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Attorneys for Plaintiff
ELMER EUCLIDES IZAGUIRRE CASTILLO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ELMER EUCLIDES IZAGUIRRE CASTILLO,
individually, and on behalf of all others similarly
situated,

Plaintiff,

vs.

FREEDOM PAINTING, INC., a California
corporation; FREEDOM PAINTING WEST,
INC., a California corporation; and DOES 1
through 10, inclusive,

Defendants

Case No.: 20STCV22365

CLASS AND REPRESENTATIVE ACTION

[Hon. Yvette M. Palazuelos, Dept. 9]

**PLAINTIFF'S NOTICE OF ENTRY OF
ORDERS**

Action Filed: June 9, 2020

Trial Date: None Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on April 2, 2024, in Department 19 of the above-entitled
3 Court, located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, California
4 90012, the Honorable Elaine Lu made the Orders attached hereto as **Exhibit A** (Minute Order re:
5 Hearing on Motion for Final Approval of Settlement), **Exhibit B** (Final Rulings/Orders Re:
6 Motion for Final Approval of Class Action Settlement) and **Exhibit C** (Nunc Pro Tunc Order).

7
8 Respectfully submitted,

9 Dated: April 2, 2024

MOON LAW GROUP, PC

10 By: Charlotte Mikat-Stevens
11 Kane Moon
12 Allen Feghali
Charlotte Mikat-Stevens

13 *Attorneys for Plaintiff*
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EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 9

20STCV22365

**ELMER EUCLIDES IZAGUIRRE CASTILLO vs FREEDOM
PAINTING, INC., et al.**

April 2, 2024
10:00 AM

Judge: Honorable Elaine Lu
Judicial Assistant: R. Arraiga
Courtroom Assistant: M. Tavakoli

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement; Notice of Entry of Judgment;

The matter is NOT called for hearing.

The Court's tentative rulings/orders and tentative judgment were served on the parties via Case Anywhere on 03/28/2024.

The parties submitted to the Court's tentative rulings/orders and tentative judgment via the Case Anywhere message board on 03/28/2024 and 03/29/2024.

No Objectors appear this date in court.

The Court now adopts its tentative RULINGS/ORDERS RE: MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT as the final order of the court. Said ruling is signed and filed this date and is incorporated into the case file.

Judgment in the above-entitled matter is signed, filed, and entered this date.

The Court's ruling is as follows:

The Plaintiff's Notice Of Motion And Motion For Final Approval Of Class Action Settlement; Memorandum Of Points And Authorities filed by Elmer Euclides Izaguirre Castillo on 02/22/2024 is Granted.

The Parties' Motion for Final Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable, on the condition that counsel submit declaration(s) regarding what is meant by "Admin fee" (\$750) in their cost report at Exhibit 7 of the Moon

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 9

20STCV22365

**ELMER EUCLIDES IZAGUIRRE CASTILLO vs FREEDOM
PAINTING, INC., et al.**

April 2, 2024

10:00 AM

Judge: Honorable Elaine Lu
Judicial Assistant: R. Arraiga
Courtroom Assistant: M. Tavakoli

CSR: None
ERM: None
Deputy Sheriff: None

Decl. ISO Final.

The Parties' supplemental paperwork must be filed by **04/09/2024**.

If the supplemental papers are **NOT** filed by said date subsequently an Order to Show Cause Re: Sanctions hearing will be set.

A Non-Appearance Case Review Re: Filing and Serving of Supplemental Papers to Unconditionally Grant the Motion for Final Approval is scheduled for 04/16/2024 at 08:30 AM in Department 9 at Spring Street Courthouse.

The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$250,000.

B. The Net Settlement Amount is the GSA minus the following:

\$83,333.33 (33 1/3%) for attorney fees to Class Counsel, Moon Law Group (§3.2.2);
\$14,560.27 for litigation costs to Class Counsel (Ibid.);
\$5,000 for a Service Payment to the Named Plaintiff Elmer Euclides Izaguirre Castillo (§3.2.1);
\$10,870 for settlement administration costs to ILYM Group (§3.2.3);
\$15,000 (75% of \$20,000 PAGA penalty) to the LWDA. (§3.2.5.)

