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Attorneys for Plaintiffs, JOSE MANUEL ALAMO and BLAS NOE LICANO MUNOZ, on behalf of themselves and or all similarly situated persons

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR COUNTY OF KERN

JOSE MANUEL ALAMO and BLAS NOE
LICANO MUNOZ, on behalf of themselves,
And for all similarly situated persons, and the
General public;

Plaintiff,

v.

LEHR BROTHERS, INC., a California
Corporation; and DOES 1 through 50,
inclusive;

Defendant.

CASE NO: Case No. BCV-20-102932

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: January 13, 2023
Time: 8:30 a.m.
Dept.: H
Judge: Hon. Bernard C. Barmann

1 On January 13, 2023, the Court held a hearing on Plaintiffs Jose Alamo and Blas Noe Licano's
2 ("Plaintiffs") Motion for Final Approval of Class Action and PAGA Settlement between Plaintiffs and
3 Defendant Lehr Brothers, Inc., and DOES 1 to 100, inclusive (collectively "Defendant"). Plaintiffs and
4 Defendant may sometimes be referred to herein this Order collectively as the "Parties" or individually as
5 "Party."

6 Due and adequate notice having been given to Class Members, and the Court having considered
7 the Joint Stipulation re: Class Action and PAGA Settlement (the "Settlement Agreement" or "Settlement")
8 reached and entered into by and between the Parties, all of the legal authorities and documents submitted
9 in support thereof, all papers filed and proceedings had herein, all oral and written comments received
10 regarding the proposed settlement, and having reviewed the record in this litigation, and good cause
11 appearing, the Court **GRANTS** final approval of the Settlement and **ORDERS AND MAKES THE**
12 **FOLLOWING FINDINGS AND DETERMINATIONS:**

13 1. All terms, provisions, and conditions used and set forth in this Order Granting Final
14 Approval of Class Action and PAGA Settlement (the "Order") shall have the same meanings, definitions,
15 and uses as those same or similar terms, provisions, and conditions as used and/or defined under the
16 Parties' Settlement Agreement.¹

17 2. The Court has personal jurisdiction over the Parties to this litigation and subject matter
18 jurisdiction to approve this Settlement and all exhibits thereto.

19 3. For settlement purposes only, the Court finally certifies the Class, as defined in the
20 Agreement and as follows:

21 *"All non-exempt employees of Defendant who are or were employed [former and current*
22 *employees] by Defendant and worked at least one shift for or on behalf of Defendant [at any time]*
23 *from December 14, 2016 through August 31, 2022 ["Preliminary Approval Date"]."*

24 4. For settlement purposes only, the Court finds that the PAGA Settlement Class is
25 defined as set forth under the Agreement and as follows:

26 *"All non-exempt employees (Aggrieved Employees), both former and current, who are or*

27
28 ¹ A true and correct copy of the Executed Settlement Agreement is already a part of the Court's record as Exhibit A to the Declaration of Amir Seyedfarshi in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Accordingly, the Settlement Agreement attached thereto is made a part of and to be incorporated into this Order, as if attached to and/or fully set forth hereunder, by this reference.

1 *were employed by and worked at least one shift for Defendant in the State of California*
2 *during the PAGA Period [August 25, 2019 through August 31, 2022].”*

3 5. The Court finds that December 14, 2016 through August 31, 2022 is the “Class Period”
4 applicable to this instant action.

5 6. The Court finds that August 25, 2019 through August 31, 2022 is the “PAGA Period”
6 applicable to this instant action.

7 7. The Court finds that approximately 274 Class Members worked for or on behalf of
8 Defendant during the Class Period, and that approximately 171 PAGA Settlement Class Members worked
9 for or on behalf of Defendant during the PAGA Period.

10 8. The Court deems the Class definition sufficient for the purpose of California Rule of Court
11 3.765(a) and for the purpose of effectuating the Settlement.

12 9. The Court finds that an ascertainable class of 274 Class Members exists and a well-defined
13 community of interests exists in the questions of law and fact involved because in the context of the
14 Settlement: (i) all related matters, predominate over any individual questions; (ii) the claims of the
15 Plaintiffs are typical of claims of the Class Members; and (iii) in negotiating, entering into and
16 implementing the Settlement, Plaintiffs and Class Counsel have fairly and adequately represented and
17 protected the interest of the Class Members.

