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The Honorable Jason Holloway
 Hearing Date: July 5, 2024

8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
 9 IN AND FOR THE COUNTY OF KING

10 DOMINGO GARCIA PACHECO,
 11 individually and on behalf of all others
 12 similarly situated,

13 Plaintiffs,

14 v.

15 NEWWAY FORMING, INC., a Washington
 16 company; EZIO BORTOLUSSI, in his
 17 individual and corporate capacity;
 18 SALVATORE GIANTOMASO, in his
 19 individual and corporate capacity,

20 Defendants.

No. 22-2-05545-6 SEA

[PROPOSED] ORDER
 CONDITIONALLY CERTIFYING
 SETTLEMENT CLASS, GRANTING
 PRELIMINARY APPROVAL OF CLASS
 ACTION SETTLEMENT,
 AUTHORIZING NOTICE, AND
 SETTING FINAL FAIRNESS HEARING

(CLERK’S ACTION REQUIRED)

21 This matter came before the Court on Plaintiff’s Motion for Conditional Settlement Class
 22 Certification and Preliminary Approval of Class Action Settlement (“Plaintiff’s Motion”). In
 23 conjunction with Plaintiff’s Motion, Plaintiff has filed a copy of the Parties’ signed Class Action
 24 Settlement Agreement and Release of Claims (the “Settlement Agreement”), attached as Exhibit
 25 1 to the Declaration of Gregory M. Skidmore in support of Plaintiff’s Motion.

26 WHEREAS, the Court has considered Plaintiff’s Motion, the Parties’ signed Settlement
 Agreement, and all of the other pleadings, papers, and filings herein;

1 WHEREAS, as used herein, all terms defined in the Parties' Settlement Agreement shall
2 have the same meaning here; and

3 WHEREAS, good cause appearing that the Parties' Settlement Agreement is within the
4 range of reasonableness and is presumptively valid,

5 1. NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

6 Pursuant to Washington Superior Court Civil Rule 23(a) and (b)(3), and in conjunction
7 with the Settlement Agreement, the Court hereby certifies this case as a class action, solely for
8 purposes of implementing the Parties' Settlement Agreement, on behalf of the following Proposed
9 Settlement Class:

10 All individuals currently or formerly employed by Newway Forming, Inc. in the
11 state of Washington including but not limited to those employed at the 1120 Denny
12 Way Seattle, WA 98109, 707 Terry Avenue, Seattle, WA 98104, and 2014 Fairview
13 Avenue, Seattle, WA 98121 construction sites and paid on an hourly basis since
14 September 16, 2018.

15 The Settlement Class shall exclude any persons who opt out of the Settlement Class in accordance
16 with the terms of the Settlement Agreement and Paragraph 14 of this Order.

17 2. The Court finds that the prerequisites of CR 23(a) and (b)(3) have been satisfied for
18 the Settlement Class. Specifically, the Court finds as follows:

19 a. The Settlement Class, which consists of approximately 224 individuals, is
20 so numerous that joinder of all members is impracticable. In reaching this conclusion, the
21 Court has considered not just the number of Class members, but the interests of judicial
22 efficiency, the relatively small value of many Settlement Class Member claims, and other
23 factors relevant to the interest and ability of employees to individually join or bring claims
24 against a current or former employer.

25 b. There are questions of law and fact common to the Settlement Class,
26 including, but not limited to: whether Defendant violated WAC 296-126-092 by failing to
provide adequate rest breaks and meal periods to Plaintiff and members of the Settlement

1 Class; whether Defendant was required to and failed to compensate Plaintiff and members
2 of the Settlement Class with additional wages when rest breaks and meal periods were not
3 provided in compliance with Washington law; whether Defendant failed to pay for all hours
4 worked; and whether Defendant failed to pay the require rate set by contract.

5 c. The claims of the Named Plaintiff are typical of the claims of the Settlement
6 Class, and the Named Plaintiff and Class Counsel will fairly and adequately protect the
7 interests of the Settlement Class.

8 d. Certification of a Settlement Class under CR 23(b)(3) is appropriate because
9 questions of law and fact common to all Settlement Class Members predominate over any
10 questions affecting only individual members, and a class action is superior to other
11 available means for the fair and efficient resolution of this controversy. Such common
12 questions of law and fact include, but are not limited to, those identified in subparagraph
13 (b) above.