C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant.

D. Plaintiffs release of Defendants from claims described herein.

By **05/02/2024**, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (l)(3).

By **04/02/2025**, Class Counsel must file a Final Report Re: Distribution of the Settlement Funds.

If the report is **NOT** filed by said date subsequently an Order to Show Cause Hearing Re: Sanctions hearing will be set.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 9

20STCV22365

**ELMER EUCLIDES IZAGUIRRE CASTILLO vs FREEDOM
PAINTING, INC., et al.**

April 2, 2024
10:00 AM

Judge: Honorable Elaine Lu
Judicial Assistant: R. Arraiga
Courtroom Assistant: M. Tavakoli

CSR: None
ERM: None
Deputy Sheriff: None

**A Non-Appearance Case Review Re: Final Accounting and Distribution is scheduled for
04/09/2025 at 08:30 AM in Department 9 at Spring Street Courthouse.**

The Judicial Assistant to give notice to Counsel for Plaintiff who is ordered to give further and formal notice to all parties.

Clerk's Certificate of Service By Electronic Service is attached.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp FILED Superior Court of California County of Los Angeles 04/02/2024 David W. Slayton, Executive Officer / Clerk of Court By: <u>R. Arraiga</u> Deputy
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		
PLAINTIFF: Elmer Euclides Izaguirre Castillo		
DEFENDANT: Freedom Painting, Inc., et al.		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: 20STCV22365

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Minute Order and FINAL RULINGS/ORDERS RE: MOTION FOR FINAL APPROVAL OF CLASS ACTION entered herein, on 04/02/2024, upon each party or counsel of record in the above entitled action, by electronically serving the document(s) on Case Anywhere at www.caseanywhere.com on 04/02/2024 from my place of business, Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012 in accordance with standard court practices.

David W. Slayton, Executive Officer / Clerk of Court

Dated: 04/02/2024

By: R. Arraiga
 Deputy Clerk

EXHIBIT B

04/02/2024

David W. Slayton, Executive Officer / Clerk of Court

By R. Arraiga Deputy

**FINAL RULINGS/ORDERS RE: MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Castillo v. Freedom Painting, Inc., Case No.: 20STCV22365

The Parties' Motion for Final Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable, on the **condition** that counsel submit declaration(s) regarding what is meant by "Admin fee" (\$750) in their cost report at Exhibit 7 of the Moon Decl. ISO Final.

The Parties' supplemental paperwork must be filed by **April 9, 2024**.

Non-Appearance Case Review is set for April 16, 2024, 8:30 a.m., Department 9.

The essential terms are:

- A. The Gross Settlement Amount ("GSA") is \$250,000.
- B. The Net Settlement Amount is the GSA minus the following:
 - \$83,333.33 (33 1/3%) for attorney fees to Class Counsel, Moon Law Group (§3.2.2);
 - \$14,560.27 for litigation costs to Class Counsel (Ibid.);
 - \$5,000 for a Service Payment to the Named Plaintiff Elmer Euclides Izaguirre Castillo (§3.2.1);
 - \$10,870 for settlement administration costs to ILYM Group (§3.2.3);
 - \$15,000 (75% of \$20,000 PAGA penalty) to the LWDA. (§3.2.5.)
- C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant.
- D. Plaintiffs release of Defendants from claims described herein.

By **May 2, 2024**, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (1)(3).

By **April 2, 2025**, Class Counsel must file a Final Report re: Distribution of the settlement funds.

Court sets a **Non-Appearance Case Review is set for April 9, 2025, 8:30 a.m., Department 9.**

I.
INTRODUCTION

A. Background

This is a wage and hour class action and PAGA representative action. Plaintiff Elmer Euclides Izaguirre Castillo ("Plaintiff") seeks to represent a class of non-exempt, hourly-paid employees who work or worked for Defendants Freedom Painting, Inc. and Freedom Painting West, Inc. for various violations of the California Labor Code. Defendants are painting service providers.

On June 9, 2020, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendants for (1) Failure to Pay Minimum Wage and Straight Time Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code §2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201- 203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]

On December 2, 2020, Plaintiff filed a First Amended Complaint adding a cause of action against Defendants for civil penalties under PAGA. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint").

