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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SOLANO
11

12 MARIBEL BITAL, individually, and on behalf
13 of other members of the general public similarly
situated,

14 Plaintiff,

15 vs.

16 SIMONTON INDUSTRIES, INC., a California
17 corporation; PLY GEM PACIFIC WINDOWS
CORPORATION, a Delaware corporation; and
18 DOES 1 through 10, inclusive,

19 Defendants.
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APR 29 2022

By E. Poyati
DEPUTY CLERK

Case No. FCS054728

Assigned for All Purposes to:
Hon. E. Bradley Nelson, Dept. 4

**~~PROPOSED~~ ORDER GRANTING MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND MOTION
FOR ATTORNEYS' FEES, COSTS AND
EXPENSES, AND A CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT**

Date: April 25, 2022
Time: 9:00 a.m.
Place: Department 4

File By Fax

2022 MAR 30 P 1:10

RECEIVED
U.S. DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DEPUTY CLERK

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1. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.
2. This Order hereby adopts and incorporates by reference the terms and conditions of the Joint Stipulation Re Settlement of Class Action (collectively, “Settlement Agreement” or “Settlement”), together with the definitions and terms used and contained therein.
3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all members of the Settlement Class.
4. The Class Notice fully and accurately informed Class Members of all material elements of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California and due process. The Class Notice fairly and adequately described the settlement and provided Class Members with adequate instructions and a variety of means to obtain additional information.
5. Class Members were given a full opportunity to participate in the Final Approval hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Class Members who did not timely and properly opt out of the settlement are bound by this Order.
6. The Court has considered all relevant factors for determining the fairness of the settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendant or by any other released
20 party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
21 any other released party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against
24 Defendant or any of the other released parties.

25 10. Final approval shall be with respect to: All current and former California non-exempt
26 hourly manufacturing employees of Defendants who worked at any time during the period from
27 February 2, 2017 through December 15, 2021.

28 11. Plaintiff Maribel Bital is a suitable Class Representative and is hereby appointed the

1 Class Representative for the Settlement Class. The Court finds that Plaintiff's investment and
2 commitment to the litigation and its outcome ensured adequate and zealous advocacy for the Settlement
3 Class, and that her interests are aligned with those of the Settlement Class.

4 12. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
5 \$10,000 for her service on behalf of the Settlement Class, and for agreeing to a general release of all
6 claims arising out of her employment with Defendant.

7 13. The Court finds that the attorneys at Capstone Law APC have the requisite
8 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
9 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
10 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

11 14. The settlement of civil penalties under PAGA in the amount of \$50,000 is hereby
12 approved. Seventy-Five Percent (75%), or \$37,500, shall be paid to the California Labor and Workforce
13 Development Agency. The remaining Twenty-Five Percent (25%), or \$12,500, will be added to the Net
14 Settlement Amount.

15 15. The Court hereby awards \$300,000 in attorneys' fees and \$28,975.73 in costs and
16 expenses to Capstone Law APC. The Court finds that the requested award of attorneys' fees is
17 reasonable for a contingency fee in a class action such as this; i.e., one-third of the common fund created
18 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'
19 fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are
20 fair and reasonable.

21 16. The Court approves settlement administration costs and expenses in the amount of
22 \$12,500 to CPT Group, Inc.

23 17. All Class Members were given a full and fair opportunity to participate in the Approval
24 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
25 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
26 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
27 shall be forever binding on all Class Members. These Class Members have released and forever
28 discharged the Defendant for any and all Released Claims:

1 All claims, demands, rights, liabilities and causes of action of every nature and
2 description whatsoever including without limitation statutory, constitutional,
3 contractual or common law claims, whether known or unknown, against the
4 Defendant Releasees, or any of them, based on the facts alleged in the operative
5 First Amended Complaint, that accrued during the Class Period for alleged or
6 actual (i) unpaid overtime and failure to pay minimum wages; (ii) failure to
7 provide meal periods; (iii) failure to authorize and permit rest periods; (iv) failure
8 to provide compliant wage statements and to maintain payroll records; (v) failure
9 to timely pay wages due at termination; (vi) failure to timely pay wages during
10 employment; (vii) claims for civil penalties pursuant to PAGA for the alleged
11 underlying violations as well as for (a) failure to provide minimum wages, (b)
12 failure to pay for required physical examinations and/or drug testing, (c) failure
13 to reimburse for necessary business expenses, (d) failure to provide written
14 notice of information material to employment, and (e) failure to provide personal
15 safety equipment; and (viii) unfair and unlawful business practices relating to or
16 arising out of the previous claims. Released Claims include (1) claims for
17 damages, penalties or any other remedies under any statute or regulation or other
18 provision of law, based on the facts alleged in the Complaint, including without
19 limitation claims under California Labor Code sections 201, 202, 203, 204,
20 222.5, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197,
21 1197.1, 1198, 2802, 2810.5, 6401, and 6403, California Labor Code section
22 2698 et seq. based on the preceding sections, California Business and Professions
23 Code section 17200 et seq., based on the preceding sections, the applicable
24 California Industrial Welfare Commission Wage Order based on the facts
25 alleged in the First Amended Complaint; (2) claims, based on the facts alleged in
26 the Complaint, for injunctive relief, restitution, disgorgement, accounting,
27 declaratory relief or other equitable relief; (3) any and all claims, based on the
28 facts alleged in the Complaint, for interest, costs, or attorney fees, including
without limitation claims under California Labor Code sections 218.5, 1194 &
2698 et seq. and California Code of Civil Procedure section 1021.5; (4) and, to
the extent not covered above, any and all claims arising from the facts alleged in
the Complaint in the Litigation.

18 **IT IS SO ORDERED.**

20 Dated: April 25, 2022


Hon. E. Bradley Nelson
Solano County Superior Court Judge

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is: Capstone Law APC, 1875 Century Park East, Suite 1000, Los Angeles, California 90067.

On March 30, 2022, I served the within document(s) described below as:

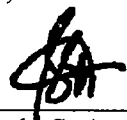
[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION FOR ATTORNEYS' FEES, COSTS AND EXPENSES, AND A CLASS REPRESENTATIVE ENHANCEMENT PAYMENT

on the interested parties in this action addressed as follows:

Martin D. Bern
C. Hunter Hayes
David W. Moreshead
Munger, Tolles & Olson LLP
350 South Grand Avenue, Fiftieth Floor
Los Angeles, California 90071-3426
martin.bern@mto.com
hunter.hayes@mto.com
david.moreshead@mto.com

- () **MAIL:** I deposited such envelope in the mail at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid.
- () **PERSONAL:** I caused such envelope to be delivered by hand to the individuals at the address listed above.
- (X) **E-MAIL:** Due to the National Emergency and public health orders in California related to the coronavirus and COVID-19 pandemic, Capstone Law APC attorneys and staff are working remotely and therefore have limited capabilities to send physical mail in the normal course of business. On this date, I personally transmitted the foregoing document(s) using electronic mail to the e-mail address(es) of the person(s) listed above.
- () **OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered via overnight courier service (FedEx) to the individuals at the address listed above.
- () **FACSIMILE:** I caused the above-referenced document(s) to be transmitted to the above-named person at the telephone numbers above.
- (X) **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED this document on March 30, 2022, at Los Angeles, California.



Sandy S. Acevedo