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FILED
ALAMEDA COUNTY

JAN 13 2017

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

19 RAYMOND AMENYA, CONAN BEHR,
20 and CARLA ERVIN, on behalf of
21 themselves and all others similarly
22 situated,

23 Plaintiff,
24 vs.

25 HENRY INDUSTRIES, INC., a Kansas
26 Corporation, and DOES 1 through 100,
27 inclusive,

28 Defendants.

Case No. RG15754205

CLASS ACTION

~~PROPOSED~~ ORDER OF FINAL APPROVAL AND JUDGMENT

Date: January 13, 2017

Time: 11:00 a.m.

Dept.: 21

Judge: Honorable Winifred Y. Smith

Reservation Number: R-1769208

1 **TO EACH PARTY AND THE COUNSEL OF RECORD FOR EACH PARTY:**

2 Before the Court are Plaintiffs' (1) Motion for Final Approval of Class Action Settlement and (2)
3 Motion for Attorneys' Fees, Costs and Enhancements to Class Representatives ("Motions"). The Court
4 granted preliminary approval of the proposed Settlement on August 4, 2016, and approved Plaintiffs'
5 amendment to revise the allocation methodology for the Settlement on September 20, 2016. Due and
6 adequate notice having been given to Defendant and the Class, and the Court having considered the
7 Settlement Agreement, the instant Motions, all papers filed, and proceedings herein, and having reviewed
8 the record in this litigation, and good cause appearing, the Court here by GRANTS final approval of the
9 Settlement.

10 1. Except as otherwise specified herein, for the purposes of this Order and Judgment, the Court
11 adopts and incorporates by reference all defined terms set forth in the Settlement Agreement and Motion
12 for Preliminary Approval.

13 2. The Court finds that this Settlement satisfies the requirements for a class action settlement under
14 Code of Civil Procedure section 382 and further finds that the Settlement Class has at all times been
15 adequately represented by the three Named Plaintiffs and Class Counsel.

16 3. The Notice approved by the Court was provided by First Class mail to the last-known address
17 of each of the 72 individuals identified as Class Members, after first processing such addresses through
18 the U.S. Postal Service change-of-address database, as stated in the declaration of the Claims
19 Administrator. A short form notice was also sent to 31 Class Members. In addition, follow up efforts were
20 made to send the Notice to those individuals whose original notices were returned as undeliverable. Efforts
21 were also made to contact individuals by telephone and email. The Notice adequately described all of the
22 relevant and necessary parts of the proposed Settlement Agreement, the request for enhancement
23 payments to the Class Representatives, and Class Counsel's request for an award of attorneys' fees and
24 costs.

25 4. The Court finds that the Notice given to the Settlement Class fully met the requirements of
26 California law and due process under the United States Constitution. Based on evidence and other material
27 submitted in conjunction with the Motion for Final Approval, the notice to the class was adequate.
28

1 5. The Court finds that the Settlement, as set forth in the Settlement Agreement executed by the
2 Parties, is fair, reasonable, and adequate. The Court finds that the uncertainty and delay of further litigation
3 support the reasonableness and adequacy of the \$325,000 Settlement Fund established pursuant to the
4 Settlement Agreement.

5 6. Out of the identified Settlement Class Members, none has objected to any aspect of the proposed
6 Settlement, and only two have opted out of the proposed Settlement. The reaction of the Settlement Class
7 to the proposed settlement strongly supports the conclusion that the proposed Settlement is fair,
8 reasonable, and adequate.

9 7. The Settlement is HEARBY APPROVED in its entirety and the releases encompassed herein
10 are effectuated.

11 8. The Settlement Fund shall be disbursed in accordance with the Settlement Agreement and as
12 detailed in the Motion for Preliminary Approval of Class Action Settlement, granted on August 4, 2016,
13 the Stipulation to Amend Plaintiffs' Motion for Preliminary Approval, granted on September 20, 2016,
14 and the Motion for Final Approval filed on November 15, 2016, and the Unopposed Motion for Approval
15 of Attorneys' Fees, Costs, and Enhancements to Class Representatives filed on November 15, 2016.

16 9. Plaintiffs Amenya, Behr, and Ervin are hereby awarded \$5,000 each for their time and effort in
17 pursuing this litigation. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal. App. 4th
18 399, 412, *rehearing denied* (Aug. 2, 2010), *review denied* (Sept. 29, 2010). The Court hereby awards
19 Plaintiff Ervin \$5,000 for her release of the pending claim for wrongful termination.

20 10. Plaintiffs' application for Attorneys' fees in the amount of \$108,333.33, litigation costs in the
21 amount of \$11,644.92, and \$9,000 for administration costs (with an additional \$5,000 contribution toward
22 administrative costs to be made by Defendant separate and apart from the Settlement Fund), are hereby
23 granted in accordance with *City & County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-111 and
24 *Quinn v. State* (1975) 15 Cal.3d 162, 168.

25 11. In accordance with Department 21's Procedural Guidelines for Final Approval of Class Action
26 Settlements, a portion of the attorneys' fees award shall be held in an interest-bearing account, maintained
27 either by the claims administrator or class counsel, pending the submission and approval of a final
28 compliance status report after completion of the distribution process. The Court finds that an attorneys'

1 fees holdback amount of \$10,000 is appropriate in this case. The Court sets a final compliance hearing
2 for July 13, 2018, at 9:00 a.m. in Department 21.

3 15. The Court approves the *cy pres* recipient identified in the Settlement: Legal Aid Society –
4 Employment Law Center which is now known as Legal Aid At Work, to receive any remainder based
5 upon uncashed settlement checks as called for in the Settlement, because this recipient is useful in
6 fulfilling the underlying purpose of the lawsuit to vindicate low-wage workers' wage claims. *In re*
7 *Microsoft I-V Cases* (2008) 135 Cal. App. 4th 706, 722.

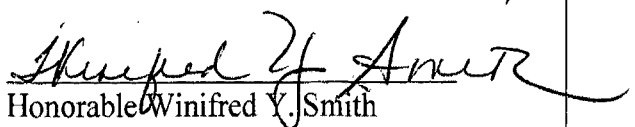
8 The Court finds and determines that payment to the California Labor and Workforce Development
9 Agency of \$2,437.50 as its share of the settlement of civil penalties under the Private Attorney General
10 Act in this case is fair, reasonable, and appropriate. The Court hereby gives final approval to and orders
11 that the payment of that amount be paid out of the Settlement Fund.

12 16. JUDGMENT IS HEREBY ENTERED, approving the terms of the Settlement.

13 17. In accordance with the California Rule of Court 3.769(h), the Court retains exclusive and
14 continuing jurisdiction over the litigation, the Plaintiffs, the Class Members and Defendant for the
15 purposes of supervising the implementation, enforcement, construction, administration and interpretation
16 of the Settlement Agreement.

17 IT IS SO ORDERED.

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19 Dated: January 13, 2017

20 
21 Honorable Winifred V. Smith

22 JUDGE OF THE SUPERIOR COURT
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