18 10. The Court is satisfied that ILYM Group, Inc., which functioned as the Settlement
19 Administrator, completed the distribution of Class Notice to the Class in a manner that comports with
20 California Rule of Court 3.766. The Class Notice informed 274 Class Members of the Settlement terms,
21 their rights to do nothing and receive their settlement share, their rights to submit a request for exclusion
22 or opt-out of the Settlement reached by the Parties, their rights to comment on or object to the Settlement,
23 and their rights to appear at the Final Approval Hearing and be heard regarding approval of the Settlement.
24 Adequate periods of time to respond and to act were provided by each of these procedures.

25 11. No Class Member filed or submitted a written objection or comment to the Settlement as
26 part of the notice process or prior to the deadline set forth in the notice related documents provided to the
27 Class.

28 12. No Class Member requested to be excluded or opt-out from the Settlement as part of this

1 notice process or prior to the deadline set forth in the notice related documents provided to the class.

2 13. No Class Member filed a written statement of intention to appear at the Final Approval
3 Hearing.

4 14. As a result, all 274 Class Members shall be subject to all applicable terms, provisions,
5 conditions, and releases set forth under the Settlement Agreement.

6 15. The Court hereby approves the terms set forth in the Settlement Agreement, including the
7 \$275,000.00 gross settlement amount, and finds that the Settlement Agreement is, in all respects, fair,
8 adequate, and reasonable, consistent and compliant with all applicable requirements of the California Code
9 of Civil Procedure, the California and United States Constitutions, including the Due Process clauses, the
10 California Rules of Court, and any other applicable law, and in the best interests of each of the Parties and
11 Class Members.

12 16. The Court directs the Parties to effectuate the Settlement Agreement according to its terms,
13 provisions, and conditions, and declares this Settlement Agreement to be binding on all Class Members.

14 17. The Court finds that the Settlement Agreement has been reached as a result of informed
15 and non-collusive arm's -length negotiations. The Court further finds that the Parties have conducted
16 extensive investigation and research, and their attorneys were able to reasonably evaluate their respective
17 positions.

18 18. The Court also finds that Settlement now will avoid additional and potentially substantial
19 litigation costs, as well as delay and risks if the Parties were to continue to litigate the case. Additionally,
20 after considering the monetary recovery provided as part of the Settlement in light of the challenges posed
21 by continued litigation, and the Court concludes that Class Counsel secured significant relief for Class
22 Members.

23 19. The Settlement Agreement is not an admission of liability, guilt, fault, or wrongdoing, in
24 any manner, by Defendant as to any claims, causes of action, allegations, wrongdoing, or contended
25 violations asserted or could have been asserted under Plaintiffs' operable complaint or placed at issue in
26 this action, nor is this Order a finding, ruling, order, or judgment as to the validity, sufficiency, or actuality
27 of any claims, causes of action, allegations, contended violations, or any wrongdoing by Defendant.
28 Neither this Order, the Settlement Agreement, nor any document referred to herein, nor any action taken

1 to carry out the Settlement Agreement, may be construed as, or may be used as, an admission of any fault,
2 wrongdoing, omission, concession, or liability whatsoever by or against Defendant.

3 20. The Court confirms Jose Manuel Alamo and Blas Noe Licano as Class Representatives and
4 finds them to be adequate.

5 21. The Court confirms Farrah Mirabel of Law Offices of Farrah Mirabel and Amir
6 Seyedfarshi of Employment Rights Law Group, APC as Class Counsel, and finds each of them to be
7 adequate, experienced, and well-versed in similar class action litigation.

8 22. The terms of the Agreement, including the gross settlement amount of **\$275,000.00**, and
9 the individual Settlement Shares, are fair, adequate, and reasonable to the Class and to each Class Member,
10 and the Court grants final approval of the Settlement set forth in the Agreement, subject to this Order. The
11 Court approves the following allocations, which fall within the ranges stipulated by and through the
12 Settlement Agreement:

- 13 a. The **\$8,000.00** designated for payment to ILYM Group, Inc., the Settlement Administrator,
14 is fair and reasonable. The Court grants final approval of, and orders the Parties to make,
15 the payment to the Settlement Administrator in accordance with the Agreement.
- 16 b. The **\$96,250.00** requested by Plaintiffs and Class Counsel for the Class Counsel's
17 attorneys' fees is fair and reasonable in light of the benefit obtained for the Class. The
18 Court grants final approval of, awards, and orders the Class Counsel Fees Payment to be
19 made in accordance with the Agreement.
- 20 c. The Court awards **\$9,518.40** in litigation costs, an amount which the Court finds to be
21 reflective of the reasonable costs incurred. The Court grants final approval of, and orders
22 the Class Counsel Litigation Expenses Payment in this amount to be made in accordance
23 with the Agreement, and divided between counsel in proportion with their respective costs
24 expenditures.²
- 25 d. The **\$20,000.00** requested by Plaintiffs for their Class Representative Payment is fair and
26 reasonable. The Court grants final approval and orders the Class Representative Payment

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28 ² The Settlement Agreement contemplates litigation cost reimbursement in the amount of \$10,000.00 which was already
preliminarily approved by this Court and noticed to the Class, however, Plaintiff's counsel is only requesting reimbursement
of litigation costs in the amount of \$9,518.40, with the balance added to the Net Settlement Amount to be distributed to the
Participating Class Members.

