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5 Attorneys for Plaintiffs,
JOSE ISIDRO ACEVES LUNA, on behalf of
6 himself and all others similarly situated

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA**

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11 JOSE ISIDRO ACEVES LUNA, on behalf of) CASE NO.: RG17859881
himself and all others similarly situated,)
12 Plaintiffs,) [Assigned for all purposes to the Hon. Brad
13) Seligman - Dept. "23"]
14 v.) **[REVISED PROPOSED] ORDER FOR**
15) **PRELIMINARY APPROVAL OF CLASS**
BERKELEY FORGE & TOOL INC., a) **ACTION SETTLEMENT**
16 California corporation; and DOES 1 through)
100, Inclusive)
17 Defendants.)
18)
19)

20 On June 5, 2018 and June 26, 2018, the Honorable Brad Seligman considered plaintiff,
21 Jose Isidro Aceves Luna's ("Plaintiff") Motion for Preliminary Approval of Class Action
22 Settlement and Provisional Class Certification for Settlement Purposes Only ("Approval
23 Motion"), Declaration and Supplemental Declaration of Michael Nourmand in Support of Motion
24 for Preliminary Approval of Class Action Settlement, the Settlement Agreement, Notice of Class
25 Action Settlement ("Notice Packet") and the documents submitted in support of the Approval
26 Motion. The Nourmand Law Firm, APC appeared for and on behalf of Plaintiff and Plaintiff
27 Class; Polsinelli LLP appeared on behalf of defendant, Berkeley Forge & Tool Inc. ("Defendant");
28 and there were no other appearances.

1 Having considered the Approval Motion, Declaration and Supplemental Declaration of
2 Michael Nourmand, and all supporting legal authorities and documents, the Court ordered as
3 follows:

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5 IT IS HEREBY ORDERED THAT:

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7 1. This Order incorporated by reference the definitions in the Settlement Agreement,
8 attached as Exhibit “1” to the Declaration of Michael Nourmand and revisions to paragraph 17
9 and 41 of the Settlement Agreement as provided in the Supplemental Declaration of Michael
10 Nourmand, and all terms defined therein shall have the same meaning in this Order as set forth in
11 the Settlement Agreement.

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13 2. For settlement purpose only, the Court certifies the following Settlement Class: All
14 current and former hourly non-exempt hourly employees of Defendant who worked in the State of
15 California during the period from May 11, 2013 through December 6, 2017.

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17 3. The Court preliminarily appoints named plaintiff, Jose Isidro Aceves Luna as Class
18 Representative and Michael Nourmand, Esq. and James A. De Sario, Esq. of The Nourmand Law
19 Firm, APC as Class Counsel.

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21 4. The Court hereby preliminarily approves the proposed class settlement upon
22 the terms and conditions set forth in the Settlement Agreement. The Court finds that on a
23 preliminary basis that the Settlement appears to be within the range of reasonableness of
24 settlement that could ultimately be given final approval by the Court. It appears to the Court on a
25 preliminary basis that the Settlement amount is fair, adequate, and reasonable as to all potential
26 Settlement Class members when balanced against the probable outcome of further litigation
27 relating to liability and damages issues. It further appears that extensive and costly investigation
28 and research has been conducted such that counsel for the Parties at this time are reasonably able

1 to evaluate their respective positions. It further appears to the Court that the Settlement at this
2 time will avoid substantial additional costs by all Parties, as well as the delay and risks that would
3 be presented by the further prosecution of the Action. It further appears that the Settlement has
4 been reached as the result of intensive, non-collusive, arms-length negotiations utilizing an
5 experienced third party neutral.

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7 5. The Court approves, as to form and content, the proposed revised Notice of Class
8 Action Settlement attached as Exhibit “4” to the Supplemental Declaration of Michael Nourmand.

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10 6. The Court directs the mailing of the Notice of Class Action Settlement by first-
11 class
12 mail to the Settlement Class in accordance with the schedule and procedures set forth in the
13 Settlement Agreement. The Court finds that the dissemination of the Notice of Class Action
14 Settlement set forth in the Settlement Agreement complies with the requirements of due process of
15 law, and appears to be the best notice practicable under the circumstances.

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17 7. The Court hereby preliminarily approves the definition and disposition of the
18 Gross Settlement Amount of five hundred thousand dollars (\$500,000.00), which is inclusive of
19 payment of attorneys’ fees not to exceed 33.33% of the Settlement Amount, costs not to exceed
20 \$20,000, incentive award not to exceed \$5,000 to the named Plaintiff, PAGA penalties of \$10,000
21 (of which 75% or \$7,500 will be paid to the LWDA and 25% or \$2,500 will be paid to
22 participating class members) and cost of administration not to exceed \$5,000. Defendant shall pay
23 the employer’s share of payroll taxes in addition to the Gross Settlement Amount.