Counsel represents that prior to mediation, Counsel sent an informal discovery request to Defendants' counsel, and subsequently Defendants produced a sample of manually maintained timecards, a sample of paystubs, the number of workweeks in the Class Period, the number of total employees who worked for Defendants during the Class Period, and several financial records including W-2 forms for 2019, 2020, and 2021. Defendants did not have any relevant employee handbooks.

Regarding the sampled data, Counsel first represents that, the sample of timecards, even though they showed more than 15,000 time entries, all demonstrated nearly identical time entries - "In" at 7:00 (a.m.), "Out" at 3:30 (p.m.), "Breaks" at 9:00 (a.m.) to 9:10 (a.m.), 1:30 (p.m.) to 1:40 (p.m.), and "Lunch" at 11:00 (a.m.) to 11:30 (a.m.). Thus, Counsel contended that they found that the sample of 15,440 time entries was illustrative of the time worked by the entire Class.

Second, Counsel contends that their third party statistics consultant extrapolated the damages to the entire class of 13,912 shifts and created a damage model. Furthermore, to verify Defendants' informally produced information, Counsel compared Defendants' timesheets with those in Counsel's possession and was satisfied with their authenticity.

On June 8, 2022, the Parties participated in private mediation with professional neutral mediator Steven Rottman, after which a settlement was reached by the parties. A fully executed copy of the Settlement Agreement was filed with the Court on September 26, 2022 attached to the Declaration Of Kane Moon ("Moon Decl.") ISO Prelim, as Exhibit 2.

Preliminary Approval was granted on March 28, 2023. On June 30, 2023, prior to notices going to the class, the parties filed a joint stipulation asking to modify the class period. Counsel proposed shortening the class period by three years. Counsel confirmed that the triggering of escalator clause and Defendant's financial condition is the reason for the proposed arrangement, as there were 20,000 more workweeks than originally estimated. Counsel represents that they reviewed Defendant's financial records to confirm that Defendant has financial hardship, including 3 years of tax returns and vendor records showing increased costs.

As a result, the Court entered an amended order granting preliminary approval on August 18, 2023.

The Parties now move for final approval of the proposed class action settlement.

B. Definitions

"Class": all non-exempt employees of Defendants who worked for Defendants in California during the Class Period. (§1.5.)

"Class Period": August 17, 2019, to September 1, 2022. (¶1.12.)

"Aggrieved Employee" "Aggrieved Employee": all non-exempt employees of Defendants who worked for Defendants in California during the PAGA Period. (¶1.4.)

"PAGA Period": June 9, 2019 through the earlier of preliminary approval or September 1, 2022 (60 days following the mediation). (¶1.31)

The Parties estimate that as of June 8, 2022, the number of workweeks worked by Settlement Class Members during the Class Period is approximately 2,960. If it is determined that the workweeks during the Class Period exceed 3,404 (15% of 2,960 is 3,404), the Gross Settlement Amount, will be increased by the same number of percentage points above 15% by which the actual number of workweeks exceeds 3,404. For example, if the actual number of workweeks is determined to be 20% higher than 2,960, Defendants' share of the Maximum Settlement Amount will be increased by 5% not 20% (the "Escalator Clause"). The Gross Settlement Amount will not be reduced for any reason. (¶8.)

Based on a review of its records prior to mediation, Defendants estimate there are 345 Class Members who collectively worked a total of 2,960 Workweeks, and 229 of Aggrieved Employees who worked a total of 740 PAGA Pay Periods. (¶4.1.)

The parties stipulate to class certification for settlement purposes only. (¶12.1.)

C. Terms of Settlement Agreement

The essential terms are:

- The Gross Settlement Amount ("GSA") is \$250,000, non-reversionary. (¶3.1)
- The Net Settlement Amount ("Net") (\$113,666.67) is the GSA minus the following:
 - o Up to \$83,333.33 (33 1/3%) for attorney fees (¶3.2.2);
 - o Up to \$15,000 for litigation costs (Ibid.);
 - o Up to \$8,000 for a Service Payment to the Named Plaintiff (¶3.2.1);
 - o Up to \$15,000 for settlement administration costs (¶3.2.3);and
- o Payment of \$15,000 (75% of \$20,000 PAGA penalty) to the LWDA. (¶3.2.5.)

