SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DEPARTMENT 613

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

Plaintiffs,

v.

SAARMAN CONSTRUCTION, LTD.; SAARMAN, LLC; and DOES 1–100, INCLUSIVE.

Defendants.

Case No. CGC-18-568258

ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Before the Court is Plaintiffs' unopposed motion for preliminary approval of the class action settlement reached with remaining defendant Saarman Construction, Ltd. The Court has thoroughly reviewed and considered the proposed Settlement Agreement, appended as Exhibit 1 to the supporting declaration of attorney Michael Kim, the filings related to the motion for preliminary approval, and the pleadings on file in this action. Based on the Court's review, the Court finds the matter suitable for disposition without oral argument, **VACATES** the hearing presently set for April 7, 2023, at 10:00 a.m., **GRANTS** the motion, and **ORDERS** as follows:

1. All terms or phrases used in this order shall have the same meaning as in the Settlement Agreement unless otherwise specified.

2. The Settlement Agreement preliminarily appears to be within the range of possible final approval as a fair, sufficient, and reasonable settlement, such that notice should be provided to the class and subclass.

3. For settlement purposes only, the following settlement class and settlement subclass are conditionally certified.[1]

> *Class*: All hourly employees who worked shifts over 8.0 hours under an Alternative Workweek Schedule in their employment by Saarman Construction Ltd. in California during the period of July 20, 2014, through April 6, 2023, but who were not paid an overtime premium rate for time in excess of 8.0 hours for those shifts, but excluding all employees who executed individual settlement agreements with Defendant prior to January 1, 2023.
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> *Subclass*: All hourly employees who worked for Saarman Construction Ltd. at the public works project known as Francis of Assisi, a/k/a the Mercy Housing Project from January 20, 2014, through April 6, 2023, and who were paid an hourly rate classified as "Laborer Group 3" while working on that project, but excluding all employees who executed individual settlement agreements with Defendant prior to January 1, 2023.

4. For settlement purposes only, the proposed settlement class and subclass meet the requirements for certification under Code of Civil Procedure section 382. Specifically, for settlement purposes: (1) the class and subclass are numerous and ascertainable; (2) there are predominant common questions of law or fact; (3) Plaintiffs' claims are typical of the claims of the members of the class and subclass; and (4) a class action is superior to other methods to efficiently adjudicate this controversy through settlement.

5. For settlement purposes only, Fernando Gutierrez, David Castillo, and Marco Gonzalez are appointed as class representatives. The Court preliminary finds that Mr. Gutierrez, Mr. Castillo, and Mr. Gonzalez will adequately represent the settlement class and subclass in accordance with Code of Civil Procedure section 382 for settlement purposes.

6. For settlement purposes only, Michael H. Kim., P.C. is designated as Class Counsel. The Court preliminarily finds that Class Counsel will represent the interests of the settlement class

[1] To ensure a clear class definition, the Court updates the end date of the class and subclass period from "the present" to the date of preliminary approval, namely April 6, 2023.

and subclass fairly and adequately in accordance with Code of Civil Procedure section 382 for settlement purposes.

7. CPT Group, Inc. is appointed as the settlement administrator. The Court directs CPT Group, Inc. to carry out all of the duties and responsibilities as set forth in the Settlement Agreement and this order, including *inter alia* the provision of notice to and receipt of objections by members of the settlement class and subclass.

8. The parties' proposed form of notice is approved as to form and content subject to the following correction: *the class and subclass definitions in the notice shall be updated in conformity with the Court's certification finding above such that "through the present" is changed to "through April 6, 2023."* Counsel and the settlement administrator shall ensure that all deadlines and addresses are accurately populated in the final form and shall proofread the notice again before it is disseminated in English and Spanish.

9. The proposed plan for distributing notice—in both English and Spanish—and the related procedures for opt-outs, objections, and shift disputes set forth in the Settlement Agreement (§§ 34, 36–40) are approved, meet the requirements of due process, and constitute the best notice practicable under the circumstances.

10. A final approval hearing is set for **July 20, 2023, at 9:00 a.m.** in Department 613 of the Superior Court of California, County of San Francisco, located at 400 McAllister Street, San Francisco, California 94102. At the final approval hearing, the Court will consider whether the Settlement Agreement is fair, whether Class Counsel's application for fees and costs should be approved, whether Plaintiffs' requests for service awards should be approved, and any other matters that the Court deems appropriate.

11. The following dates are set:

Event	Triggering Event	Date
Preliminary Approval		April 6, 2023
Defendant to Provide Class List to Settlement Administrator	Within 21 Days of Preliminary Approval (§ 33).	April 27, 2023

Notice to be Distributed	Within 7 Days from Receipt of Class List (§ 34).	May 4, 2023 (at the very latest)
Deadline for Class Members to Dispute Shifts Worked for Payment Calculation	30 days from Notice Mailing	
Deadline to Object in Writing or Request Exclusion from Class	60 days from Notice Mailing	
Deadline for Plaintiff to File a Motion for Attorneys' Fees, Costs, and Service Award(s)		June 20, 2023
Deadline for Plaintiffs to File a Motion for Final Approval of Class Action Settlement		June 20, 2023
Deadline for Plaintiffs to File Written Objections Received by Settlement Administrator		June 20, 2023
Final Approval Hearing		**July 20, 2023, at 9:00 a.m.**

12. The Court may change the date of the final approval hearing without further notice.

IT IS SO ORDERED.

Dated: April 6, 2023

ANDREW Y.S. CHENG
Judge of the Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, CLARK BANAYAD, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On April 6, 2023, I electronically served the ATTACHED DOCUMENT(S) via File&ServeXpress on the recipients designated on the Transaction Receipt located on the File&ServeXpress website.

Dated: April 6, 2023

Mark Caulkin, Interim Clerk

By: _____
CLARK BANAYAD, Deputy Clerk