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8 on behalf of himself and all others similarly situated
and aggrieved

FILED
Superior Court of California
County of Los Angeles
08/11/2023
David W. Slayton, Executive Officer / Clerk of Court
By: A. He Deputy

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

13 RODNEY ALBERT JORDAN, an individual
14 and on behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 THE MARTIN-BROWER COMPANY, LLC,
18 a Delaware limited liability company; JESUS
19 FLORES, an individual; and DOES 1 through
20 100, inclusive,

21 Defendants.

CASE NO.: 21STCV41435

[Assigned to the Hon. Stuart Rice in Dept. 1]

~~PROPOSED~~ **ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

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24 This Court, having considered the Motion of plaintiff Rodney Albert Jordan (“Plaintiff”) for
25 Preliminary Approval of the Class and Representative Action Settlement and Provisional Class
26 Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations
27 of David D. Bibiyan, Vedang J. Patel, Plaintiff and Jodey Lawrence, the Class and Representative
28 Action Settlement Agreement (the “Settlement,” “Settlement Agreement” or “Agreement”), the

1 proposed Notice of Pendency of Class Action, Proposed Settlement and Hearing Date for Court
2 Approval (“Class Notice”), and other documents submitted in support of the Motion for Preliminary
3 Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

4 1. The definitions set out in the Settlement Agreement are incorporated by reference
5 into this Order; all terms defined therein shall have the same meaning in this Order.

6 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
7 Class Members” or “Class Members”) for the purpose of settlement only: all current and former
8 non-exempt employees of The Martin-Brower Company, LLC (“Defendant”), in the State of
9 California, except truck drivers, at Defendant’s City of Industry location from June 1, 2020, and at
10 Defendant’s Stockton location from November 10, 2017, through February 15, 2023 (“Class
11 Period”).

12 3. The Court preliminarily appoints the named plaintiff Rodney Albert Jordan as Class
13 Representative, and David D. Bibiyan, Jeffrey D. Klein and Vedang J. Patel of Bibiyan Law Group,
14 P.C., as Class Counsel.

15 4. The Court preliminarily approves the proposed class settlement upon the terms and
16 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
17 settlement appears to be within the range of reasonableness of settlement that could ultimately be
18 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
19 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
20 probable outcome of further litigation relating to liability and damages issues. It further appears that
21 extensive and costly investigation and research has been conducted such that counsel for the parties
22 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
23 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
24 delay and risks that would be presented by the further prosecution of the Action. It further appears
25 that the settlement has been reached as the result of intensive, non-collusive and arms-length
26 negotiations utilizing an experienced third-party neutral.

27 5. The Court approves, as to form and content, the Class Notice that has been submitted
28 herewith.

1 6. Plaintiff is granted leave to file the First Amended Complaint, attached to the
2 Declaration of Vedang J. Patel as Exhibit 3. Plaintiff shall promptly file the First Amended
3 Complaint upon entry of this order.

4 7. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
5 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
6 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
7 with the requirements of law and appears to be the best notice practicable under the circumstances.

8 8. The Court hereby preliminarily approves the definition and disposition of the Gross
9 Settlement Amount of \$2,000,000.00, which is inclusive of: attorneys' fees of up to thirty-five
10 percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement
11 Agreement, amounts to \$700,000.00, in addition to actual costs incurred of up to \$50,000.00; service
12 award of up to \$10,000.00 to Plaintiff; costs of settlement administration of no more than \$12,000.00
13 and Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of \$100,000.00, of
14 which \$75,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA")
15 and \$25,000.00 (25%) to "PAGA Members," defined as all current and former non-exempt
16 employees of Defendant in the State of California, except truck drivers, at any time between
17 November 3, 2021 through February 15, 2023 ("PAGA Period").

18 9. The Gross Settlement Amount expressly excludes Employer Taxes, which will be
19 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

20 10. Class Member's "Workweek" shall mean any calendar week during which a Class
21 Member performed work for Defendant, as reflected by Defendant's time records.

22 11. The Gross Settlement Amount is based on the Parties' estimate that there were no
23 more than 57,720 Workweeks worked by Class Members from June 1, 2020 through December 15,
24 2022. In the event the number of Workweeks worked during the Class Period increases by more
25 than 10% of 57,720 (or an additional 5,772 Workweeks), then the Gross Settlement Amount shall
26 be increased proportionally by the Workweeks worked in the Class Period in excess of 63,492
27 Workweeks multiplied by the Workweek Value. The Workweek Value shall be calculated by
28 dividing the originally agreed-upon Gross Settlement Amount (\$2,000,000.00) by 57,720

1 Workweeks. The Parties agree that the Workweek Value amounts to and the settlement amounts to
2 \$34.65 per Workweek (\$2,000,000 / 57,720 Workweeks). Thus, for example, should there be 65,492
3 Workweeks worked by Class Members during the Class Period, then the Gross Settlement Amount
4 shall be increased by \$69,300.00 [(65,492 Workweeks – 63,492 Workweeks) x \$34.65 per
5 Workweek].

6 12. The Court deems Phoenix Settlement Administrators (“Phoenix,” “Settlement
7 Administrator,” or “Administrator”), the Settlement Administrator, and payment of administrative
8 costs, not to exceed \$12,000.00 out of the Gross Settlement Amount for services to be rendered by
9 Phoenix on behalf of the class.