- Defendants will pay their share of taxes separate from the GSA. (§3.1.)
- There is no claim form requirement. (§3.1.)
- Individual Settlement Payment Calculation: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (§3.2.4.)
 - o Tax Allocation: 33 1/3% as wages and 33 1/3% as interest and 33 1/3% penalties. (§3.2.4.1.)
- PAGA Payments: The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. (§3.2.5.1)
 - o Tax Allocation: 100% penalties. (§3.2.5.2)
- "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired. (§1.43.) This deadline applies to workweek challenges, too. (§7.6.)
 - o If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect. (§9)
- Funding of Settlement: Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the

funds to the Administrator no later than 14 days after the Effective Date. (§4.3)

- **Uncashed Settlement Checks:** The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. (§4.4.1) For any Class Member whose Individual Class Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384(b). (§4.4.3)

- The settlement administrator will be ILYM Group. (§1.2)

- Notice of final judgment will be posted on the administrator's website for 90 days after final judgment. (Moon Supp. Decl. ISO Prelim filed 03/28/23, §4).

- Plaintiff's PAGA Notice Letter to the LWDA is attached as Exhibit 4.

- The proposed settlement was submitted to the LWDA on September 16, 2022. (Moon Decl. ISO Prelim, Exhibit 3.)

- **Scope of the release:** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows: (§5.)

- o **Release by Participating Class Members:** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock work, meal periods, rest periods, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198, 2802 derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and FLSA ("Released Claims") Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims,

including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period. (§5.2.)

o Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non- Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notice and ascertained in the course of the Action. (§5.3)

o "Released Parties" means: Defendants, and each of its/their former and present direct and/or indirect owners, dba's, affiliates, parents, subsidiaries, brother and sister corporations, divisions, related companies, successors and predecessors, and current and former employees, attorneys, officers, directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries, subrogees, executors, partners, privies, agents, servants, insurers, representatives, administrators, employee benefit plans, and assigns of said entities (collectively "Releasees"). (§1.41.)

o Named Plaintiff will also provide a general release and CC § 1542 waiver. (§5.1)

II. DISCUSSION

A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. On June 8, 2022, the Parties participated in private mediation with professional neutral mediator Steven Rottman, after which a settlement was reached by the parties. (Moon Decl. ISO Prelim, ¶9).

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Counsel represents that prior to mediation, Counsel sent an informal discovery request to Defendants' counsel, and subsequently Defendants produced a sample of manually maintained timecards, a sample of paystubs, the number of workweeks in the Class Period, the number of total employees who worked for Defendants during the Class Period, and several financial records including W-2

forms for 2019, 2020, and 2021. Defendants did not have any relevant employee handbooks. (Id. at ¶7.)

Regarding the sampled data, Counsel represents that, the sample of timecards, even though they showed more than 15,000 time entries, all demonstrated nearly identical time entries – “In” at 7:00 (a.m.), “Out” at 3:30 (p.m.), “Breaks” at 9:00 (a.m.) to 9:10 (a.m.), 1:30 (p.m.) to 1:40 (p.m.), and “Lunch” at 11:00 (a.m.) to 11:30 (a.m.). Thus, Counsel contended that they found that the sample of 15,440 time entries was illustrative of the time worked by the entire Class.

Second, Counsel contends that their third-party statistics consultant extrapolated the damages to the entire class of 13,912 shifts and created a damage model. Furthermore, to verify Defendants’ informally produced information, Counsel compared Defendants’ timesheets with those in our possession and was satisfied with their authenticity. (Id. at ¶8.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation, including wage and hour class actions. (Id. at ¶¶ 39-55).

4. What percentage of the class has objected? No objectors. (Declaration of Nick Castro (“Castro Decl.”) ¶12).

The Court concludes that the settlement is presumptively fair.

B. Is the Settlement Fair, Adequate, and Reasonable?

1. Strength of Plaintiff’s case. “The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.” (Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130.) Class Counsel has provided information, summarized below, regarding the factual basis for, and estimated maximum exposure for each of the claims alleged.

