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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
(UNLIMITED JURISDICTION)

ARMANDO ASCENCIO, on behalf of himself
and all others similarly situated, and as an
“aggrieved employee” on behalf of other
“aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

MONARCH LITHO INC., a California
corporation, ROBERT LOPEZ, a natural
individual; and DOES 1–50, inclusive,

Defendant(s).

Case No. 24STCV27524

[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT

Action filed: October 21, 2024
Dept: 12, The Honorable Carolyn
B. Kuhl

The Motion of Plaintiff Armando Ascencio (hereafter referred to as “Plaintiff”) for
Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court,
The Honorable Carolyn B. Kuhl presiding. The Court having considered the Motion, the Class
Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement

Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. The Court will make a determination at the hearing on the motion for final approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and reasonable to the Settlement Class.

2. For purposes of this Preliminary Approval Order, the “Settlement Class” means all persons Defendants employed in California as non-exempt, hourly employees who worked for Defendants during the Class Period (collectively “Class Members”). The “Class Period” shall mean the period of time from October 21, 2020, through the date the Court preliminarily approves this class action settlement.

3. Based on its records, Defendants estimates that, as of March 10, 2025, the date the Parties participated in mediation, (1) there were 111 Class Members and 17,853 total Work Weeks during the Class period and (2) there were 89 Aggrieved Employees who worked 3,825 Pay Periods during the PAGA Period. If the number of Class Members and/or Work Weeks as of the date the Court approves the settlement exceeds the estimated number of Class Members and/or Work Weeks by more than 10%, the Gross Settlement Amount, including the Class Counsel Fees Payment, would increase proportionally according to the number of additional Work Weeks or Class Members above 110% of Defendants’ estimates, whichever results in a higher increase in the Gross Settlement Amount. In the alternative, Defendants had the option to elect to end the Class Period and PAGA period on an earlier date at their discretion in order to limit the covered Work Weeks and the number of Class Members to no more than the 110% of Defendants estimates. According to Defendants’ records, the number of additional Work Weeks or Class Members did not exceed Defendants’ estimates by more than 10%. Based thereon, the date the

1 Court preliminarily approved the settlement is the Class Period and PAGA Period end date, which
2 does not result in an increase to the Gross Settlement Amount.

3 4. “Effective Date” means the date by when both of the following have occurred: (a)
4 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
5 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
6 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
7 one or more Participating Class Members objects to the Settlement, the day after the deadline for
8 filing a notice of appeal from the Judgment; (c) or if a timely appeal from the Judgment is filed,
9 the day after the appellate court affirms the Judgment and issues a remittitur.

10 5. This action is provisionally certified pursuant to section 382 of the California Code
11 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
12 purposes of settlement only with respect to the proposed Settlement Class.

13 6. Not later than 15 days after the Court grants Preliminary Approval of the
14 Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the
15 form of a Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the
16 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
17 of the Settlement and for no other purpose, and restrict access to the Class Data to Administrator
18 employees who need access to the Class Data to effect and perform under the Settlement
19 Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they
20 discover that the Class Data omitted class member identifying information and to provide
21 corrected or updated Class Data as soon as reasonably feasible. Without any extension of the
22 deadline by which Defendants must send the Class Data to the Administrator, the Parties and their
23 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any
24 issues related to missing or omitted Class Data.

25 7. No later than three (3) business days after receipt of the Class Data, the
26 Administrator shall notify Class Counsel that the list has been received and state the number of
27 Class Members, Aggrieved Employees, Work Weeks, and PAGA Pay Periods in the Class Data.

1 8. Using best efforts to perform as soon as possible, and in no event later than 14
2 days after receiving the Class Data, the Administrator will send to all Class Members identified
3 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet
4 with Spanish translation, if applicable substantially in the forms attached to the Settlement
5 Agreement. The first page of the Class Notice shall prominently estimate the dollar amounts of any
6 Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the
7 number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate these amounts.
8 Before mailing Notice Packets, the Administrator shall update Class Member addresses using the
9 National Change of Address database.

10 9. Not later than three (3) business days after the Administrator’s receipt of any Notice
11 Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice Packet
12 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
13 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Notice
14 Packet to the most current address obtained. The Administrator has no obligation to make further
15 attempts to locate or send Notice Packet to Class Members whose Notice Packet is returned by
16 the USPS a second time.

17 10. Class Counsel’s contact information is David Glenn Spivak, Esq., The Spivak Law
18 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel’s
19 contact information is Alfred J. Landegger, Esq., Landegger Verano, ALC, 15760 Ventura Blvd.,
20 Suite 1200, Encino, CA, 91436.

21 11. The deadlines for Class Members’ written objections, Challenges to Work Weeks
22 and/or PAGA Pay Periods (disputes), and Requests for Exclusion will be extended an additional
23 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
24 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline
25 with the re-mailed Notice Packet.

26 12. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
27 discovers any persons who believe they should have been included in the Class Data and should
28

1 have received Notice Packet, the Parties will expeditiously meet and confer in person or by
2 telephone, and in good faith. in an effort to agree on whether to include them as Class Members.
3 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
4 Members, and the Administrator will send, via email or overnight delivery, a Notice Packet
5 requiring them to exercise options under the Settlement Agreement not later than 14 days after
6 receipt of Notice Packet, or the deadline dates in the Notice Packet, which ever are later.

