

1 **BIBIYAN LAW GROUP, P.C.**
David D. Bibiyan (SBN 287811)

2 *david@tomorrowlaw.com*

3 Vedang J. Patel (SBN 328647)

4 *vedang@tomorrowlaw.com*

Megan R. Lazar (SBN 315007)

6 *megan@tomorrowlaw.com*

5 1460 Westwood Boulevard

Los Angeles, CA 90024

6 Tel: (310) 438-5555; Fax: (310) 300-1705

7 Attorneys for Plaintiff, KYLE NEFF,

on behalf of himself and all others similarly situated and aggrieved

8 *[Additional counsel continued on next page]*

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF SACRAMENTO**

13 KYLE NEFF and ERICK HOLMBERG,
14 individually, and on behalf of all others
similarly situated and aggrieved,

15 Plaintiffs,

16 v.

17 CASTLE TIRE DISPOSAL, LLC., a Delaware
Limited Liability Company; and DOES 1
18 through 100, inclusive,

19 Defendant.

Lead Case No.: 34-2023-00336483

Related Case No. 23CV002828

[Assigned for all purposes to the Hon. Lauri A.
Damrell in Dept 22]

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

1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
3 9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733
5

6 Attorneys for Plaintiff ERICK HOLMBERG individually and
on behalf of similarly situated employees
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1 This Court, having considered the Motion of Plaintiffs, Kyle Neff and Erick Holmberg
2 (“Plaintiffs”) for Preliminary Approval of the Class Action and Representative Action Settlement
3 and Provisional Class Certification for Settlement Purposes Only (“Motion for Preliminary
4 Approval”), the Declarations of Megan R. Lazar, David D. Bibiyan, Justin Rodriguez, Kyle Neff,
5 Erick Holmberg, and Jodey Lawrence, the Joint Stipulation Regarding Class Action and PAGA
6 Settlement and Release (the “Settlement,” “Settlement Agreement” or “Agreement”), the proposed
7 Notice of Proposed Class Action Settlement and Date for Final Approval Hearing (“Class Notice”),
8 and other documents submitted in support of the Motion for Preliminary Approval, hereby
9 **ORDERS, ADJUDGES AND DECREES THAT:**

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

12 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement Class
13 Members” or “Class Members”) for the purpose of settlement only: all current and former non-
14 exempt employees employed by defendant Castle Tire Disposal, LLC (“Defendant”) in California
15 at any time during the period from March 20, 2019 through February 15, 2024 (“Class Period”).

16 3. The Court preliminarily appoints the named Plaintiffs, Kyle Neff and Erick Holmberg as
17 the Class Representatives. The Court also preliminarily appoints David D. Bibiyan, and Vedang
18 J. Patel of Bibiyan Law Group, P.C., and Justin Rodriguez of Shimoda & Rodriguez Law, PC as
19 Class Counsel.

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

1 delay and risks that would be presented by the further prosecution of the Action. It further appears
2 that the settlement has been reached as the result of intensive, non-collusive and arms-length
3 negotiations utilizing an experienced third-party neutral.

4 5. The Court approves, as to form and content, the Class Notice, ~~Request for Exclusion~~
5 ~~Form, and Objection Form~~, that were been submitted herewith.

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

10 7. The Court hereby preliminarily approves the definition and disposition of the Gross
11 Settlement Amount of \$480,000.00, which is inclusive of: attorneys' fees of up to one- third (1/3) of
12 the Gross Settlement Amount, which, if not escalated pursuant to the Settlement Agreement,
13 amounts to \$160,000.00, in addition to actual costs incurred of up to \$40,000.00; an enhancement
14 award of \$10,000.00 to each Plaintiff; costs of settlement administration of no more than \$8,250.00;
15 and Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of \$20,000.00 of
16 which \$15,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA")
17 and \$5,000.00 (25%) to "PAGA Members," defined as all current and former non-exempt
18 employees employed by Defendant in California at any time during the period from March 16, 2022,
19 through the end of the Class Period ("PAGA Period").