Claim	Maximum Exposure	Realistic Exposure
Unpaid Minimum Wages due to Off-the-Clock Work	\$14,291.00	\$10,003.70
Unpaid Overtime Wages due to Off-the- Clock Work	\$56,378.00	\$39,464.60
Meal Period	\$225,514.00	\$67,654.20
Rest Period Violations	\$225,514.00	\$67,654.20

Unreimbursed Business Expenses	\$17,075.00	\$853.75
Labor Code §203	\$754,738.00	\$37,736.90
Labor Code §226	\$62,550.00	\$3,127.50
PAGA	\$74,000.00	\$3,700.00
TOTAL	\$1,430,060.00	\$230,194.85

(Moon Decl. ISO Prelim, ¶¶ 15-28.)

2. Risk, expense, complexity and likely duration of further litigation. Given the nature of the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members.

3. Risk of maintaining class action status through trial. Even if a class is certified, there is always a risk of decertification. (See Weinstat v. Dentsply Intern., Inc. (2010) 180 Cal.App.4th 1213, 1226 ["Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate."].)

4. Amount offered in settlement. Plaintiff's counsel obtained a \$250,000 non-reversionary settlement. The \$250,000 settlement amount constitutes approximately 17.48% of Defendant's maximum exposure and 108.60% of Defendant's realistic exposure. Given the uncertain outcomes, the settlement appears to be within the "ballpark of reasonableness."

The \$250,000 settlement amount, if reduced by the requested deductions, will leave \$113,666.67 to be divided among approximately 100 class members. The resulting payments will average \$329.47 per class member. [$\$113,666.67 / 100 = \$1,136.67$].

5. Extent of discovery completed and stage of the proceedings. As indicated above, at the time of the settlement, Class Counsel had conducted sufficient discovery.

6. Experience and views of counsel. The settlement was negotiated and endorsed by Class Counsel who, as indicated above, is experienced in class action litigation, including wage and hour class actions.

7. Presence of a governmental participant. This factor is not applicable here.

8. Reaction of the class members to the proposed settlement.

Number of class members: 100 (Castro Decl. ¶5.)
Number of notice packets mailed: 100 (Id. at ¶7.)
Number of undeliverable notices: 0 (Id. at ¶10.)
Number of opt-outs: 1 (Id. at ¶11.)
Number of objections: 0 (Id. at ¶12.)
Number of Participating Class Members: 99 (Id. at ¶13.)
Average individual payment: \$1,145.01 (Id. at ¶14.)
Highest estimated payment: \$1,723.56 (Ibid.)
Average PAGA payment: \$47.17 (Id. at ¶14.)
Highest PAGA payment: \$73.87 (Ibid.)

The Class Member who requested exclusion is Ramon Salazar.

The Court concludes that the settlement is fair, adequate, and reasonable.

C. Attorney Fees and Costs

Class Counsel requests an award of \$83,333.33 (33 1/3%) in fees and \$14,560.27 in costs. (MFA at 1:17-18.) The Settlement Agreement provides for fees up to \$83,333.33 (33 1/3%) and costs up to \$15,000 (¶3.2.2).

"Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method." (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on another ground in Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.) Here, class counsel requests attorney fees using the lodestar method. (MFA at pp. 15-20.)

In common fund cases, the Court may employ a percentage of the benefit method, as cross-checked against the lodestar. (Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480, 503.) The fee request represents one-third of the gross settlement amount, which is the average generally awarded in class actions. (See In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 558, fn. 13 ["Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].)

Class Counsel has provided information, summarized below, from which the lodestar may be calculated.

Attorney	Rate	Hours	Totals
Kane Moon	\$725.00	65.5	\$47,487.50
Allen Feghali	\$675.00	115.2	\$77,760.00
Edwin Kamarzarian	\$500.00	51.3	\$25,650.00
Charlotte Mikat-Stevens	\$375.00	21.1	\$7,912.50
Totals		253.1	\$158,810.00

(Decl. of Kane Moon ISO Final ¶¶54-61.)

