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10 Attorneys for Plaintiff: Joseph Payne, on behalf of
11 himself and others similarly situated

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF KERN

14 * * *

15 JOSEPH PAYNE, an individual,
16 Plaintiff,

17 vs.

18 PROS, INCORPORATED, a California
19 Corporation; JAMES LEAL, an individual;
20 TERESA LEAL, an individual; and Does 1
21 through 50, inclusive,

22 Defendants.

Case No. BCV-16-100356DRL

CLASS ACTION

[Honorable Thomas S. Clark - Dept. 17]

**[PROPOSED] ORDER: 1)
PRELIMINARILY APPROVING
SETTLEMENT; 2) APPROVING
CLASS NOTICE PACKET; 3)
CONDITIONALLY CERTIFYING
SETTLEMENT CLASS; 4)
APPOINTING PLAINTIFF AS CLASS
REPRESENTATIVE; 5) APPOINTING
PLAINTIFF'S COUNSEL AS CLASS
COUNSEL; 6) APPOINTING
SETTLEMENT ADMINISTRATOR;
7) SETTING FINAL FAIRNESS
HEARING**

FILED
KERN COUNTY

MAY 22 2018

TERRY McNAULY, CLERK
BY *[Signature]* DEPUTY

1 On May 22, 2018 a hearing was held on the motion of Plaintiff Joseph Payne and for
2 preliminary approval of the parties' proposed settlement; approval of the notice to be sent to the
3 class about the settlement and the forms of class member settlement information sheet and election
4 not to participate in the settlement; conditional certification of a settlement class in this action;
5 appointing Class Counsel, Class Representative, and Settlement Administrator; and the setting of a
6 date for the hearing on final approval of the settlement. Jared Hague of Sutton Hague Law
7 Corporation appeared for Plaintiff and Jerry Pearson of Law Offices of Young Wooldridge
8 appeared for Defendants.

9 The Court having read and considered the papers on the motion, arguments of counsel, and
10 the law; and good cause appearing therefor,

11 IT IS ORDERED:

- 12
- 13 1. The proposed class satisfies the requirements of a settlement class for settlement purposes
14 only because the class members are readily ascertainable and a well-defined community of
15 interest exists in the questions of law and fact affecting the parties.
 - 16 2. The parties' Joint Stipulation of Class Settlement and Release (the "Settlement") is granted
17 preliminary approval as it meets the criteria for preliminary settlement approval. The Court
18 finds that the Settlement appears to be within the range of reasonableness necessary for
19 preliminary approval by the Court. The Settlement falls within the range of possible
20 approval as fair, adequate, and reasonable, and appears to be the product of arms-length and
21 informed negotiations and to treat all Class Members fairly.
 - 22 3. The parties' proposed notice plan is constitutionally sound because individual notices will
23 be mailed to all Class Members whose identities are known to the parties, and such notice is
24 the best notice practicable. The parties' proposed Class Notice Packet, comprised of a
25 Notice of Proposed Settlement and Hearing Date for Final Court Approval, Class Member
26 Information Sheet and Exclusion from Class Settlement Form (Settlement, Ex. 1), is
27 sufficient to inform Class Members of the terms of the Settlement, their rights under the
28 Settlement, their rights to object to or comment on the settlement, their right to receive a

- 1 Settlement Share or elect not to participate in the Settlement, and the processes for doing
2 so, and the date and location of the final approval hearing and are therefore approved.
- 3 4. Class Members will receive a Settlement Share unless they timely opt out of the Settlement
4 according to the procedures outlined in the Class Notice Packet.
- 5 5. Any Class Member who elects not to participate in the Settlement has until 30 days after the
6 mailing of the Class Notice to submit his or her Election Not to Participate in Settlement
7 pursuant to the procedures set forth in the Class Notice.
- 8 6. Any Class Member who wishes to object to the Settlement has until 30 days after the
9 mailing of the Class Notice to mail to the Clerk of Court his or her written objection (and, if
10 he or she wishes to appear at the final approval hearing, to indicate in his or her written
11 objection an intention to appear), pursuant to the procedures set forth in the Class Notice.
12 Late objections will be accepted only if the objector shows good cause or good reason for
13 the delay.
- 14 7. Phoenix Settlement Administrators is appointed to act as the Settlement Administrator,
15 pursuant to the terms set forth in the Agreement.
- 16 8. Plaintiff Joseph Payne is appointed the Class Representative. S. Brett Hutton and Jared
17 Hague of Sutton Hague Law Corporation, P.C. and Michael Crosner and Zachary Crosner
18 of Crosner Legal, P.C. are appointed Class Counsel.
- 19 9. The Class Notice will be disseminated according to the notice plan described in the
20 Settlement Agreement and substantially in the form submitted by the parties. Proof of
21 distribution of the Class Notice will be filed by the parties in conjunction with the motion
22 for an order granting final approval of the Settlement.
- 23 10. Defendants are directed to provide to the Settlement Administrator not later than 7 days
24 after the date of this order the Class Members' data as specified by the Settlement
25 Agreement.
- 26 11. The Settlement Administrator is directed to mail the approved Class Notice, Class Member
27 Settlement Information Sheet, and Election Not to Participate in Settlement (the "Notice
28

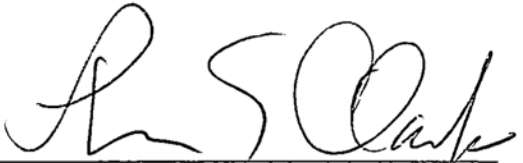
1 Packet”) by first-class mail to the Class Members not later than 14 days after receipt of the
2 Class Members’ data.

3 12. A final approval hearing will be held on August 29, 2018 at 8:30 a.m., to determine whether
4 the Settlement should be granted for final approval as fair, reasonable, and adequate as to
5 the Class Members. The Court will hear all evidence and argument necessary to evaluate
6 the Settlement, and will consider plaintiff and Class Counsel’s request, made by separate
7 motion, for the Class Representative Payment and the Class Counsel Fees and Expenses
8 Payment. Class Members and their counsel may support or oppose the Settlement and the
9 motion for awards of the Class Representative Payment and the Class Counsel Fees and
10 Expenses Payment, if they so desire, as set forth in the Class Notice.

11 13. Any Class Member may appear at the final approval hearing in person or by his or her own
12 attorney, and show cause why the Court should not approve the Settlement, or object to the
13 motion for awards of the Class Representative Payment and the Class Counsel Fees and
14 Expenses Payment, as set forth in the Class Notice.

15 14. The Court reserves the right to continue the date of the final approval hearing without
16 further notice to Class Members. The Court retains jurisdiction to consider all further
17 applications arising out of or in connection with the Settlement.

18
19 DATED: 5th 2018, 2018

20 By: 
21 Hon. Thomas S. Clark