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

22 9. "Qualifying Workweeks" are weeks worked by Class Members and/or PAGA
23 Members during the Class Release Period and/or PAGA Release Period, respectively, in California.
24 For Class Members, workweeks shall be defined as the total length of service (in days) in California
25 during the Class Release Period divided by seven. For PAGA Members workweeks shall be defined
26 as the total length of service (in days) in California during the PAGA Release Period divided by
27 seven.

28 10. The settlement is based on Defendant's representation that there are no more than

1 9,000 Workweeks worked during the Class Period. In the event the number of Workweeks worked
2 by Class Members during the Class Period increases by more than 7%, or 630 additional
3 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the Workweeks
4 in excess of 9,000 Workweeks multiplied by the Workweek Value. The Workweek Value shall be
5 calculated by dividing the originally agreed-upon Gross Settlement Amount (\$480,000.00) by
6 9,000, which amounts to a Workweek Value of \$53.33. Thus, for example, should there be 10,000
7 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$53,330
8 $[(10,000 \text{ Workweeks} - 9,000 \text{ Workweeks}] \times \$53.33 \text{ per Workweek}$).

9 11. The Court deems Phoenix Class Action Administration Solutions. (“Settlement
10 Administrator” or “Phoenix”), the Settlement Administrator, and approves payment of
11 administrative costs, not to exceed \$8,250.00 out of the Gross Settlement Amount for services to be
12 rendered by Phoenix on behalf of the class.

13 12. No later than fourteen (14) calendar days after the Preliminary Approval Date,
14 Defendant shall provide the Settlement Administrator with the first and last name, last known
15 mailing address, last known telephone number, Social Security Number, dates worked as an hourly,
16 non-exempt employee of Defendant in California during the Class Period and PAGA Period (if
17 applicable), and Defendant’s calculation of Workweeks during the Class Period and PAGA Period
18 (as defined herein), which will be performed by Defendant’s expert. Workweeks will be
19 calculated in the same manner used by Defendant to calculate Workweeks for purposes of
20 mediation. No later than fourteen (14) calendar days after receipt of such address information, the
21 Settlement Administrator will perform a national change of address (“NCOA”) search, update the
22 addresses per the results of the NCOA search, and then mail the Notice of Settlement, substantially
23 in the form attached as Exhibit 1, to each Class Member and PAGA Member by first-class mail,
24 postage prepaid.

25 13. In the event that a Notice of Settlement is returned to the Settlement Administrator
26 as undeliverable on or before the conclusion of the Notice Period, the Notice of Settlement shall be
27 sent to the forwarding address affixed thereto within five (5) calendar days.

28 14. “Notice Period” means sixty (60) calendar days from the initial mailing of the Notice

1 of Settlement to Class Members and PAGA Members.

2 15. The Notice of Settlement shall provide that Class Members who wish to exclude
3 themselves from the Agreement must submit a request to opt-out as provided in this Section. The
4 request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that
5 he or she does not want to be a Class Member, does not want to participate in the settlement, and/or
6 wants to be excluded from the settlement; (c) identify the case name and number (*i.e. Neff v. Castle*
7 *Tire Disposal LLC et al*, Case No. 34-2023-00336483); (d) be signed; and (e) be post-marked no
8 later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The
9 Class Member must personally sign the request to opt-out. No request to opt-out may be made on
10 behalf of a group of Class Members. The date of the postmark on the return-mailing envelope shall
11 be the exclusive means used to determine whether a request to opt-out has been timely submitted.
12 Any Class Member who requests to opt-out of the Agreement will not be entitled to any portion of
13 the Net Settlement Amount nor will they have any right to object, appeal or comment thereon. The
14 name of any Class Member who submits a valid and timely opt out request will be specifically
15 identified in any proposed order granting final approval. Class Members who fail to submit a valid
16 and timely request to opt-out shall be bound by all terms of the Agreement and any order or final
17 judgment thereon. Regardless of whether an PAGA Member opts out of being a Class Member,
18 they will still receive their share of the PAGA Payment as PAGA Members cannot opt out of this
19 Agreement as it relates to the PAGA Payment or Released PAGA Claims