Counsel's percentage-based fee request is lower than the unadjusted lodestar, which would require the application of an approximate 0.52x multiplier to reach the requested fees. Notice of the fee request was provided to class members in the notice packet and no one objected. (Castro Decl. ¶12, Exhibit A thereto.)

Here, the \$83,333.33 (33 1/3%) request represents a reasonable percentage of the total funds paid by Defendant.

As for costs, Class Counsel is requesting \$14,560.27. This is less than the \$15,000 cap provided in the Settlement Agreement, for which Class Members were given notice and did not object. (Castro Decl. ¶12, Exhibit A thereto.) Counsel represent that they incurred \$14,560.27 in actual costs, which include: Mediation (\$9,000), Berger Consulting (\$800), Complaint Fee (\$1,435), "Admin fee" (\$750), and Case Anywhere (\$1,668). (Moon Decl. ISO Final ¶62, Exhibit 7 thereto.) The costs appear to be reasonable in amount and reasonably necessary to this litigation.

Based on the above, the court awards \$83,333.33 for attorneys' fees and \$14,560.27 for attorneys' costs.

D. Claims Administration Costs

The settlement administrator, ILYM Group, requests administration costs of \$10,870 (Castro Decl. ¶15). This is less than the estimated cost of \$15,000 provided for in the Settlement Agreement (¶3.2.3) and disclosed to Class Members in the Notice, to which no one objected. (Id. at ¶12, Exhibit A thereto).

The court awards costs in the requested amount of \$10,870.

E. Incentive Award to Class Representative

Plaintiff seeks an enhancement award of \$8,000 for their contributions to the action. (MFA at 21:24-25.)

In connection with the final fairness hearing, the named Plaintiffs must submit declarations attesting to why they should be entitled to an enhancement award in the proposed amount. The named Plaintiffs must explain why they "should be compensated for the expense or risk he has incurred in conferring a benefit on other members of the class." (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806.) Trial courts should not sanction enhancement awards of thousands of dollars with "nothing more than pro forma claims as to 'countless' hours expended, 'potential stigma' and 'potential risk.'" Significantly more specificity, in the form of quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is required in order for the trial court to conclude that an enhancement was 'necessary to induce [the named plaintiff] to participate in the suit'" (Id. at 806-807, italics and ellipsis in original.)

Plaintiff Elmer Euclides Izaguirre Castillo represents that his contributions to this action include: compiling documents from his employment and discussing them with his attorneys, helping identify potential witnesses, remaining available for mediation, and reviewing the Settlement. He estimates spending 80 hours on the case. (Decl. of Elmer Euclides Izaguirre Castillo ISO Final ¶¶16-22.)

Plaintiff's efforts are commendable but not exceptional. Based on the above, the court grants the reduced enhancement award in the amount of \$5,000 to Elmer Euclides Izaguirre Castillo.

III.
CONCLUSION

Based upon the foregoing, the Court orders that:

1) The Parties' Motion for Final Approval of Class Action Settlement is GRANTED as the settlement is fair, adequate, and reasonable, on the condition that counsel submit declaration(s) regarding what is meant by "Admin fee" (\$750) in their cost report at Exhibit 7 of the Moon Decl. ISO Final.

2) The Parties' supplemental paperwork must be filed by April 9, 2024.

3) Non-Appearance Case Review is set for April 16, 2024, 8:30 a.m., Department 9.

4) The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$250,000.

B. The Net Settlement Amount is the GSA minus the following:

\$83,333.33 (33 1/3%) for attorney fees to Class Counsel, Moon Law Group (§3.2.2);

\$14,560.27 for litigation costs to Class Counsel (Ibid.);

\$5,000 for a Service Payment to the Named Plaintiff Elmer Euclides Izaguirre Castillo (§3.2.1);

\$10,870 for settlement administration costs to ILYM Group (§3.2.3);

\$15,000 (75% of \$20,000 PAGA penalty) to the LWDA. (§3.2.5.)

C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant.

D. Plaintiffs release of Defendants from claims described herein.

5) By May 2, 2024, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (1) (3).

6) By April 2, 2025, Class Counsel must file a Final Report re: Distribution of the settlement funds.

7) Court sets a Non-Appearance Case Review is set for April 9, 2025, 8:30 a.m., Department 9.