7 13. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
8 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
9 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
10 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
11 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
12 the Class Member's election to be excluded from the Settlement and includes the Class Member's
13 name, address and email address or telephone number. To be valid, a Request for Exclusion must
14 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
15 in Settlement form, attached to the Settlement Agreement as Exhibit B, may be used for this
16 purpose but is not required.

17 14. The Administrator may not reject a Request for Exclusion as invalid because it
18 fails to contain all the information specified in the Class Notice. The Administrator shall accept
19 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
20 the person as a Class Member and the Class Member's desire to be excluded. The Administrator's
21 determination shall be final and not appealable or otherwise susceptible to challenge. If the
22 Administrator has reason to question the authenticity of a Request for Exclusion, the
23 Administrator may demand additional proof of the Class Member's identity. The Administrator's
24 determination of authenticity shall be final and not appealable or otherwise susceptible to
25 challenge.

26 15. Every Class Member who does not submit a timely and valid Request for Exclusion
27 is deemed to be a Participating Class Member under the Settlement Agreement, entitled to all

benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

16. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. However, all Aggrieved Employees, including those that are Non-Participating Class Member, will be deemed to release all claims for civil penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiffs pre-filing letter to the LWDA, including the Released PAGA Claims under Paragraph 6.3 of the Settlement. Aggrieved Employees do not release claims for wages or damages unless such Aggrieved Employee is a Participating Class Member.

17. Challenges to Calculation of Work Weeks/PAGA Pay Periods. Each Class Member shall have 60 days after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute. A Class Work Week/PAGA Pay Period Dispute form, attached as Exhibit C to the Settlement Agreement, may be used for this purpose but is not required. The Class Members may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Work Weeks/PAGA Pay periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Work Weeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Work Weeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

18. Objections to Settlement. Only Participating Class Members may object to the

1 class action components of the Settlement and/or this Agreement, including contesting the
2 fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
3 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

4 19. Participating Class Members may send written objections to the Administrator, by
5 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
6 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
7 Participating Class Member who elects to send a written objection to the Administrator must do
8 so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an additional
9 14 days for Class Members whose Notice Packet was re-mailed). An The Objection form,
10 attached as Exhibit D to the Settlement Agreement, may be used for this purpose but is not
11 required.

12 20. Non-Participating Class Members have no right to object to any of the class action
13 components of the Settlement.

14 21. Not later than 14 days before the date by which Plaintiff is required to file the
15 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and
16 Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and
17 compliance with all of its obligations under the Settlement Agreement, including, but not limited
18 to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing
19 of Notice Packets, attempts to locate Class Members, the total number of Requests for Exclusion
20 from Settlement it received (both valid or invalid), the number of written objections and attach
21 the Exclusion List. The Administrator will supplement its declaration as needed or requested by
22 the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
23 declaration(s) in Court.

24 22. The Court approves, as to form and content, the Class Notice in substantially the
25 form attached as Exhibit A to the Settlement Agreement, the Election Not to Participate in
26 Settlement form in substantially the form attached as Exhibit B to the Settlement Agreement, the
27 Work Week/PAGA Pay Period Dispute form in substantially the form attached as Exhibit C to

1 the Settlement Agreement, and the Objection form in substantially the form attached as Exhibit
2 D to the Settlement Agreement.

3 23. The Court approves, for settlement purposes only, David Glenn Spivak and
4 Caroline Tahmassian of The Spivak Law Firm.

5 24. The Court approves, for settlement purposes only, Armando Ascencio as the Class
6 Representative.

7 25. The Court approves Apex Class Action Administration as the Administrator.

8 26. The Court preliminarily approves Class Counsel's request for attorneys' fees and
9 costs subject to final review by the Court.

10 27. The Court preliminarily approves the estimated Administrator costs payable to the
11 Administrator subject to final review by the Court.

12 28. The Court preliminarily approves Plaintiff's Class Representative Service
13 Payment subject to final review by the Court.

14 29. A Final Approval Hearing shall be held on ____ at .m. in Department 12 of the
15 Superior Court for the State of California, County of Los Angeles, located at the Spring Street
16 Courthouse, 312 N. Spring Street, Los Angeles, CA 90012 to consider the fairness, adequacy and
17 reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval
18 Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class
19 Representative Service Payment to the Class Representative. The notice of motion and all briefs
20 and materials in support of the motion for final approval of class action settlement and motion for
21 attorneys' fees and litigation costs shall be served and filed with this Court on or before ____.
22 Plaintiff's counsel must give notice to any objecting party of any continuance of the hearing of
23 the motion for final approval.

24 30. If for any reason the Court does not execute and file a Final Approval Order and
25 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
26 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
27 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the

1 litigation, as more specifically set forth in the Settlement.

2 31. The Court expressly reserves the right to adjourn or continue the Final Approval
3 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
4 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

5 **IT IS SO ORDERED.**

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7
8 **DATE**

**THE HONORABLE CAROLYN B.
KUHL
SUPERIOR COURT JUDGE**