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25 8. The Court confirms Simpluris, Inc. as the Settlement Administrator, and payment
26 of administrative costs, not to exceed \$5,000, out of the Gross Settlement Amount for services to
27 be rendered by Simpluris, Inc. on behalf of the Class. The Settlement Administrator shall prepare
28 and submit to Class Counsel and Defendant’s Counsel a declaration attesting to the completion of

1 the notice process as set forth in the Settlement Agreement, including an explanation of efforts to
2 resend any Notice of Class Action Settlement returned undeliverable and the total number of opt-
3 outs and objections received before and after the deadline.

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5 9. The Court directs Defendant to provide the Settlement Administrator with
6 the “Class List” for Class Members providing the following information: (1) names; (2) last
7 known home address and telephone numbers; (3) dates of employment or number of workweeks
8 worked by each Class Member during the Class Period; and (4) social security number.
9 Defendant shall provide the “Class List” as referenced herein, to the Settlement Administrator in
10 accordance with the procedure and deadlines set forth in the Settlement Agreement, by **July 3,**
11 **2018.**

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13 10. The Settlement Administrator shall use the National Change of Address database
14 (U.S. Postal Service) to check for updated addresses for Class Members and shall then mail, via
15 first class U.S. mail, the Notice of Class Action Settlement to Class Members as approved in
16 paragraph 5 herein, in accordance with the procedure and deadlines set forth in the Settlement
17 Agreement, by **July 9, 2018.**

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19 11. The deadline by which Settlement Class members may dispute the number of
20 workweeks, opt-out or object shall be forty-five (45) days from the date of mailing of the Notice
21 of Class Action Settlement or by **August 23, 2018.** Any Class Member who desires to be
22 excluded from the Settlement must timely mail or fax his or her written request for exclusion in
23 accordance with the Notice of Class Action Settlement. All such persons who properly and timely
24 exclude themselves from the Settlement shall not be class participants, and shall have no rights
25 with respect to the settlement, no interest in the settlement proceeds, and no standing to object to
26 the proposed settlement.

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3 12. The deadline for filing objections to any of the terms of the Settlement shall be
4 forty-five (45) days from the date of mailing of the Notice of Class Action Settlement or by
5 **August 23, 2018**. Any Class Member who wishes to object to the Settlement must serve a written
6 objection on the Settlement Administrator, who will email a copy of the objection to Class
7 Counsel and counsel for Defendant. Class Counsel will lodge a copy of the objection with the
8 Court. The objection must set forth, in a clear and concise manner, the factual and legal basis for
9 the objection. Absent good cause found by the Court, any Class Member who fails to make his or
10 her objection in the manner provided for in this Order shall be deemed to have waived such
11 objection and shall forever be foreclosed from making any objection to or appeal of the fairness,
12 reasonableness or adequacy of the Settlement as incorporated in the Settlement Agreement, or to
13 the award of attorneys' fees, costs, or incentive award to class representative.

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15 13. All papers filed in support of Final Approval, including supporting documents for
16 attorneys' fees and costs shall be filed on **September 14, 2018**.

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18 14. Class Counsel and Counsel for Defendant shall file any responses to any written
19 objections submitted to the Court in accordance with the time frame set forth in the Settlement
20 Agreement.

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22 15. A final approval hearing shall be held with the Court on **October 9, 2018 or**
23 _____ at _____ am/pm, in Department "23" of the above-entitled Court to
24 determine (1) whether the proposed settlement is fair, reasonable, and adequate and should be
25 finally approved by the Court; (2) the amount of attorneys' fees and costs to award Class Counsel;
26 and (3) the amount of incentive award to the Class Representative.

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3 16. In the event the Settlement does not become effective in accordance with the terms
4 of the Settlement, or the Settlement is not finally approved, or is terminated, cancelled or fails to
5 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
6 and the Parties shall revert to their respective positions as of the commencement of the Action.
7 The Parties will be free to assert any claim or defense that could have been asserted at the outset
8 of the Action.

9 **IT IS SO ORDERED.**

10 DATED: _____, 2018

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HONORABLE BRAD SELIGMAN

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within entitled action; my business address is 8822 West Olympic Boulevard, Beverly Hills, California 90211.

On June 19, 2018, I served the following document(s) described as:

[REVISED PROPOSED] ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

on the interested parties in this action as follows:

Charles Thompson, Esq.
Emily Knoles, Esq.
POL SINELLI LLP
Three Embarcadero Center, Suite 2400
San Francisco, California 94111

BY MAIL: As follows: I am readily familiar with our office's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On this date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for collection and mailing on this date at the address stated above, following our office's ordinary business practices. The envelope(s) will be deposited with the United States Postal Service on this date, in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this Proof of Service was executed on June 19, 2018, at Beverly Hills, California.

Karen Arellano