

The Honorable Jason Holloway  
Hearing Date: October 25, 2024  
Hearing Time: 9:00 a.m.

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

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

Plaintiffs,

v.

NEWWAY FORMING, INC., a Washington  
company; EZIO BORTOLUSSI, in his  
individual and corporate capacity;  
SALVATORE GIANTOMASO, in his  
individual and corporate capacity,

Defendants.

No. 22-2-05545-6 SEA

~~PROPOSED~~ ORDER GRANTING  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT

**I. BACKGROUND**

This matter came before the Court on Plaintiff’s Unopposed Motion for Final Approval of Class Action Settlement (“Plaintiff’s Motion”). In conjunction with Plaintiff’s Motion, Plaintiff has filed a copy of the Parties’ signed Class Action Settlement Agreement, attached as Exhibit 1 to the Declaration of Cindy Heidelberg in support of Plaintiff’s Motion, and the Declaration of CPT Group Class Action Administrator Representative Tarus Dancy.

On July 8, 2024 the Court preliminarily approved a proposed Settlement Agreement. In conjunction with that Order, the Court directed that the Claims Administrator, CPT Group, mail

1 the class notice to the Settlement Class and provide the Court with confirmation of compliance in  
2 conjunction with the Final Approval Motion. The preliminary order also provided that class  
3 members who wished to object or opt-out could do so by September 21, 2024. Class members  
4 were informed of their right and of this deadline in the notices that were mailed to them.

5 The Court further scheduled a final settlement hearing, which was held on October 25,  
6 2024, at 9:00 a.m., to consider any objections and comments submitted by class members and to  
7 determine whether the proposed Agreement is fair, adequate, and reasonable.

## 8 **II. FINDINGS OF FACT**

9 1. The Court has considered Plaintiff's Motion, the Parties' signed Settlement  
10 Agreement, and all of the other pleadings, papers, and filings herein, and the arguments made at  
11 the Final Settlement Hearing on October 25, 2024.

12 2. As used herein, all terms defined in the Parties' Settlement Agreement shall have  
13 the same meaning here.

14 3. Consistent with the Court's July 8, 2024 Order, CPT provided notices to the  
15 Settlement Class, consistent with the requirements of due process, and the Settlement Class  
16 members were informed that they had an opportunity to object, submit comments, or opt out by  
17 September 21, 2024.

18 4. No class members objected and only one class member opted-out.

## 19 **III. CONCLUSIONS OF LAW**

20 5. Rule 23(e) provides that "a class action shall not be dismissed or compromised  
21 without the approval of the court..." Compromise of complex litigation is encouraged and  
22 favored by public policy. A presumption of fairness and adequacy attaches to a class action  
23 settlement that is reached in arm's length negotiations by experienced class counsel after  
24 meaningful discovery. *Pickett v. Holland Am.Line-Westours, Inc.*, 145 Wn.2d 178, 209 (2001).

25 6. In *Pickett*, the court set out the criteria for approving a class settlement, stating:  
26

1 The criteria generally utilized to make this determination include:  
2 the likelihood of success by plaintiffs; the amount of discovery or  
3 evidence; the settlement terms and conditions; recommendation and  
4 experience of counsel; future expense and likely duration of  
litigation; recommendation of neutral parties, if any; number of  
objectors and nature of objections; and the presence of good faith  
and the absence of collusion.

5 145 Wn.2d at 188. *See also* 2 Herbert B. Newberg & Alba Conte, NEWBERG ON CLASS ACTIONS  
6 § 11.43, "General Criteria for Settlement Approval" (3d ed. 1992).

7 7. Based upon these factors, the Court finds that the Agreement is fair, reasonable,  
8 and within the best interests of the class. The requirements of due process and CR 23 have been  
9 satisfied.

10 8. Specifically, the Court concludes that the Agreement was the result of arms'-length  
11 bargaining. It was reached after sufficient discovery and motions practice. Although the Plaintiff  
12 believed that he had a strong likelihood of success, Defendants also believed that they would  
13 ultimately succeed, such that there was risk in proceeding with litigation. The settlement achieves  
14 the goals of litigation, especially in light of the financial duress and wind-up of the company and  
15 limited resources remaining for settlement. There is no evidence of collusion between the parties,  
16 and the agreement was reached in good faith.

17 9. The class was provided with adequate notice and due process has been satisfied in  
18 connection with the distribution of the notice. As noted above, there were no objections or  
19 comments to the Proposed Agreement and only one Settlement Class Member opted-out.

#### 20 **IV. ORDER**

21 NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

22 1. The Settlement Agreement is approved as fair, reasonable, and adequate under CR  
23 23, and its terms shall bind class members, other than the one class member who opted-out.

24 2. The Court approves Class Counsel's request for an attorneys' fees award of  
25 \$73,333.33 or 33 1/3% of the gross Settlement Fund, plus actual and projected litigation costs of  
26 up to \$26,000.



1 **MORGAN LEWIS & BOCKIUS LLP**

2 /s/ Molly Terwilliger

3 Molly Terwilliger, WSBA #28449

4 Claire Lesikar, WSBA #60406

5 *Attorneys for Defendant*

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21 **CERTIFICATE OF SERVICE**

22 I certify that I caused the forgoing to be served on the following individual(s):

23 *Counsel for Defendant:*

24 **MORGAN LEWIS & BOCKIUS LLP**

25 Molly Terwilliger

26 Claire Lesikar

- Via Facsimile
- Via First Class Mail
- Via Messenger
- Via Email
- Via EFiled/EService

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Dated October 25, 2024 at Seattle, Washington.

s/ *Jesica A. McClure*  
Jesica McClure, Paralegal

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 APPROVING CLASS SETTLEMENT  
  
Signed By: Jason Holloway  
Date: October 25, 2024



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Judge: Jason Holloway

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

Certificate Hash: 24DDDFCEB02A3A11F5C3288B0443FB81E69669334  
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:  
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