

CIV-200901-CIV-DS1900901-ORDR-172004



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**Order and Judgment Granting Final Approval of  
Class Action Settlement filed**



NEW FILE

SEP 01 2020

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF SAN BERNARDINO

16 RUSSELL CHASE, as an individual, and on  
17 behalf of all others similarly situated,

18 Plaintiff,

19 vs.  
20

21 NEW-INDY ONTARIO, LLC., a Limited  
22 Liability Company, and DOES 1 through 100,  
23 inclusive,

24 Defendants.  
25

Case No. CIVDS1900901

~~PROPOSED~~ ORDER AND JUDGMENT  
OF FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT

Date: September 1, 2020  
Time: 10:00 a.m.  
Dept: S26

1 This matter having come before this Court for hearing on September 1, 2020 at 10:00  
2 a.m. on Plaintiff RUSSELL CHASE's ("Named Plaintiff") unopposed Motion for Final  
3 Approval of Class Action Settlement, as set forth in the Parties' Joint Stipulation and Class  
4 Action Settlement Agreement and Release ("Settlement Agreement"), pursuant to the Order  
5 Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"),  
6 adequate notice having been given as required in said Order, and the Court having  
7 considered all papers filed and proceedings had herein, and good cause appearing therefore,  
8 it is ORDERED, ADJUDGED AND DECREED THAT:

9 The Court has jurisdiction over the subject matter of the action and all parties.

10 Based on a review of the papers submitted by Named Plaintiff and a review of the  
11 applicable law, the Court finds that the Gross Settlement Amount of \$375,000.00 and the terms  
12 set forth in the parties' Settlement Agreement are fair, reasonable, and adequate. The Settlement  
13 Agreement is hereby incorporated into this Order as though fully set forth herein. Except as  
14 otherwise specified herein and for purposes of this Order, the terms used in this Order have the  
15 meaning assigned to them in the Settlement Agreement and Notice of Settlement of Class Action  
16 Lawsuit ("Class Notice").

17 The Court has determined that the Class Notice provided to the Class pursuant to the  
18 Preliminary Approval Order fully and accurately informed all Class Members of the material  
19 elements of the proposed Settlement, constituted the best notice practicable under the  
20 circumstances, and constituted valid, due and sufficient notice to all Class Members.

21 The Court hereby grants full, unconditional and final approval of the Settlement as fair,  
22 reasonable and adequate in all respects, determines that the Settlement was made in good faith  
23 and in the best interests of the Parties, and orders the Parties to effectuate the Settlement in  
24 accordance with the terms of the Settlement Agreement. The Court further finds that the  
25 Settlement was the result of arm's-length negotiations conducted after Class Counsel had  
26 thoroughly and adequately investigated the claims and became familiar with the strengths and  
27 weaknesses of those claims. In particular, the amount of monies allocated to the Class Members,  
28 and the assistance of an experienced mediator in the settlement process, among other factors,

1 support the Court's conclusion that the Settlement is fair, reasonable, and adequate. The  
2 amounts agreed to be paid by Defendant New-Indy Ontario, LLC., a Limited Liability Company  
3 ("Defendant"), including the Individual Settlement Payments to be paid to Settlement Class  
4 Members as provided for by the Settlement Agreement, are fair and reasonable under the facts of  
5 this case.

6 The Court hereby grants final approval of attorneys' fees in the amount of \$125,000.00 to  
7 Class Counsel Diversity Law Group, P.C., Law Offices of Choi & Associates, P.C., and David  
8 Lee Law.

9 The Court hereby grants final approval of attorneys' costs in the amount of ~~\$15,879.33~~ <sup>\$15,579.33</sup> to  
10 Class Counsel Diversity Law Group, P.C., Law Offices of Choi & Associates, P.C., and David  
11 Lee Law.

12 The Court hereby grants final approval of a service award in the amount of \$10,000.00 to  
13 Named Plaintiff, in addition to his share of the Class Settlement Payment Allocation as a  
14 Settlement Class Member, for his time and effort serving as the Class Representative.

15 The Court also hereby approves payment of \$7,250.00 to Phoenix Settlement  
16 Administrators, the appointed Settlement Administrator, for the services it has rendered and will  
17 render in administering the Settlement as described more fully in the Settlement Agreement.

18 Pursuant to California Labor Code Section 2698, et seq., the Court also hereby approves  
19 payment of \$12,000.00 to the California Labor & Workforce Development Agency ("LWDA")  
20 as payment for Named Plaintiff's claims on his own behalf and on behalf of all aggrieved  
21 employees/Class Members for penalties under the Private Attorneys General Act ("PAGA").  
22 The \$12,000.00 payment constitutes the 75% allocation to the LWDA of the total amount of  
23 \$16,000.00 allocated to PAGA penalties.

