date of any hearing and all
2 dates provided for in the Settlement without further notice to Class Members, and retains
3 jurisdiction to consider all further applications arising out of or connected with the proposed
4 Settlement.

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6 DATED: _____

Honorable David S. Cunningham
JUDGE OF THE SUPERIOR COURT