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KERN COUNTY SUPERIOR COURT

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

FRANCISCO HERRERA, an individual, on
behalf of himself and all others similarly situated,

Plaintiff,

vs.

KERN PACIFIC CONSTRUCTION
COMPANY, a California Corporation, and
DOES 1 through 100,

Defendants.

CASE NO.: BCV-19-101846-DRZ
[Assigned for all purposes to Hon. David R. Zulfa – Dept. J]

**~~PROPOSED~~ JUDGMENT AND FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE SERVICE
AWARDS, AND ATTORNEYS' FEES
AND COSTS**

1 **~~PROPOSED~~ ORDER**

2 Plaintiffs Manuel Marroquin and Hector Sanchez (hereinafter collectively, “Plaintiffs”)
3 Motion for Final Approval of Class Action Settlement, Class Representative Service Awards, and
4 Attorneys’ Fees and Costs (“Motion”) came regularly for hearing before this Court on October
5 19, 2023 at 8:30 a.m. The Court, having considered the Parties’ Stipulation of Settlement
6 (“Settlement Agreement” or “Settlement”) and the documents and evidence presented in support
7 thereof, and recognizing the disputed factual and legal issues involved in this case, the risks of
8 further prosecution, and the benefits to be received by the Settlement Class pursuant to the
9 Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair, reasonable,
10 and adequate, and is the product of good faith, arm’s-length negotiations between the Parties.
11 Good cause appearing therefor, the Court hereby GRANTS Plaintiffs’ Motion and HEREBY
12 ORDERS THE FOLLOWING:

13 1. Final judgment is hereby entered in conformity with the Settlement and the
14 Motion.

15 2. The conditional class certification is hereby made final, and the Court thus
16 certifies, for purposes of the Settlement, a Settlement Class consisting of: All persons employed
17 in California by Defendant Kern Pacific Construction Company as hourly-paid (non-exempt)
18 employees at any time during the period from June 26, 2015 through July 29, 2022.

19 3. Manuel Marroquin and Hector Sanchez are hereby confirmed as Class
20 Representatives. Paul K. Haines of Haines Law Group, APC and Sam Sani of Sani Law, APC,
21 are hereby confirmed as Class Counsel.

22 4. Notice was provided to Settlement Class Members as set forth in the Settlement
23 Agreement, which was preliminarily approved by the Court on May 26, 2023, and the notice
24 process has been completed in conformity with the Settlement Agreement. The Court finds that
25 said notice was the best notice practicable under the circumstances. The Class Notice provided
26 due and adequate notice of the proceedings and matters set forth therein, informed Settlement
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1 Class members of their rights, and fully satisfied the requirements of California Code of Civil
2 Procedure § 1781(e), California Rule of Court 3.769, and due process.

3 5. The Court finds that no Settlement Class Members objected to the Settlement, and
4 that one Settlement Class Member opted out of the Settlement, and that the 99.57% participation
5 rate in the Settlement supports final approval.

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

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

18 8. The Court finds that given the absence of objections, and objections being a
19 prerequisite to appeal, this Order shall be considered final as of the date it is signed by this Court.

20 9. The Court orders that Defendant shall deposit the Maximum Settlement Amount
21 into an account established by CPT Group Class Action Administrators (“Settlement
22 Administrator”), as provided for in the Settlement.

23 10. The Court finds that the Settlement Shares, as provided for in the Settlement, are
24 fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the individual
25 payments in conformity with the terms of the Settlement.

26 11. The Court finds that a service award in the amount of \$7,500.00 to Plaintiff Manuel
27 Marroquin and \$5,000.00 to Plaintiff Hector Sanchez are appropriate for the risks undertaken,
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1 their service to the Settlement Class, and their general release of claims. The Court finds that this
2 award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this
3 payment in conformity with the terms of the Settlement.

4 12. The Court finds that attorneys' fees in the amount of \$166,666.66, and actual
5 litigation costs of \$21,061.35 for Class Counsel are fair, reasonable, and adequate, and orders that
6 the Settlement Administrator distribute these payments to Class Counsel in conformity with the
7 terms of the Settlement.


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

11 14. This document shall constitute a final judgment pursuant to California Rule of
12 Court 3.769(h), which provides, "If the court approves the settlement agreement after the final
13 approval hearing, the court must make and enter judgment. The judgment must include a
14 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
15 judgment. The court may not enter an order dismissing the action at the same time as, or after,
16 entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final
17 Approval Order, and this Judgment.

18 15. The Court sets a Final Accounting Hearing on July 19, 2024 at
19 8:30 a.m./~~p.m.~~ Plaintiffs shall file a Compliant Status Report at least ten (10) calendar
20 days prior to the hearing. **The Court will vacate the Final Accounting Hearing if the**
21 **Compliant Status Report is approved.**

22 **IT IS SO ORDERED.**

23 Dated: October 19, 2023

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26 Honorable David R. Zulfa
27 Judge of the Superior Court
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