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CLERK TO GIVE NOTICE TO MOVING PARTY. THE MOVING PARTY TO GIVE
NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: April 2, 2024

A handwritten signature in cursive script, reading "Elaine Lu".

ELAINE LU
JUDGE OF THE SUPERIOR COURT

EXHIBIT C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 9

20STCV22365

**ELMER EUCLIDES IZAGUIRRE CASTILLO vs FREEDOM
PAINTING, INC., et al.**

April 2, 2024

10:00 AM

Judge: Honorable Elaine Lu
Judicial Assistant: R. Arraiga
Courtroom Assistant: M. Tavakoli

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Nunc Pro Tunc Order;

It appearing to the Court that through inadvertence and/or clerical error, the minute order of 04/02/2024 in the above-entitled action does not properly reflect the Court's order. At the direction of the Judicial Officer, said minute order is corrected nunc pro tunc as of 04/02/2024, as follows:

By striking:

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement; Notice of Entry of Judgment;

Judgment in the above-entitled matter is signed, filed, and entered this date.

A Non-Appearance Case Review Re: Filing and Serving of Supplemental Papers to Unconditionally Grant the Motion for Final Approval is scheduled for 04/16/2024 at 08:30 AM in Department 9 at Spring Street Courthouse.

By adding:

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement;

Judgment in the above-entitled matter is adopted however, will be signed, filed, and entered when the parties satisfy the Court's condition as set forth in the tentative Rulings/Orders.

A Non-Appearance Case Review Re: Filing and Serving of Supplemental Papers to Unconditionally Grant the Motion for Final Approval; Notice of Entry of Judgment; is scheduled for 04/16/2024 at 08:30 AM in Department 9 at Spring Street Courthouse.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 9

20STCV22365

**ELMER EUCLIDES IZAGUIRRE CASTILLO vs FREEDOM
PAINTING, INC., et al.**

April 2, 2024

10:00 AM

Judge: Honorable Elaine Lu
Judicial Assistant: R. Arraiga
Courtroom Assistant: M. Tavakoli

CSR: None
ERM: None
Deputy Sheriff: None

The Judicial Assistant to give notice to Counsel for Plaintiff who is ordered to give further and formal notice to all parties.

Clerk's Certificate of Service By Electronic Service is attached.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp FILED Superior Court of California County of Los Angeles 04/02/2024 David W. Slayton, Executive Officer / Clerk of Court By: <u>R. Arraiga</u> Deputy
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		
PLAINTIFF: Elmer Euclides Izaguirre Castillo		
DEFENDANT: Freedom Painting, Inc., et al.		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: 20STCV22365

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Minute Order

entered herein, on 04/02/2024, upon each party or counsel of record in the above entitled action, by electronically serving the document(s) on Case Anywhere at www.caseanywhere.com on 04/02/2024 from my place of business, Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012 in accordance with standard court practices.

David W. Slayton, Executive Officer / Clerk of Court

Dated: 04/02/2024

By: R. Arraiga

Deputy Clerk

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a
6 party to the within action; my business address is 1055 West Seventh Street, Suite 1880, Los Angeles,
California 90017. On April 2, 2024, I served the foregoing document described as:

7 **PLAINTIFF'S NOTICE OF ENTRY OF ORDER**

8 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
9 addressed as follows:

10 **Keven Steinberg (SBN 151372)**
11 **STEINBERG LAW**
12 **13412 Ventura Boulevard, Suite 380**
13 **Sherman Oaks, California 91423**
14 **Telephone: (818) 855-1103**
15 **Facsimile: (818) 855-1104**
16 **E-mail: keven@kevensteinberglaw.com**

17 *Attorneys for Defendants* **Clearpath Federal Credit Union**

18 [✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties
19 to accept electronic service, I caused the documents to be sent to the persons at the
20 electronic service addresses listed above via third-party cloud service
21 **CASEANYWHERE.**

22 X (State) I declare under penalty of perjury under the laws of the State of
23 California that the above is true and correct.

24 Executed on April 2, 2024, at Los Angeles, California.

25 _____
26 Name

27 _____
28 Signature