20 16. Any Class Member who does not opt-out, but who wishes to object to this Agreement
21 or otherwise to be heard concerning this Agreement, may submit a written objection to the
22 Settlement Administrator, who will promptly provide copies of the objection to Class Counsel and
23 Defendant's Counsel. The Notice of Settlement shall make clear that the Court can only approve or
24 deny the Agreement, not change the terms of the Agreement. The written objection should (a) state
25 the Class Member's full name and date of birth; (b) provide evidence that the individual is, in fact,
26 a Class Member; (c) state the reasons for the objection(s), including any supporting documentation;
27 (d) identify the case name and number (*i.e. Neff v. Castle Tire Disposal LLC et al*, Case No. 34-
28 2023-00336483); (e) be signed; and (f) be post-marked no later than the conclusion of the Notice

1 Period or the re-mailing timeline stated in Section 7.4. Additionally, or in the alternative to sending
2 a written objection to the Settlement Administrator, any Class Member may appear at the final
3 approval hearing to state their objection.

4 17. Any Class Member who disputes the number of Qualifying Workweeks on the Notice
5 of Settlement shall contact the Settlement Administrator. The dispute must (a) identify the nature
6 of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed;
7 and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline
8 stated in Section 7.4. The Settlement Administrator shall promptly (in no event more than two
9 business days) forward all such disputes to Defendant's Counsel and request that Defendant review
10 the dispute. Defendant's records shall presumptively control unless the Class Member can produce
11 documentation evidencing other periods of employment worked. If Defendant agrees with
12 submitted information, the Class Member shall be credited or subtracted Qualifying Workweeks in
13 accordance with their submitted dispute and that final number of Qualified Workweeks shall govern
14 the calculation of that Class Member's Individual Settlement Amount. If Defendant disagrees with
15 the submitted information, Defendant's Counsel will promptly advise Class Counsel of the dispute,
16 which includes turning over any documentation submitted by the Class Member as part of the
17 dispute. Defendant's Counsel and Class Counsel shall attempt in good faith to resolve any such
18 dispute within five (5) calendar days of Class Counsel being advised of the dispute. Each dispute
19 that Defendant's Counsel and Class Counsel cannot timely resolve shall be resolved by the
20 Settlement Administrator, subject to Court review.

21 18. Defendant shall wire the Gross Settlement Amount and applicable taxes necessary to
22 fund the Settlement as described in Section 5.1 to the Settlement Administrator within sixty-five
23 (65) calendar days after the Effective Date to be held in trust in a QSF. Within seven (7) calendar
24 days after Defendant fund the settlement, the Settlement Administrator shall deliver payment of
25 Class Counsels' attorney's fees and costs, the Enhancement Payment payable to Plaintiff, the 75%
26 portion of the PAGA Payment payable to the LWDA, Settlement Administrator Costs, and payment
27 to Participating Class Members and/or PAGA Members as required under this Agreement and
28 approved by Court.

1 19. For any portion of the Net Settlement Amount or PAGA Payment allocated to
2 Participating Class Members and/or PAGA Members that were not claimed by cashing their
3 respective settlement checks before the deadline to do so, that remaining amount shall be donated
4 equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine
5 of *cy pres*. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

6 20. All papers filed in support of final approval, including supporting documents for
7 attorneys' fees and costs, shall be filed by 6/24/26.

8 21. A Final Fairness and Approval Hearing shall be held with the Court on
9 7/27/26 at 9:00 a.m in Department 22 of the above-entitled Court to determine:

10 (a) whether the proposed settlement is fair, reasonable and adequate, and should be finally approved
11 by the Court; (b) the amount of attorneys' fees and costs to be awarded to Class Counsel; (c) the
12 amount of service award to the Class Representative; (d) the amount to be paid to the Settlement
13 Administrator; and (e) the amount to be apportioned to PAGA and/or paid to the LWDA and
14 Aggrieved Employees.

15 **IT IS SO ORDERED.**

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17 Dated: 2/6/26



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Lauri A. Damrell, Judge
Judge of the Superior Court