1 to be made in accordance with the Agreement.

- 2 e. The Court grants final approval of the **\$12,000.00** PAGA payment 75% of which shall be
3 paid to the LWDA and orders the payment to be made in accordance with the Agreement.

4 23. The Court orders the Parties to comply with and carry out all terms, provisions, and
5 conditions of the Settlement Agreement, to the extent that the terms thereunder do not contradict or
6 conflict with this Order, in which case the provisions of this Order shall take precedence and supersede
7 the Settlement Agreement.

8 24. Nothing in the Settlement or this Order purports to extinguish or waive Defendant's rights
9 to continue to oppose the merits of the claims in this Action or class treatment of these claims in this case
10 if the Settlement fails to become final or effective, or in any other case without limitation. The Settlement
11 is not an admission by Defendant, nor is this Order or the subsequent Judgment that Plaintiffs have asked
12 the Court to enter based on this Order a finding of the validity of any allegations against Defendant in the
13 Court proceeding or any wrongdoing by Defendant. Neither the Settlement nor this Order or the
14 subsequent Court Judgment is a finding that certification of the Class is proper for any purpose or
15 proceeding other than for settlement purposes.

16 25. Plaintiffs, Class Members, and all other Releasing Parties shall be bound by the Settlement
17 and this Order, including the Release of Claims³ in favor of Defendant and the other Released Parties⁴ as
18 set forth in the Agreement, and are permanently barred, estopped, and enjoined from prosecuting against
19 Defendant and the other Released Parties any and all such released and discharged claims as defined and
20 set forth under the Settlement Agreement.

21 26. The Parties shall bear their own respective attorneys' fees and costs except as otherwise
22 provided in the Settlement Agreement.

23 27. Individual Settlement Payment checks shall remain negotiable and/or able to be cashed for
24 180 days from the date of issuance. Any funds associated with checks that have not been negotiated or
25 cashed within the 180 day period will become void and the individual settlement amount associated with
26 the uncashed check or checks shall be distributed pursuant to Code of Civil Procedure Section 384 to the

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28 ³ "Released Claims" means and includes a release of all claims as identified and set forth under relevant provisions of the Settlement Agreement, of which are incorporated herein by this reference.

⁴ "Released Parties" means Defendant and all other parties to be released as set forth under relevant provisions of the Settlement Agreement, of which are incorporated herein by this reference.

1 Kern County Wounded Heroes Fund as the *cy pres* recipient.

2 28. The Court appoints the Kern County Wounded Heroes Fund as the *cy pres* recipient set
3 forth above.

4 29. Within ten (10) days after the Court has held the Final Approval Hearing and entered this
5 Final Order certifying the Class for settlement purposes only and approving the Class Settlement, the
6 Settlement Administrator shall give notice to the Settlement Class Members pursuant to Rule 3.771(b) of
7 the California Rules of Court by posting a copy of this Order and Final Judgment issued by the Court on
8 its website (address of which was included in the Class Notice).

9 30. Pursuant to California Rule of Court 3.769(h), the Court retains jurisdiction solely for
10 purposes of implementing the terms of the settlement, such as requiring the filing of a final report on
11 distributions made to the Class Members, enforcing the Settlement Agreement, addressing settlement
12 administration matters, and addressing such post-Judgment matters as may be appropriate under court
13 rules or applicable law.

14 31. Plaintiffs or the Settlement Administrator shall file with the Court a report regarding the
15 status of distribution within One Hundred Twenty (120) days after distribution of all Settlement Funds to
16 Class Members in accordance with the terms, provisions, and conditions of the Settlement Agreement.

17 32. The Court hereby sets a hearing date of August 23, 2023 at 8:30 ~~pm~~/am
18 for a hearing on the final accounting and distribution of settlement funds.

19 **IT IS SO ORDERED.**

20
21 DATED: Signed: 1/13/2023 08:59 AM



22 HON. BERNARD C. BARMANN
23 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
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