24 The Court hereby finds that the Class Notice and all related documents have been mailed  
25 to all Class Members as previously ordered by the Court, and that such Class Notice fairly and  
26 adequately described the terms of the proposed Settlement Agreement, the manner in which  
27 Class Members could object to or participate in the Settlement, and the manner in which Class  
28 Members could opt out of the Class; was the best notice practicable under the circumstances;

1 was valid, due and sufficient notice to all Class Members; and complied fully with California  
2 Rule of Court 3.769, due process and all other applicable laws. The Court further finds that a  
3 full and fair opportunity has been afforded to Class Members to participate in the proceedings  
4 convened to determine whether the proposed Settlement Agreement should be given final  
5 approval. Accordingly, the Court hereby determines that all Class Members who did not file a  
6 timely and proper request to be excluded from the Settlement are bound by this Order.

7 The Court finds that the Settlement Agreement is fair, reasonable, and adequate as to the  
8 Class, Named Plaintiff and Defendant. The Court further finds that the Settlement is the product  
9 of good faith, intensive, serious, non-collusive, and arm's-length negotiations between the  
10 Parties, is supported by an evidentiary record, experienced and qualified Class Counsel and  
11 involvement of an experienced mediator, and all Settlement Class Members, and confers a  
12 significant financial benefit to the Class commensurate with the likely recovery if Named  
13 Plaintiff prevailed at trial and the risks of continued litigation. The Court further finds that the  
14 Settlement Agreement is consistent with public policy, and fully complies with all applicable  
15 provisions of law, including the provisions of California Code of Civil Procedure section 382  
16 and California Rules of Court, Rule 3.760. The nature of the claims, the strength of Defendant's  
17 defenses, the amounts paid under the Settlement, the allocation of settlement proceeds among the  
18 Settlement Class Members and the fact that a settlement represents a compromise of the Parties'  
19 respective positions rather than the result of a finding of liability at trial all support the Court's  
20 decision granting final approval. The following factors also support the decision granting final  
21 approval: the risk, expense, complexity and likely duration of further litigation; the risk of  
22 attaining and maintaining class action status throughout the proceedings; and the extent of  
23 discovery completed and the stage of the proceedings.

24 The reaction of the Class Members to the proposed Settlement further supports the  
25 Court's decision granting final approval. There are no requests for exclusion from the  
26 Settlement. Also, no objections have been submitted to the Settlement by any of the Class  
27 Members.

1 Phoenix Settlement Administrators shall calculate and administer from the Maximum  
2 Gross Settlement Amount the following, all of which shall be deducted from the \$375,000.00  
3 Gross Settlement Amount: Settlement Class Awards to be made to the Settlement Class  
4 Members; Attorney's Fees and Expenses Payment to Class Counsel; Service Award Payment to  
5 the Named Plaintiff; and PAGA payment to the LWDA. Phoenix Settlement Administrators is  
6 hereby directed to mail the Individual Settlement Payments and take all other actions in  
7 furtherance of the settlement administration as specified in the Settlement Agreement.

8 The releases, waivers and covenants not to sue by the Named Plaintiff, as set forth in the  
9 Settlement Agreement and in the Class Notice, are approved and are hereby incorporated by  
10 reference and made a part of this Order as though fully set forth herein. As more specifically set  
11 forth in the Settlement Agreement, by operation of the entry of this Order and Judgment and  
12 pursuant to the Settlement, Named Plaintiff waives and releases the Released Claims as set forth  
13 in the Settlement Agreement, which are barred pursuant to this Order and Judgment.

14 By means of this Final Approval Order, final judgment is entered, as defined in section  
15 577 of the California Code of Civil Procedure, binding each Settlement Class Member and  
16 operating as a full release and discharge of Released Claims. All rights to appeal this Order or  
17 the Judgment have been waived except as specifically permitted in the Settlement Agreement.

18 Nothing in this Order and Judgment shall preclude any action to enforce the Parties'  
19 obligations under the Settlement or under this Order.

20 Settlement Class Members shall have one-hundred eighty (180) days from the date of  
21 issuance of the check to negotiate the check. Funds represented by Individual Settlement  
22 Payment checks returned as undeliverable and Individual Settlement Payment checks remaining  
23 un-cashed for more than 180 days after issuance will be tendered to California Rural Legal  
24 Assistance.

25 A compliance hearing is set for \_\_\_\_\_, 2020 at \_\_\_\_\_ a.m./p.m.  
26 in Department S26 of the above-referenced Court. At least five (5) days prior to the compliance  
27 hearing, the Settlement Administrator will provide a written declaration under oath to certify the  
28

1 total amount that was paid to all class members and ensure that distribution of the un-cashed  
2 funds be tendered to California Rural Legal Assistance.

3 Without affecting the finality of the Judgment in any way, the Court reserves exclusive  
4 and continuing jurisdiction over the action and the Parties for purposes of supervising the  
5 implementation, enforcement, construction, administration and effectuation of the Settlement  
6 Agreement.

7 The Parties and Phoenix Settlement Administrators are hereby ordered to implement and  
8 comply with the terms of the Settlement Agreement.

9 Notice of entry of this Order and Judgment will be available on the Settlement  
10 Administrator's website.

11 **IT IS SO ORDERED AND ADJUDGED.**

12  
13 Dated: 9/1, 2020



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15 \_\_\_\_\_  
16 HONORABLE DAVID COHN  
17 JUDGE OF THE SUPERIOR COURT  
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