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7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN FRANCISCO**

10  
11 LUIS MORENO, an individual, on behalf of  
himself and others similarly situated

12  
13 **PLAINTIFF,**

14 v.

15 HATHAWAY DINWIDDIE  
16 CONSTRUCTION COMPANY; and DOES 1  
thru 50, inclusive,

17  
18 **DEFENDANTS.**

CASE NO. CGC-16-554443

[Case Assigned for All Purposes to Hon. A.C.  
Massullo]

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT AND ENTERING  
JUDGMENT**

Date: February 11, 2020

Time: 9:15 a.m.

Dept.: 304

Trial Date: None

Complaint Filed: September 22, 2016

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class action lawsuit brought by Plaintiff LUIS MORENO  
3 (“Plaintiff”) against Defendant HATHAWAY DINWIDDIE CONSTRUCTION COMPANY  
4 (“Defendant”). The Motion for Final Approval of Class Action Settlement came before this Court  
5 on February 11, 2020.

6 **WHEREAS**, on October 4, 2019, the Court granted preliminary approval of the Fifth  
7 Amended Joint Stipulation of Resolution (“Settlement Agreement” or “Settlement”), attached to  
8 the concurrently-filed Declaration of Liane Katzenstein Ly as Exhibit “A”,

9 **WHEREAS**, Plaintiff has applied to the Court for an order granting final approval of the  
10 Settlement Agreement.

11 **WHEREAS**, the Settlement Agreement sets forth the terms and conditions of the proposed  
12 Settlement and for entry of an order of final approval and entry of final judgment thereon. The  
13 Court having read and considered Plaintiff’s Motion for Final Approval of Class Action  
14 Settlement; Motion for Approval of Approval of Attorneys’ Fees and Costs; the Declarations of  
15 Liane Katzenstein Ly, Luis Moreno, and CPT Group Inc.; and the supporting documents annexed  
16 thereto, now finds:

17 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

18 1. The Court has personal jurisdiction over all settlement Class Members and that the  
19 Court has subject matter jurisdiction to approve the Settlement;

20 2. The terms of the Settlement are fair, just, reasonable, and adequate, consistent and  
21 in compliance with California Code of Civil Procedure, the California and United States  
22 Constitutions (including the due process clauses), the California Rules of Court and any other  
23 applicable law, and in the best interest of each of the Parties and the Class members and is hereby  
24 finally approved in all respects.

25 3. The Parties are hereby directed to perform the terms of the Settlement as described  
26 in the Settlement Agreement according to its terms and provisions.

27 4. The Settlement Agreement is binding on Plaintiff and all other settlement Class  
28 Members (except those timely and properly filed Requests for Exclusions), as well as their heirs,

1 executors, and administrators, successors, and assigns.

2 5. There are five (5) valid request for exclusion.

3 6. There are zero (0) valid objectors.

4 7. It is ordered that the settlement Class is certified for settlement purposes only. The  
5 Court finds that an ascertainable class exists and a well-defined community of interest exists in the  
6 questions of law and fact involved because in the context of the Settlement: (i) there are questions  
7 of law and fact common to the Class Members which, as to the Settlement and all related matters,  
8 predominate over any individual questions; (ii) the Claims of Plaintiff are typical of the Claims of  
9 the Class members; and (iii) in negotiating, entering into and implementing the Settlement,  
10 Plaintiff and Plaintiff's Attorneys have fairly and adequately represented and protected the interest  
11 of the Class Members.

12 8. The Court finds that the Notice and notice methodology implemented pursuant to  
13 this Settlement (i) constituted the best practicable notice; (ii) constituted notice that was reasonably  
14 calculated, under the circumstances, to apprise settlement Class Members of the pendency of the  
15 Action, their right to object to or exclude themselves from the proposed Settlement and their right  
16 to appear at the Final Settlement Hearing; (iii) were reasonable and constituted due, adequate and  
17 sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements  
18 of the California Code of Civil Procedure, the California and United States Constitution (including  
19 the Due Process Clause), the California Rules of Court and any other applicable law.

20 9. The settlement Class is hereby made final. The settlement Class is defined as: "All  
21 persons who are employed or have been employed as an employee by HATHAWAY DINWIDDIE  
22 CONSTRUCTION COMPANY, in the State of California who are or were members of a Union  
23 with a collective bargaining agreement to which HATHAWAY DINWIDDIE CONSTRUCTION  
24 COMPANY is a signatory, from September 22, 2015 to October 16, 2016. ('Proposed Class')"

25 10. The Settlement Agreement is not an admission by Defendant, nor is this Final Order  
26 a finding of the validity of any allegations against or of any wrongdoing by Defendant. Neither  
27 this Final Order, the Settlement, nor any document referred to herein, nor any action taken to carry  
28 out the Settlement by Defendant or otherwise, shall be construed or deemed an admission of



1 liability, culpability, negligence, or wrongdoing on the part of Defendant.

