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8 FERNANDO GUTIERREZ; DAVID
9 CASTILLO; MARCO GONZALEZ,
10 individually and on behalf of others similarly
11 situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN FRANCISCO**

14 FERNANDO GUTIERREZ; DAVID
15 CASTILLO; MARCO GONZALEZ,
16 individually and on behalf of others similarly
17 situated,

18 Plaintiffs,

19 vs.

20 SAARMAN CONSTRUCTION, LTD.;
21 SAARMAN, LLC; and DOES 1 through
22 100, inclusive.

23 Defendants.

Case No. CGC-18-568258

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 7, 2023

Time: 10:00 a.m.

Dept.: 613

Judge: The Hon. Andrew Y.S. Cheng

Action Filed: July 20, 2018

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*

02/24/2023
Clerk of the Court
BY: JUDITH NUNEZ
Deputy Clerk

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 7, 2023 at 10:00 a.m. or as soon thereafter as the
3 matter may be heard in Department 613 of the above entitled Court located at 400 McAllister
4 Street, San Francisco, CA 94102, Plaintiffs Fernando Gutierrez, David Castillo, and Marco
5 Gonzalez, on behalf of themselves and all others similarly situated, will and hereby do move this
6 Court for an order:

- 7
- 8 1. Granting preliminary approval of the proposed class settlement of this lawsuit as
9 reflected in the Stipulation for Class Action Settlement and Release (“Settlement
10 Agreement”), a true and correct copy of which is attached to the Declaration of
11 Michael H. Kim as Exhibit 1, which is concurrently filed with this Motion;
 - 12 2. Pursuant to Section 382 of California Code of Civil Procedure, provisional
13 certification of the Settlement Class and Settlement Subclass defined as follows:

14 CLASS: All hourly employees who worked shifts over 8.0 hours
15 under an Alternative Workweek Schedule in their employment by
16 Saarman Construction, Ltd. in California during the period of July 20,
17 2014, through the present, but who were not paid an overtime
18 premium rate for time in excess of 8.0 hours for those shifts, but
19 excluding all employees who executed individual settlement
20 agreements with Defendant prior to January 1, 2023.

21 SUBCLASS: All hourly employees who worked for Saarman
22 Construction, Ltd. at a public works project known as Francis of
23 Assisi, a/k/a the Mercy Housing Project from January 20, 2014,
24 through the present, and who were paid an hourly rate classified as
25 “Laborer Group 3” while working on that project, but excluding all
26 employees who executed individual settlement agreements with
27 Defendant prior to January 1, 2023

- 28 3. Preliminary appointment of Plaintiffs Fernando Gutierrez, David Castillo, and
Marco Gonzalez as Class Representatives;
4. Preliminary appointment of Michael H. Kim, Esq. of Michael H. Kim, P.C. as Class
Counsel;
5. Appointment of CPT Group, Inc. (“CPT”) as the third-party settlement administrator
for administering the notice, reporting, and calculations for this Settlement;

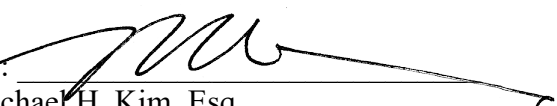
- 1 6. Approving the Class Notice and Request for Exclusion Form (collectively “Notice
2 Packet”), true and correct copies of which are attached to the Settlement Agreement
3 and are attached as Exhibits 2 and 3 to the Declaration of Michael H. Kim;
- 4 7. Setting this matter for hearing on the issues of final approval, approval of the
5 Enhancement/ Service Award to the Class Representatives, and approval of Class
6 Counsel’s request for attorney’s fees and costs, and the administrator’s costs.
- 7 8. Granting such other and further relief as the Court deems just and proper.

8
9 This Motion is brought pursuant to California Rules of Court, Rule 3.769, on the grounds
10 that the settlement reached with the defendants is fair, reasonable, and adequate, achieved as the
11 result of informed, arms-length negotiations, and deserving of approval for the benefit of the
12 Settlement Class to whom it pertains.

13 This Motion is based on this Notice of Motion and Motion, the concurrently filed
14 Memorandum of Points and Authorities, the Declaration of Michael H. Kim and the exhibits
15 attached thereto, the pleadings and other papers filed in this action, and on any further oral or
16 documentary evidence or argument presented at the time of hearing.

17 Dated: February 24, 2023

MICHAEL H. KIM, P.C.

18
19 By: 
20 Michael H. Kim, Esq.
21 Attorneys for Plaintiff
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23 CASTILLO; MARCO GONZALEZ,
24 individually and on behalf of others similarly
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