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ALAMEDA COUNTY

JUL 14 2020

CLERK OF THE SUPERIOR COURT

By *[Signature]* Deputy

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of himself, all others similarly situated,
7 and on behalf of the general public

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA, ADMINISTRATION BUILDING**

JUN 17 2020

11 CESAR MENDOZA on behalf of himself, all
others similarly situated, and on behalf of the
12 general public,

13 Plaintiffs,

14 v.

15 INDEPENDENT ELECTRIC SUPPLY, INC.
and DOES 1-100,

16 Defendants.

Case No. RG18916575

Assigned for All Purposes to
Judge Winifred Y. Smith
Department 21

**[PROPOSED] ORDER GRANTING
PLAINTIFF CESAR MENDOZA'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE**

Date: July 10, 2020
Time: 10:00 a.m.
Dept.: 21
Reservation #: R-2171580

Action Filed: August 14, 2018
Trial Date: Not Set

1 **I. RECITALS**

2 This action is currently pending before this Court as a putative class action (the "Action").
3 Plaintiff Cesar Mendoza has applied to this Court for an order preliminarily approving the settlement
4 of the Action in accordance with the Class Action Settlement Agreement (the "Agreement"), which
5 together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement
6 and entry of judgment upon the terms and conditions set forth therein. The Court has read and
7 considered the Memorandum of Points and Authorities in support of Plaintiff's Motion for Preliminary
8 Approval of Class Action Settlement, Conditional Certification, Approval of Class Notice, Setting of
9 Final Approval Hearing Date; and Declaration of David Mara, Esq., in Support of Plaintiff's Motion
10 for Preliminary Approval of Class Action Settlement, and attached exhibits. For purposes of this Order,
11 the Court adopts all defined terms as set forth in the Agreement.

12 **II. FINDINGS**

13 After review and consideration of the Agreement and Plaintiff's motion for preliminary
14 approval and the papers in support thereof, the Court hereby finds and orders as follows:

15 1. The Agreement falls within the range of reasonableness meriting possible final
16 approval.

17 2. The certification of the Class solely for purposes of settlement is appropriate in that:
18 (1) the Class Members are ascertainable and so numerous that joinder of all Class Members is
19 impracticable; (2) there are questions of law and fact common to the Class which predominate over
20 any individual questions; (3) Plaintiff's claims are typical of the claims of the Class; (4) Plaintiff
21 and his Counsel have fairly and adequately represented and protected the interests of the Class; and
22 (5) a class action, and class-wide resolution of the action via class settlement procedures is superior
23 to other available methods for the fair and efficient adjudication of the controversy.

24 3. The Agreement, and the obligations of the Parties as set forth therein, is fair,
25 reasonable, and is an adequate settlement of this case and is in the best interests of the Class in light
26 of the factual, legal, practical, and procedural considerations raised by this case.

27 4. Plaintiff does not have any conflicts that would preclude him from serving as Class
28 Representative, and his appointment comports with the requirements of due process.

1 5. Class Counsel does not have any conflicts that would preclude them from acting as
2 Class Counsel, and they meet the requirements for appointment as Class Counsel and the
3 requirements of due process.

4 6. The Notice of Proposed Class Settlement attached as Exhibit A hereto and to the
5 Agreement complies with due process because the Notice of Proposed Class Settlement is
6 reasonably calculated to adequately apprise Class Members of: (i) the pending lawsuit; (ii) the terms
7 of the proposed Agreement; and (iii) their rights, including the right to either participate in the
8 settlement, exclude themselves from the settlement, or object to the settlement. Plaintiff's proposed
9 plan for class notice and settlement administration is the best notice practicable under the
10 circumstances.

11 **III. ORDER**

12 The Court having considered the papers submitted in support of the motion for preliminary
13 approval, HEREBY ORDERS THE FOLLOWING:

14 1. The Court finds on a preliminary basis that the provisions of the Agreement are fair,
15 just, reasonable, and adequate and, therefore, meet the requirements for preliminary approval.

16 2. The following Class is conditionally certified for purposes of settlement only: All
17 persons who were employed by Defendant Independent Electrical Supply, Inc. and worked in
18 California as non-exempt employees at any time from August 14, 2014 through the date of this
19 Order.

20 3. The Agreement provides for the following release as to Settlement Class Members,¹
21 which is hereby approved conditionally: Any and all claims, debts, liabilities, demands, obligations,
22 guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action which are alleged,
23 or reasonably could have been alleged based on the facts and claims asserted in the Litigation,
24 including without limitation to, claims for restitution and other equitable relief, claims for unpaid
25 wages, unpaid overtime wages, failure to provide rest periods or meal periods or to provide
26 compensation in lieu thereof, meal period penalties, rest period penalties, waiting time penalties,
27 penalties for unpaid minimum wages, penalties for incomplete payroll records, unfair business
28

¹ Settlement Class Members are Class Members who do not properly and timely request to be excluded from the Settlement.