10 13. Not later than 14 days before the date by which Plaintiff is required to file his Motion
11 for Final Approval, the Settlement Administrator will provide to Class Counsel and Defense
12 Counsel a signed declaration suitable for filing in Court attesting to its due diligence and compliance
13 with all of its obligations under this Agreement, including, but not limited to, its mailing of Class
14 Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate
15 Class Members, the total number of opt-out requests from Settlement it received (both valid or
16 invalid), the number of written objections and attach the Exclusion List. The Settlement
17 Administrator will supplement its declaration as needed or requested by the Parties and/or the Court.
18 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

19 14. Within 21 calendar days of the entry of the Preliminary Approval Order, Defendant
20 shall provide the Settlement Administrator with the following Class Data, to the extent that it
21 possesses the information: (1) the names, last known addresses, last known telephone numbers, and
22 Social Security Number of each Class Member; (2) dates of employment for each Class Member
23 during the Class Period; (3) the number of workweeks worked by each Class Member during the
24 Class Period; and (4) the number of workweeks worked by each PAGA Member during the PAGA
25 Period.

26 15. Upon its receipt of the Class Data, the Settlement Administrator shall access the
27 National Change of Address (“NCOA”) Database and update the addresses.

28 16. The Settlement Administrator shall provide the Notice Packet by first class mail,

1 forwarding requested, to the Class Members at the addresses identified through the process
2 described above. This mailing shall occur no later than 35 calendar days after the entry of the
3 Preliminary Approval Order.

4 17. “Opt-Out Deadline” or “Response Deadline” refers to a date that is forty-five (45)
5 calendar days after the date that the Notice Packet is initially mailed to Class Members, and is the
6 deadline by which Class Members’ requests to opt out or objections must be postmarked in order to
7 be timely, unless a Class Member’s notice is re-mailed, in which case the Class Member shall have
8 an additional fifteen (15) calendar days from re-mailing, or forty-five (45) calendar days from the
9 initial mailing, whichever is later.

10 18. “Objection Deadline” refers to a date that is forty-five (45) calendar days after the
11 date that the Notice Packet is initially mailed to Class Members, and is the deadline by which any
12 objections must be postmarked for service to the Settlement Administrator in order to be timely,
13 unless a Class Members’ notice is re-mailed, in which case the Class Member shall have an
14 additional fifteen (15) calendar days from re-mailing, or forty-five (45) calendar days from the initial
15 mailing, whichever is later.

16 19. In order to opt out of the Settlement, the Class Member must timely submit by mail,
17 an opt-request request to the Settlement Administrator by the Response Deadline. The opt-out
18 request should state the Class Member’s name, address, telephone number, last four (4) digits of
19 Social Security Number, and signature. However, the Settlement Administrator may not reject an
20 opt-out request as invalid because it fails to contain all the information specified in the Class Notice.
21 The Settlement Administrator shall accept any opt-out request as valid if the Settlement
22 Administrator can reasonably ascertain the identity of the person as a Class Member and the Class
23 Member’s desire to be excluded. Any opt-out request that is not postmarked by the Response
24 Deadline will be invalid.

25 20. Except for persons who elect to opt out of the Class in the manner and within the
26 time limits specified in the Settlement Agreement and in the Class Settlement Notice, all Class
27 Members shall be deemed to be within the Class for all purposes under the Settlement Agreement,
28 shall be bound by the terms and conditions of the Settlement Agreement, including the release

1 provisions thereof, all orders issued pursuant thereto, and shall be deemed to have waived all
2 unstated objections and unstated opposition to the fairness, reasonableness, and adequacy of the
3 Settlement Agreement, and any of its terms.

4 21. A Class Member may challenge the workweeks worked by communicating with the
5 Settlement Administrator via fax, email, or mail. Class Members shall have until the response
6 deadline to dispute the number of workweeks allocated to him or her.

7 22. Any Class Member who does not submit a valid and timely request to opt out of the
8 settlement (i.e., a Settlement Class Member) may object to the Settlement. Any Settlement Class
9 Member who wishes to object to the Settlement must submit a written objection, by U.S. mail, to
10 the Settlement Administrator no later than the Response Deadline. The objection must include the
11 case name and number and must set forth, in clear and concise terms, a statement of the reasons why
12 the objector believes that the Court should find that the Settlement is not in the best interest of the
13 Class Members and the reasons why the Settlement should not be approved, including the legal and
14 factual arguments supporting the objection. The Settlement Administrator will promptly serve
15 copies of any objection or notice of intention to appear on Class Counsel and Defense Counsel.
16 Settlement Class Members shall be entitled to appear and/or object at the Final Approval Hearing
17 regardless of whether they have submitted a timely written objection and notice of intention to
18 appear pursuant to this Section. Settlement Class Members may appear at the Final Approval
19 Hearing, either in person or through a lawyer retained at their own expense.

20 23. If a Class Member submits both an objection and a Request for Exclusion, the
21 Request for Exclusion will control and the Objection will be overruled.

22 24. All papers filed in support of final approval, including supporting documents for
23 attorneys' fees and costs, shall be filed by Raymond J. Grogan.

24 25. A Final Fairness and Approval Hearing shall be held with the Court on
25 04/18/2011 at FCMCA in Department 1 of the above-entitled Court to determine:
26 (1) whether the proposed settlement is fair, reasonable and adequate, and should be finally approved
27 by the Court; (2) the amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the
28 amount of service award to the Class Representative; (4) the amount to be paid to the Settlement

1 Administrator; and (5) the amount to be apportioned to PAGA and/or paid to the LWDA and
2 Aggrieved Employees.

3 26. Any funds from uncashed checks shall be transmitted to California State Controller's
4 Office, Unclaimed Property Fund, in the name of the payee of the check.

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6 **IT IS SO ORDERED.**



Stuart M. Rice

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8 Dated: CE * ~ • AFFZGCH

Stuart M. Rice / Judge
Judge of the Superior Court

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