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

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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.,) **UPDATED SECOND REVISED**
15) **[PROPOSED] PRELIMINARY APPROVAL**
R&Ms.) **ORDER**
16)
Date: September 4, 2020
17) Time: 9:00 a.m.
Dept: CX 104
18) Complaint Filed: August 2, 2010
Trial Date: None Set
19)
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 Second
28 Amended and Restated Settlement Agreement, which, together with the

1 Exhibits attached to the Second Amended and Restated Settlement Agreement,
2 sets forth the terms and conditions for a proposed partial settlement of the Class
3 Action; and the Court having read and considered the Second Amended and
4 Restated 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 Second Amended and Restated Settlement Agreement, as filed with the
8 Court, and all terms defined therein shall have the same meaning as set forth in
9 the Second Amended and Restated Settlement Agreement.

10 2. Effective September 4, 2020, the Court hereby grants Medina's
11 Motion for Preliminary Approval of Class Action Settlement and finds the terms
12 of the Second Amended and Restated Settlement Agreement to be within the
13 range of reasonableness of a settlement that ultimately could be granted
14 approval by the Court at a Final Approval Hearing.

15 3. The Court preliminarily approves the terms of the Second Amended
16 and 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 on or before October 4, 2020.

3 9. A hearing ("Final Approval Hearing") shall be conducted before this
4 Court on February 19, 2021 at 9:00 a.m., in Department CX104, to determine
5 whether the proposed settlement of the Class Action on the terms and conditions
6 provided for in the Settlement Agreement is fair, reasonable and adequate,
7 whether said settlement should be finally approved by the Court, and whether a
8 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 Second 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 and sets December 8, 2020 as the deadline for doing so. The Court
15 approves the requirements for objecting to the Settlement and excluding
16 Settlement Class Members who timely and properly request to be excluded from
17 the Settlement Class, all as provided in the Second Amended and Restated
18 Settlement Agreement. The Court finds that the procedures and requirements
19 for submitting objections in connection with the Final Approval Hearing are
20 intended to ensure the efficient administration of justice and the orderly
21 presentation of any Settlement Class Member's objection to the Settlement, in
22 accordance with the due process rights of all Settlement Class Members. The
23 Court sets January 2, 2021, as the deadline for Settlement Class Members to
24 request to be excluded from the Settlement Class or object to the fairness,
25 reasonableness, or adequacy of the Second Amended and Restated Settlement
26 Agreement or the proposed Settlement, the Plan of Allocation, the Class Counsel
27 Award and/or the Service Award and sets the same deadline for Settlement
28

1 Class Members to update their personal information contained in the Class
2 Notice.

3 12. The Court finds that the mailing of the Class Notice substantially in
4 the manner and form as set forth in the Second Amended and Restated
5 Settlement Agreement and this Preliminary Approval Order meets the
6 requirements of *California Rules of Court* Rules 3.766(d) and 3.769(f), California
7 Code of Civil Procedure section 382, California Civil Code section 1781, other
8 applicable law, and due process, and is the best notice practicable under the
9 circumstances, and shall constitute valid, due and sufficient notice to all
10 Settlement Class Members.

11 13. The Court hereby authorizes and directs the Settlement
12 Administrator to mail or cause to be mailed to Settlement Class Members the
13 Class Notice, completed Information Sheet and the Request for Exclusion Form.
14 Such documents shall be sent by First Class U.S. mail, postage prepaid. Mailing
15 of the Class Notice shall occur on November 3, 2020. The Class Notice,
16 completed Information Sheet and the Request for Exclusion Form shall be
17 mailed using the information provided by R&M in the Class Information, as
18 updated, to the extent that Class Notices are returned undeliverable, by the
19 Settlement Administrator as provided in the Second Amended and Restated
20 Settlement Agreement. Class Counsel may provide additional updated mailing
21 and/or emailing addresses to the Settlement Administrator. If these procedures
22 are followed, notice to Class Members shall be deemed to have been satisfied,
23 and if the intended recipient of the Class Notice does not receive the Class
24 Notice, the intended recipient shall nevertheless remain a Settlement Class
25 Member and shall be bound by all terms of the Settlement Agreement and this
26 Preliminary Approval Order. The Settlement Administrator shall provide
27 periodic reports to Class Counsel and Defense Counsel.
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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 September 8, 2020, I served the foregoing document(s) described as **UPDATED SECOND 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 September 8, 2020, at Burbank, California.

/s/ Nathan Childress

Nathan Childress

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SERVICE LIST

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