14 3. Pursuant to CR 23, Named Plaintiff Domingo Garcia Pacheco are hereby appointed
15 and designated, for all purposes, as the Class Representative of the Settlement Class, and Gregory
16 M. Skidmore and Damien N. Villarreal of Skidmore and Fomina, PLLC and Cindy Heidelberg of
17 Breskin Johnson and Townsend, PLLC are hereby appointed and designated as Class Counsel for
18 the Settlement Class.

19 4. Class Counsel is authorized to act on behalf of the Settlement Class with respect to
20 all acts or consents required by or which may be required pursuant to the Settlement Agreement.

21 5. The Court approves the proposed form and content of the Notice of Proposed
22 Settlement of Class Action (“Class Notice”) that is attached as Exhibit A of Exhibit 1 to the
23 Declaration of Gregory M. Skidmore.

24 6. The Court hereby appoints CPT Group Class Action Administrators as Settlement
25 Administrator responsible for establishing a Qualified Settlement Fund (“QSF”) pursuant to IRC
26 § 468B(g), mailing and/or emailing Class Notices and settlement awards to Settlement Class

1 Members, processing and filing all appropriate tax forms and documents including but not limited
2 to W2s, 1099s, 1120-SF, etc.

3 7. Consistent with the terms of the Settlement Agreement, the Settlement
4 Administrator is hereby directed to email and mail, or cause to be mailed, by first-class mail, a
5 copy of the Class Notice to each Settlement Class Member no later than thirty (30) calendar days
6 following the date of this Order.

7 8. Pursuant to CR 23, the Court hereby finds and concludes that the form and manner
8 of giving notice by mailing a Class Notice to each individual Settlement Class Member, as required
9 by the Settlement Agreement and by this Order, is the best notice practicable under the
10 circumstances. Said notice procedures fully satisfy the requirements of CR 23(c)(2) and CR 23(e)
11 and the requirements of due process.

12 9. The Court conditionally approves Class Counsel's request for an attorneys' fees
13 award of \$73,333.33 or 33 1/3% of the gross Settlement Fund, plus actual and projected litigation
14 costs of up to \$26,000. This approval is preliminary and is subject to modification at the time of
15 final settlement approval upon a showing of appropriate cause.

16 10. The Court preliminarily approves that settlement administration costs shall be paid
17 directly by Defendants to compensate CPT Group Class Action Administrators for its services
18 provided in the administration of the settlement. Those costs are presently estimated at \$10,000.
19 This approval is preliminary and is subject to modification at the time of final settlement approval
20 upon a showing of appropriate cause.

21 11. The Court preliminarily approves an award of an incentive payment of \$15,000 to
22 Domingo Garcia Pacheco in recognition of his role in this case and service to the Settlement Class.
23 This approval is preliminary and is subject to modification at the time of final settlement approval.

24 12. October 25, 2024, at 9:00 a.m., a Final Settlement Approval Hearing shall be held
25 before the Honorable Jason Holloway at the King County Superior Court in Seattle, Washington,
26 to determine whether the Court should approve the fairness, adequacy, and reasonableness of the

1 terms and conditions of the Settlement Agreement and whether the Court should enter the Parties'
2 proposed Final Order and Judgment.

3 13. Pursuant to King County Local Court Rules, Plaintiff shall file memoranda or other
4 papers they may wish to submit in support of the proposed Settlement Agreement no later than
5 nine (9) court days before the Final Settlement Approval Hearing. The memoranda shall confirm
6 that the mailing of the Class Notice was completed in accordance with the requirements of this
7 Order and provide information concerning the individuals that have opted out of the settlement
8 and any objections received. A draft copy of these pleadings shall be provided to Defendant before
9 filing.

10 14. Any person who is eligible to exclude him or herself from the Settlement Class
11 under the terms of the Settlement Agreement must do so by following the instructions for
12 requesting exclusion as set forth in the Class Notice. All requests for exclusion from the Settlement
13 Class must be postmarked, hand-delivered, or emailed to the Settlement Administrator no later
14 than forty-five (45) days after the date of mailing of the Class Notice, in accordance with the
15 instructions in the Class Notice and the terms and requirements of the Settlement Agreement, or
16 they shall be deemed void and ineffective.

17 15. Any Settlement Class Member may enter an appearance through counsel of such
18 Settlement Class Member's own choosing and at such Settlement Class Member's own expense.
19 Any Settlement Class Member who does not personally appear or otherwise enter an appearance
20 at the Final Settlement Approval Hearing shall be deemed to be represented by Class Counsel in
21 this litigation as provided above.