2 11. Pursuant to the Settlement Agreement, upon entry of this Final Order, Plaintiff and  
3 each Class Member shall fully release and discharge the Released Parties pursuant to the following  
4 release, which provides:

5 “any and all claims, charges, complaints, liens, demands, causes of action,  
6 obligations, damages, and liabilities that each participating Class Member  
7 had, now has, or may hereafter claim to have for those claims or causes of  
8 action that were asserted in or could have been asserted in the Lawsuit, as  
9 alleged in Plaintiff’s Third Amended Complaint, regardless of whether such  
10 claims arise under state and/or local law, statute, ordinance, regulation,  
11 common law, or other source of law. The Released Claims specifically  
include, but are not limited to: (1) failure to provide itemized wage  
statements pursuant to Labor Code section 226(a); (2) Penalties Pursuant to  
Labor Code § 2699(f) for failure to provide itemized wage statements, that  
were or could have been asserted during the Class Period.”

12 12. Plaintiff and all Class Members who have not been timely and properly excluded  
13 from the settlement Class, and any person acting on their behalf, are permanently barred and  
14 enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in (as class  
15 members or otherwise), or receiving any benefits or other relief from, any other lawsuit or action,  
16 in any state or federal court, arbitration, or administrative, regulatory or other proceeding or order  
17 in any jurisdiction based on the Released Claims; and (ii) organizing such non-excluded Class  
18 Members into a separate class for purposes of pursuing as a purported class action (including by  
19 seeking to amend a pending complaint to include class allegations, or by seeking class certification  
20 in a pending action) any lawsuit or action based on or relating to the Released Claims;

21 13. The Settlement Agreement provides that the Total Settlement Amount is Six  
22 Hundred and Fifty-Eight Thousand and Six Hundred and Forty-Two Dollars and Fifty Cents  
23 (\$658,642.50). The Distribution Amount shall be determined according to the terms of the  
24 Settlement Agreement.

25 14. The Court orders the calculations and the payments to be made and administered in  
26 accordance with the terms of the Settlement Agreement.

27 15. The Court hereby finds that Plaintiff and Class Counsel adequately represented the  
28 Class for purposes of entering into and implementing the settlement. The Court hereby confirms

1 Kingsley & Kingsley, APC as Class Counsel in the Action.

2 16. The Court hereby finds the unopposed application of Class Counsel for a costs and  
3 attorneys' fees award provided for under the proposed Settlement to be fair and reasonable in light  
4 of all the circumstances and is hereby granted. Of the gross settlement amount, \$219,547.50 shall  
5 be paid for attorney fees and \$15,000.00 shall be paid for litigation costs.

6 17. The unopposed application of Class Counsel for an enhancement payment is hereby  
7 granted. Of the gross settlement amount, a \$5,000.00 enhancement shall be allocated to Named  
8 Plaintiff Luis Moreno.

9 18. The unopposed application of Class Counsel for settlement administration fees to  
10 CPT Group Inc. is hereby granted. Of the gross settlement amount, \$11,000.00 shall be paid for  
11 settlement administration fees.

12 19. The Court approves the PAGA Penalties in the amount of \$50,000.00. The Court  
13 approves 75% of the PAGA Penalties being allocated to the LWDA in the amount of \$37,500.00.  
14 The Court further directs that the remaining 25% of the PAGA Penalties, in the amount of  
15 \$370,595.00 shall be allocated to the participating Class Members.

16 20. After one hundred and eighty (180) days of the mailing of the individual settlement  
17 checks, any uncashed amounts in excess of \$7,350.00, shall be redistributed amongst the Class  
18 Members that cashed their checks on a pro rata basis based on the number of wage statements each  
19 Class Member that cashed their check received during the Class Period. The costs associated with  
20 this second distribution shall be deducted from the uncashed amounts and shall not exceed  
21 \$2,750.00. If the uncashed amounts do not exceed \$7,350.00, these amounts shall be allocated to  
22 the Homeless Advocacy Project, in accordance with Section 384. Defendant shall pay any interest  
23 that has accrued.

24 21. Defendant shall have no further liability for costs, expenses, interest, attorneys'  
25 fees, or for any other charge, expense, or liability, except as provided for in the Settlement  
26 Agreement.

27 22. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court  
28 shall retain jurisdiction of this Action to enforce the terms of the judgement.

1           23.    The Parties shall bear their own costs and attorney’s fees, except as otherwise  
2 provided by the Settlement Agreement and the Court’s Order Granting Final Approval of  
3 Attorneys’ Fees and Costs.

4  
5 **DATED:** \_\_\_\_\_

\_\_\_\_\_ **JUDGE OF THE SUPERIOR COURT**