

F I L E D
Clerk of the Superior Court

MAY 23 2018

BY Noreen McKinley, Deputy

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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**
10 **NORTH COUNTY DISTRICT**

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12 **ZENAIDA LEYVA**, individually and on behalf of
13 other persons similarly situated,

14 Plaintiffs,

15 vs.

16 **SOLATUBE INTERNATIONAL, INC.;** and
17 **DOES 1 to 50,**

18 Defendants.
19

Case No. 37-2015-00036395-CU-OE-NC
[Unlimited Jurisdiction]

**AMENDED [PROPOSED] ORDER ON
JOINT EX PARTE APPLICATION TO
MODIFY ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT ENTERED APRIL 23, 2018
NUNC PRO TUNC**

[IMAGED FILE]

Hon. Earl H. Maas, III
Dept. N-28
Date of Hearing: May 23, 2018
Time of Hearing: 8:30 a.m.

Date Action Filed: 10/28/2015
FAC Filed 9/14/16

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24 **IT IS HEREBY ORDERED AS FOLLOWS:**

25 **Recital**

26 1. On December 8, 2017, the Court granted Preliminary Approval of the Settlement
27 Agreement which is attached and concurrently filed with the Declaration of Ari Moss in Support of the
28 Motion for Final Approval as Exhibit 2

29 2. As part of the December 8, 2017 Order, the Court ordered that a court-approved notice
30 be mailed to the class. The Court Approved the Notice as proposed by the parties.

31 3. Terms used in this order have the meaning assigned to them in the Amended Joint
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1 Settlement Agreement (“Settlement Agreement”), which was attached to the Declaration of Ari Moss in
2 Support of Motion for Final Approval as Exhibit 2, and approved on December 8, 2017.

3 4. The Court hereby makes final the conditional class certification contained in the Order
4 Granting Preliminary Approval (“Preliminary Approval Order”), and thus makes final for purposes of
5 the Settlement Agreement the certification of the classes defined as:

6 All of Solatube International Inc.’s hourly paid, non-exempt employees
7 employed by Defendant in California who worked from October 28, 2011
8 through DATE (see order).

9 (collectively referred to herein as “Class Members”).

10 5. The Court appoints as Class Counsel for the purposes of settlement Ari Moss of Moss
11 Bollinger, LLP, and Sahag Majarian, II of the Law Offices of Sahag Majarian, II.

12 Findings

13 1. The Court hereby finds that the notice of settlement (“Class Notice”), as approved for
14 mailing by the Court on December 8, 2017 and subsequently mailed to Class Members, fairly and
15 adequately described the terms of the proposed settlement and the manner in which Class Members
16 could participate in, opt out of, or object to the settlement.

17 2. The Court hereby finds, that the Class Notice was the best practicable notice under the
18 circumstances, was valid and sufficient notice to all Class Members, complied fully with Civil Code §
19 1781(e), Rule of Court 3.769, due process, and all other applicable laws.

20 3. The Court further finds that a full and fair opportunity has been afforded to the Class
21 Members to participate in the proceedings convened to determine whether the proposed Settlement
22 Agreement should be given final approval.

23 4. The Court also finds that no Class Member objected to the Settlement Agreement.

24 5. Therefore, based on the aforementioned findings, the Court enters the following Order:

25 Order

26 1. The Court hereby determines and orders that the following individuals are not bound by
27 the Settlement, as they timely opted out of the settlement: Mackenzie Farmer, Craig E. Hill, and Tanner
28 Nare.

29 2. The Court further orders that the remaining Class Members, those who did not file timely
30 a proper request to be excluded from the settlement are bound by this final order.

31 3. The Court hereby determines and orders that the Settlement Agreement is fair,
32 reasonable, and adequate as to the Class, Plaintiff, and Defendants, and is the product of good-faith,

1 arm's-length negotiations between the parties, and further that the Settlement Agreement is consistent
2 with public policy, and fully complies with all applicable provisions of law. Accordingly, the Court
3 hereby finally and unconditionally approves the Settlement Agreement, and finds that it is consistent
4 with public policy, and fully complies with all applicable provisions of law. Accordingly, the Court
5 hereby orders and hereby finally approves the Settlement Agreement, and specifically:

- 6 a. Approves the Settlement Amount of \$320,000;
- 7 b. Approves the appointment of Zenaida Leyva as the Class Representative;
- 8 c. Approves the application for a service award (class representative enhancement)
9 of \$10,000;
- 10 d. Approves Class Counsel's fee request of \$112,000;
- 11 e. Approves repayment of costs to Moss Bollinger, LLP of \$10,000.00;
- 12 f. Approves payment to the California Labor & Workforce Development Agency
13 of \$3,750 (75% of the \$5,000 allocated to PAGA); and
- 14 g. Approves payment to the Settlement Administrator of \$10,000.

15 4. The Court hereby determines and orders that the releases contained in the Settlement
16 Agreement are consistent with law and appropriate in resolving this lawsuit.

17 5. The Court orders, that within 10 days of the "Effective Date" (May 23, 2018) and
18 pursuant to California Rule of Court, Rule 3.771(d), the Administrator is to post this Order and Judgment
19 on its website for a period of no less than 30 days.

20 6. The Court orders the following schedule for implementing the Final Approval Order:

22 Action	Current Date Set	Proposed Modified Date:
23 Final Approval Hearing	April 20, 2018	May 23, 2018
24 EFFECTIVE DATE		May 30, 2018
25 10 days after the Effective Date	April 30, 2018	June 11, 2018
26 Last Date for Defendant to Wire 27 Funds to Administrator	May 15, 2018	June 12, 2018
28 Last date for Administrator to issue 29 and mail settlement payments to 30 the Class Members	May 29, 2018	June 26, 2018

Action	Current Date Set	Proposed Modified Date:
Last date for Administrator to issue and mail class representative enhancement.	May 29, 2018	June 26, 2018
Last date for Administrator to issue and mail or wire attorneys' fees and costs to Class Counsel.	May 29, 2018	June 26, 2018
Date on which uncashed checks constituting Individual Settlement Payments become "stale dated".	November 25, 2018	December 24, 2018
Date on which Administrator is to Mail uncashed settlement payments to California Unclaimed Wages Fund in name of each Class Member that did not cash checks.	November 26, 2018	January 9, 2019
Last date for Administrator to provide to Class Counsel declaration with respect to distribution of class funds	December 3, 2018	JAN. 18, 2019 [21 days before Final Compliance Hearing, below].
Last date for Class Counsel to file final declaration of distribution of class funds	December 10, 2018	JAN. 30, 2019 [To be determined by the Court in accordance with its calendar].
Date of Final Compliance hearing. If Class Counsel has filed final declaration of distribution, Court may decide no hearing is necessary.	December 20, 2019 [sic]	FEB. 8, 2019 8:30 P.M. [To be determined by the Court in accordance with its calendar].

7. The Court orders that the Settlement Agreement shall not be construed as an admission or evidence of liability, as set forth in the Settlement Agreement.

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8. In furtherance of this Order, the Court determines that the payments of unpaid wages are not "a reversion" as is meant by Code of Civil Procedure Sect. 384.

IT IS SO ORDERED.

DATED: 5-23-18



HONORABLE EARL H. MAAS, III
JUDGE OF THE SUPERIOR COURT