22 16. Any Settlement Class Member who has not validly requested exclusion may submit
23 written objections to the Settlement Agreement by mailing to the Settlement Administrator, at the
24 addresses provided in the Settlement Notice, a written statement containing the Settlement Class
25 Member's name, current address, and the substance of his or her objection (including any briefs
26 and supporting papers) no later than forty-five (45) days after the date of mailing of the Class

1 Notice. Any Settlement Class Member who presents written objections in the manner prescribed
2 above may also appear personally or through counsel at the Final Settlement Approval Hearing to
3 express the Settlement Class Member's views regarding the Settlement Agreement. Only
4 Settlement Class Members who object to the Settlement Agreement in writing, in person, or by
5 appearance through counsel, in accordance with the procedures set forth in this Order, shall be
6 permitted to appeal or otherwise seek review of this Court's decision approving or rejecting the
7 Settlement Agreement. Failure to follow the procedures for objecting set forth herein shall
8 constitute a waiver of a Settlement Class Member's right to object to the Settlement Agreement.

9 17. Pending this Court's ruling on final approval of the Settlement Agreement, the
10 Named Plaintiff and all Settlement Class Members are enjoined from filing or prosecuting any
11 claims, suits or administrative proceedings regarding claims released in the Settlement Agreement,
12 unless and until the Court's final settlement approval hearing. As detailed in the Settlement, the
13 released claims specifically include any and all claims, whether known or unknown, that were
14 brought or that could have been brought based on any facts alleged in the Case through date of
15 preliminary approval, with respect to any claims based on: (1) alleged missed or non-compliant
16 meal periods; (2) alleged missed or non-compliant rest breaks; (3) alleged unpaid hours worked;
17 (4) alleged failure to pay the required rate pursuant to contract, and (5) alleged unpaid and/or
18 incorrectly calculated overtime. The Released Claims specifically include, but are not limited to,
19 any and all claims arising out of or relating to any of the foregoing, as well as any attendant claims
20 for unpaid wages, overtime payments, premium payments, interest, exemplary damages,
21 liquidated damages, and attorney's fees and costs arising out of or relating to the same.

22 18. The Final Settlement Approval Hearing, and all dates provided for herein, may,
23 without further notice to the Settlement Class, be continued or adjourned by order of this Court.

24 19. Consistent with the Settlement Agreement, neither this Order, nor the fact or
25 substance of the Settlement Agreement, shall be considered a concession or admission, nor shall
26

1 they be used as evidence in any proceeding for the purpose of establishing Defendant's liability or
2 wrongdoing.

3 20. In the event the Settlement Agreement does not become effective in accordance
4 with the terms of the Settlement Agreement, or the Settlement Agreement is not finally approved,
5 or the Settlement Agreement is terminated, canceled, or fails to become effective for any reason,
6 this Order shall be vacated and rendered null and void, the Settlement Class shall be decertified,
7 and all claims and defenses previously asserted by the Parties shall be reinstated and the Court
8 shall enter further appropriate orders governing the proceedings and establishing a revised case
9 schedule in this matter.

10 IT IS SO ORDERED this _____ day of July, 2024

11
12 _____
13 The Honorable Jason Holloway
14 Judge, King County Superior Court

14 Presented by:

15 SKIDMORE AND FOMINA PLLC

16 s/ Gregory M. Skidmore

17 Gregory M. Skidmore, WSBA #47462
18 Damien N. Villarreal, WSBA #50708

19 BRESKIN JOHNSON TOWNSEND,
20 PLLC

21 s/ Cynthia Heidelberg

22 Cynthia J. Heidelberg, WSBA #44121

23 *Attorneys for Plaintiff and Proposed*
24 *Class*

King County Superior Court
Judicial Electronic Signature Page

Case Number: 22-2-05545-6
Case Title: PACHECO VS NEWWAY FORMING INC ET AL
Document Title: ORDER RE GRANTING MPA
Signed By: Jason Holloway
Date: July 08, 2024



Judge: Jason Holloway

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: 24DDFCEB02A3A11F5C3288B0443FB81E69669334
Certificate effective date: 3/10/2022 5:01:02 PM
Certificate expiry date: 3/10/2027 5:01:02 PM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Jason Holloway:
SiMotsmN7BG0js09aD1J+g=="