

1 SAMUEL T. REES (State Bar No. 58099)
THOMAS P. BLEAU (State Bar No. 152945)
2 MARTIN R. FOX (State Bar No. 155783)
BLEAU FOX
3 A Professional Law Corporation
2801 West Empire Avenue
4 Burbank, CA 91504
Telephone: (818) 748-3434
5 Facsimile: (818) 748-3436
6 Attorneys for Plaintiff
and the Plaintiff Class
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE

10
11 RAYMOND STODDARD and SANTIAGO) Case No. 30-2010-00395208-CU-OE-CXC
MEDINA, etc.,)
12) Hon. William Claster
Plaintiffs,) Department CX 102
13)
vs.) CLASS ACTION
14)
EQUILON ENTERPRISES, LLC, et al.,)
15) **REVISED [PROPOSED] PRELIMINARY**
R&Ms.) **APPROVAL ORDER**
16) Date: July 31, 2020
Time: 9:00 a.m.
17) Dept: CX 104
Complaint Filed: August 2, 2010
18) Trial Date: None Set
19) **Reservation No. 73219881**
20)

21
22 WHEREAS, this action is pending before this Court as a Class Action; and
23 WHEREAS, Plaintiff Santiago Medina ("Medina") has filed an unopposed
24 motion with this Court for an Order preliminarily approving the settlement of
25 the Class Action entered into by and between R & M Pacific Rim, Inc., a
26 California corporation, ("R&M") and Medina, individually and on behalf of
27 Settlement Class Members as defined therein, in accordance with their
28 Amended and Restated Settlement Agreement, which, together with the

1 Exhibits attached to the Amended and Restated Settlement Agreement, sets
2 forth the terms and conditions for a proposed partial settlement of the Class
3 Action; and the Court having read and considered the Amended and Restated
4 Settlement Agreement and the Exhibits attached thereto;

5 NOW, THEREFORE, IT IS HEREBY ORDERED:

6 1. This Preliminary Order incorporates by reference the definitions in
7 the Settlement Agreement, as filed with the Court with Medina's motion, and all
8 terms defined therein shall have the same meaning as set forth in the Amended
9 and Restated Settlement Agreement.

10 2. The Court hereby grants Medina's Motion for Preliminary Approval
11 of Class Action Settlement and finds the terms of the Amended and Restated
12 Settlement Agreement to be within the range of reasonableness of a settlement
13 that ultimately could be granted approval by the Court at a Final Approval
14 Hearing.

15 3. The Court preliminarily approves the terms of the Amended and
16 Restated Settlement Agreement and finds that they fall within the range of
17 approval as fair, adequate, and reasonable. The Court hereby preliminarily finds
18 that the Settlement Agreement is the product of informal, non-collusive
19 negotiations conducted at arms' length by the parties. The Court has considered
20 the estimate of the Class Members' total recovery, R&M's potential liability, the
21 allocation of settlement proceeds among Class Members, including the two
22 subclasses, and the fact that a settlement represents a compromise of the
23 parties' respective positions rather than the result of a finding of liability at
24 trial. The assistance of an experienced mediator in the settlement process
25 supports the Court's conclusion that the Settlement is non-collusive and
26 reasonable. The Settlement is presumptively valid.

27 4. For purposes of the Settlement only, the Court finds that the
28 proposed Settlement Class is ascertainable and that there is a sufficiently well-

1 defined community of interest among the members of the Settlement Class in
2 questions of law and fact. Therefore, the Court preliminarily certifies as the
3 Settlement Class, for settlement purposes only, all persons who were employed
4 by R&M and who worked at a Shell branded station operated by R&M and
5 owned by Equilon Enterprises, LLC at any time during the period from August
6 2, 2006 to September 1, 2008. The Settlement Class consists of the Settlement
7 Misclassification Subclass, consisting of all Settlement Class Members during
8 any portion of the Class Period that they were declared by R&M as exempt
9 employees and paid a salary. and the Settlement Break Subclass, consisting of
10 all Settlement Class Members during any portion of the Class Period that they
11 were non-exempt hourly wage employees.

12 5. For purposes of the Settlement only, Medina is approved as the
13 Class Representative.

14 6. For purposes of the Settlement only, Bleau Fox, a Professional Law
15 Corporation, is appointed and approved as Class Counsel.

16 7. The Court hereby appoints and approves Phoenix Settlement
17 Administrators as the Settlement Administrator.

18 8. After balancing the privacy interests of the Settlement Class as
19 asserted by R&M, the Court finds that in order for the Class Notice to be mailed
20 to the Settlement Class at their last known address based upon R&M's
21 employment records, that the Settlement Administrator and Class Counsel have
22 sufficient information to locate Settlement Class members and that the
23 Settlement Administrator and Class Counsel have sufficient information to
24 prorate Individual Settlement payments for each subclass, it is necessary and
25 appropriate, without prior notice to the Settlement Class, that R&M be
26 authorized and directed to provide to the Settlement Administrator and Class
27 Counsel the Class Information to be used solely for the purposes of settlement of
28 this Class Action. Having so determined, the Court hereby orders R&M to so

1 provide to the Settlement Administrator and Class Counsel the Class
2 Information to be so used.

3 9. A hearing ("Final Approval Hearing") shall be conducted before this
4 Court on _____, 2020, at _____ a.m., in Department CX104, to
5 determine whether the proposed settlement of the Class Action on the terms and
6 conditions provided for in the Settlement Agreement is fair, reasonable and
7 adequate, whether said settlement should be finally approved by the Court, and
8 whether a Final Approval Order and Judgment should be entered herein.

