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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

APR 12 2021

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

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

11 RAYMOND STODDARD and SANTIAGO) Case No. 30-2010-00395208-CU-OE-CXC
MEDINA, etc.,)
12) Hon. James J. Di Cesare
Plaintiffs,) Department C 16
13)
vs.) CLASS ACTION
14)
EQUILON ENTERPRISES, LLC, et al.,) ~~PROPOSED~~ REVISED SECOND
15) AMENDED PRELIMINARY APPROVAL
R&Ms.) ORDER
16)
17) Date: May 14, 2021
Time: 9:30 a.m.
18) Dept: C-16
Complaint Filed: August 2, 2010
19) Trial Date: None Set
20)

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

1 settlement, in accordance with the parties' Second Amended and Restated
2 Settlement Agreement;

3 ~~WHEREAS, the parties now seek to have this Court reconsider its prior~~
4 preliminary approval order in light of the parties' the Third Amended and
5 Restated Settlement Agreement, which now sets forth the terms and conditions
6 for a proposed partial settlement of the Class Action; and

7 WHEREAS, the Court having read and considered the Third Amended
8 and Restated Settlement Agreement and the Exhibits attached thereto;

9 NOW, THEREFORE, IT IS HEREBY ORDERED:

10 1. This Preliminary Order incorporates by reference the definitions in
11 the Third Amended and Restated Settlement Agreement, as filed with the
12 Court, and all terms defined therein shall have the same meaning as set forth in
13 the Third Amended and Restated Settlement Agreement.

14 2. The Court hereby reconsiders its prior preliminary approval order
15 and finds the terms of the Third Amended and Restated Settlement Agreement
16 to be within the range of reasonableness of a settlement that ultimately could be
17 granted approval by the Court at a Final Approval Hearing.

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

3 4. For purposes of the Settlement only, the Court finds that the
4 proposed Settlement Class is ascertainable and that there is a sufficiently well-
5 defined community of interest among the members of the Settlement Class in
6 questions of law and fact. Therefore, the Court preliminarily certifies as the
7 Settlement Class, for settlement purposes only, all persons who were employed
8 by R&M and who worked at a Shell branded station operated by R&M and
9 owned by Equilon Enterprises, LLC at any time during the period from August
10 2, 2006 to September 1, 2008. The Settlement Class consists of the Settlement
11 Misclassification Subclass, consisting of all Settlement Class Members during
12 any portion of the Class Period that they were declared by R&M as exempt
13 employees and paid a salary. and the Settlement Break Subclass, consisting of
14 all Settlement Class Members during any portion of the Class Period that they
15 were non-exempt hourly wage employees. The Settlement Misclassification
16 Subclass does not include any Settlement Class Member during any portion of
17 the Class Period such Settlement Class Member was an Area Manager.

18 5. For purposes of the Settlement only, Medina is re-approved as the
19 Class Representative.

20 6. For purposes of the Settlement only, Bleau Fox, a Professional Law
21 Corporation, is re-appointed and approved as Class Counsel.

22 7. The Court hereby re-appoints and approves Phoenix Settlement
23 Administrators as the Settlement Administrator.

24 8. After previously balancing the privacy interests of the Settlement
25 Class as asserted by R&M, the Court continues to find that in order for the Class
26 Notice to be mailed to the Settlement Class at their last known address based
27 upon R&M's employment records, that the Settlement Administrator and Class
28 Counsel have sufficient information to locate Settlement Class members and

1 that the Settlement Administrator and Class Counsel have sufficient
2 information to prorate Individual Settlement payments for each subclass, it
3 ~~remains necessary and appropriate, without prior notice to the Settlement~~
4 Class, that R&M be authorized and directed to provide to the Settlement
5 Administrator and Class Counsel the Class Information to be used solely for the
6 purposes of settlement of this Class Action.

7 9. A hearing ("Final Approval Hearing") shall be conducted before this
8 Court on July 16, 2021, at 9:30 a.m., in Department C-16, to determine whether
9 the proposed settlement of the Class Action on the terms and conditions
10 provided for in the Settlement Agreement is fair, reasonable and adequate,
11 whether said settlement should be finally approved by the Court, and whether a
12 Final Approval Order and Judgment should be entered herein.

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

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

27 12. The Court finds that the mailing of the Class Notice substantially in
28 the manner and form as set forth in the Third Amended and Restated

1 Settlement Agreement and this Preliminary Approval Order meets the
2 requirements of *California Rules of Court* Rules 3.766(d) and 3.769(f), California
3 Code of Civil Procedure section 382, California Civil Code section 1781, other
4 applicable law, and due process, and is the best notice practicable under the
5 circumstances, and shall constitute valid, due and sufficient notice to all
6 Settlement Class Members.

7 13. The Court hereby authorizes and directs the Settlement
8 Administrator to mail or cause to be mailed to Settlement Class Members the
9 Class Notice, completed Information Sheet and the Request for Exclusion Form.
10 Such documents shall be sent by First Class U.S. mail, postage prepaid. Mailing
11 of the Class Notice shall occur on April 26, 2021.


12 14. Thirty Five days prior to the Final Approval Hearing, Class Counsel
13 shall serve and file its application for a Class Counsel Award and litigation costs
14 and expenses as well as any application for a Service Award.

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

19 16. The Court reserves the right to adjourn or continue the date of the
20 Final Approval Hearing without further notice to Class Members, and retains
21 jurisdiction to consider all further applications or motions arising out of or
22 connected with the proposed settlement.

23 IT IS SO ORDERED.

24 Dated: March 12, 2021


James J. Di Cesare
Judge of the Superior Court

1 APPROVED AS TO FORM AND CONTENT.

2 Dated: March 22, 2021

BLEAU FOX
A Professional Law Corporation

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By: /s/ Samuel T. Rees
SAMUEL T. REES

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Attorneys for Plaintiff and the Plaintiff Class

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7 Dated: March 22, 2021

KRING & CHUNG LLP

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By: /s/ Kerri N. Polizzi
KERRI N. POLIZZI

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Attorneys for R&M PACIFIC RIM, INC.

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