1 practices, failure to provide accurate wage statements, failure to maintain required records, failure
2 to reimburse business expenses, declaratory relief, accounting, injunctive relief, civil penalties
3 brought under the Labor Code Private Attorneys General Act of 2004 (Labor Code Section 2698
4 *et seq.*), claims for penalties of any nature whatsoever arising out of the Settlement Class Members'
5 Released Claims, or any other benefit claimed on account of allegations and claims which are
6 reasonably related to the allegations and claims asserted in the Litigation. This release shall apply
7 to claims arising at any point during the period of time from August 14, 2014 through the date of
8 this Order.

9 3. The settlement appears to be fair, adequate and reasonable to the Class. The
10 settlement falls within the range of reasonableness and appears to be presumptively valid, subject
11 only to any objections that may be raised at the final approval hearing and final approval by this
12 Court.

13 4. Plaintiff Cesar Mendoza is conditionally approved as the Class Representative for
14 the Class.

15 5. The proposed Class Representative General Release Payment of \$7,500 payable to
16 Plaintiff Cesar Mendoza for his services as class representative is conditionally approved.

17 6. Mara Law Firm, PC is conditionally approved as Class Counsel for the Class.

18 7. The proposed awards of up to \$333,333.33 in attorneys' fees and up to \$20,000 in
19 actual costs payable to Class Counsel are conditionally approved.

20 8. A final approval hearing on the question of whether the settlement, attorneys' fees
21 and costs to Class Counsel, and the Class Representative Enhancement should be finally approved
22 as fair, reasonable and adequate as to Class Members is scheduled in Department 21 on the date and
23 time set forth in the Implementation Schedule below.

24 9. The Court confirms Phoenix Settlement Administrators as the Settlement
25 Administrator.

26 10. The proposed payment of no more than \$15,000 in costs to Phoenix Settlement
27 Administrators for its services as the Settlement Administrator is conditionally approved.

28 11. The Court also hereby conditionally approves and orders payment from the Gross
Settlement Fund of the PAGA Payment of \$30,000 (75% of which shall be paid to the Labor and

1 Workforce Development Agency, and 25% of which shall become part of the Net Settlement Fund
2 distributable to Settlement Class Members).

3 12. The Court approves, as to form and content, the Notice in substantially the form
4 attached as Exhibit A hereto and to the Agreement. The Court also approves of the language on the
5 envelope Notices are to be mailed in, attached as Exhibit B hereto and to the Agreement. The Court
6 approves the procedure for Class Members to participate in, to opt out of, and to object to, the
7 settlement as set forth in the Notice.

8 13. The Court directs the mailing of the Notice by first class mail to Class Members in
9 accordance with the implementation schedule set forth in the Implementation Schedule below. The
10 Court finds the dates selected for the mailing and distribution of the Notice, as set forth in the
11 Implementation Schedule, meet the requirements of due process and provide the best notice
12 practicable under the circumstances and shall constitute due and sufficient notice to all persons
13 entitled thereto.

14 14. To facilitate administration of the settlement pending final approval, the Court
15 hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or
16 administrative proceedings (including, but not limited to, filing claims with the Division of Labor
17 Standards Enforcement of the California Department of Industrial Relations) regarding claims
18 released by the Agreement unless and until such Class Members have filed valid Requests for
19 Exclusion with the Settlement Administrator and the time for filing valid Requests for Exclusion
20 with the Settlement Administrator has elapsed. This provision shall not apply to claims not alleged
21 in the Action.

22 **IV. IMPLEMENTATION SCHEDULE**

23 The Court orders the following Implementation Schedule for further proceedings:
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26 Deadline for Defendant to submit Class	[15 calendar days after entry of this Order]
27 Information to Settlement Administrator:	
28 Deadline for Settlement Administrator to	[25 calendar days after entry of this Order]
Mail the Notice to Class Members	

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Deadline for the Settlement Administrator to Set Up a Settlement Website	[25 calendar days after entry of this Order]
Deadline for Class Members to Postmark Requests for Exclusion Forms	[60 calendar days after mailing of Notice to Class Members]
Deadline for Receipt by Court and Counsel of any Objections to the Settlement	[60 calendar days after mailing of Notice to Class Members]
Deadline for Class Counsel to file Motion for Final Approval of Settlement, Attorneys' Fees and Costs, and Class Representative General Release Payments	[16 Court days before Final Approval Hearing]
Final Approval Hearing and Final Approval	<i>December 9, 2020, at 9:00am</i>

IT IS SO ORDERED.

Dated: *July 14*, 2020

By: *Winifred Y. Smith*
Honorable Winifred Y. Smith
Alameda County Superior Court Judge