9 10. The Court hereby approves, as to form and content, the Class Notice,
10 Information Sheet and Request for Exclusion Form attached as Exhibit 1 to the
11 Amended and Restated Settlement Agreement.

12 11. The Court approves the requirements for disputing the information
13 upon which Settlement Class Members' share of the Settlement will be
14 calculated, objecting to the Settlement, and excluding Settlement Class
15 Members who timely and properly request to be excluded from the Settlement
16 Class, all as provided in the Amended and Restated Settlement Agreement. The
17 Court finds that the procedures and requirements for submitting objections in
18 connection with the Final Approval Hearing are intended to ensure the efficient
19 administration of justice and the orderly presentation of any Settlement Class
20 Member's objection to the Settlement, in accordance with the due process rights
21 of all Settlement Class Members.

22 12. The Court finds that the mailing of the Class Notice substantially in
23 the manner and form as set forth in the Amended and Restated Settlement
24 Agreement and this Preliminary Approval Order meets the requirements of
25 *California Rules of Court* Rules 3.766(d) and 3.769(f), *California Code of Civil*
26 *Procedure* section 382, *California Civil Code* section 1781, other applicable law,
27 and due process, and is the best notice practicable under the circumstances, and
28 shall constitute valid, due and sufficient notice to all Settlement Class Members.

1 13. The Court hereby authorizes the Settlement Administrator to mail
2 or cause to be mailed to Settlement Class Members the Class Notice, completed
3 Information Sheet and the Request for Exclusion Form. Such documents shall
4 be sent by First Class U.S. mail, postage prepaid. Mailing of the Class Notice
5 shall occur within Sixty (60) days after the entry of this Preliminary Approval
6 Order. The Class Notice, completed Information Sheet and the Request for
7 Exclusion Form shall be mailed using the information provided by R&M in the
8 Class Information, as updated, to the extent that Class Notices are returned
9 undeliverable, by the Settlement Administrator as provided in the Amended and
10 Restated Settlement Agreement. Class Counsel may provide additional updated
11 mailing and/or emailing addresses to the Settlement Administrator. If these
12 procedures are followed, notice to Class Members shall be deemed to have been
13 satisfied, and if the intended recipient of the Class Notice does not receive the
14 Class Notice, the intended recipient shall nevertheless remain a Settlement
15 Class Member and shall be bound by all terms of the Settlement Agreement and
16 this Preliminary Approval Order. The Settlement Administrator shall provide
17 periodic reports to Class Counsel and Defense Counsel.

18 14. Before Class Notices are mailed, the Settlement Administrator shall
19 compile a list of all Settlement Class Members' social security numbers provided
20 by R&M in the Class Information and send those names and social security
21 numbers to the Social Security Administration for verification. Upon receipt of a
22 report from the Social Security Administration with any Class Member names
23 that do not match the social security number provided by R&M, commonly called
24 "TIN matching," the Settlement Administrator shall then either obtain a
25 substitute IRS Form W-9 from that Settlement Class Member or, if a properly
26 completed IRS Form W-9 is not obtained, utilize backup withholding on their
27 Individual Settlement Payments.

28

1 15. Prior to forty-six days following the entry of this Preliminary
2 Approval Order, Class Counsel shall serve and file its application for a Class
3 Counsel Award and litigation costs and expenses as well as any application for a
4 Service Award.

5 16. Five days prior to the Final Approval Hearing, Class Counsel shall
6 serve and file the declaration of the Settlement Administrator containing the
7 information required by the Amended and Restated Settlement Agreement.

8 17. The Court reserves the right to adjourn or continue the date of the
9 Final Approval Hearing without further notice to Class Members, and retains
10 jurisdiction to consider all further applications or motions arising out of or
11 connected with the proposed settlement.

12 IT IS SO ORDERED.

13 Dated: _____, 2020

William D. Cluster
Judge of the Superior Court

14 APPROVED AS TO FORM AND CONTENT.

15
16 Dated: July 21, 2020

BLEAU FOX
A Professional Law Corporation

17
18
19 By: /s/ Samuel T. Rees
SAMUEL T. REES

Attorneys for Plaintiff and the Plaintiff Class

20
21 Dated: July 21, 2020

KRING & CHUNG LLP

22
23 By: /s/ Allyson K. Thompson
ALLYSON K. THOMPSON

Attorneys for R&M PACIFIC RIM, INC.

24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 580 West Empire Avenue, Burbank, California 91504.

On July 21, 2020, I served the foregoing document(s) described as **REVISED [PROPOSED] PRELIMINARY APPROVAL ORDER** on the interested parties to this action who are listed on the attached Service List by electronically serving those persons at the electronic addresses noted therein.

STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

FEDERAL: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge, and that I am employed in the office of a member of the Bar of this Court at whose discretion this service was made.

Executed on July 21, 2020, at Burbank, California.

_____/s/ Nathan Childress

Nathan Childress

SERVICE LIST

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Raymond A. Cardozo, Esq.
Reed Smith, LLP
355 South Grand Avenue
Suite 2900
Los Angeles, CA 90071-3048
RCardozo@reedsmith.com

Allyson K. Thompson
Attorney at Law
Kring & Chung, LLP
38 Corporate Park
Irvine, CA 92606
athompson@kringandchung.com