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FILED
Superior Court of California
County of Los Angeles
11/19/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: A. Lim Deputy

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

BRANDEN BAGGOT, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

FOTO-KEM INDUSTRIES, INC., a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 20STCV31051

[Hon. William F. Highberger]

**~~PROPOSED~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT;
~~PROPOSED~~ FINAL JUDGMENT**

*[Filed concurrently with Notice of Motion and
Motion for Preliminary Approval of Class Action
Settlement; Memorandum of Points and
Authorities; Declaration of Larry W. Lee,
Declaration of Simon L. Yang; Declaration of
William L. Marder; Declaration of Branden
Baggot; Declaration of Jodey Lawrence]*

19

Date: November 18, 2021

Time: ~~11:30 a.m.~~

Department: 10

Complaint Filed: August 17, 2020

~~PROPOSED~~ ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT; FINAL JUDGMENT

1 The motion for an Order Granting Final Approval of Class Action Settlement was filed with the
2 Court on October 26, 2021, and a hearing was held on this matter before this Court on November 19,
3 2021. Simon L. Yang of Diversity Law Group, P.C. appeared on behalf of Plaintiff, Branden Baggot,
4 and the Class, and Evelyn Zarraga of Landegger Verano & Davis, ALC appeared for Defendant, Foto-
5 Kem Industries, Inc.

6 The Court has considered the papers and evidence, including the Joint Stipulation of Class
7 Action and PAGA Settlement (“Agreement”) submitted by Plaintiff and Defendant, the arguments of
8 counsel, and all other matters presented to the Court, regarding final approval of the settlement, approval
9 of requested allocations from the settlement fund, and entry of final judgment.

10 **I. Background**

11 On August 27, 2020, Plaintiff filed a complaint in the Superior Court of the State of California
12 for the County of Los Angeles alleging claims as a class action and pursuant to the Labor Code Private
13 Attorneys General Act of 2004 (“PAGA”). The complaint alleges three causes of action for: (1)
14 violation of Lab. Code §§ 201-204, 246; (2) violation of Bus. & Prof. Code §§ 17200 et seq.; and (3)
15 violation of Lab. Code §§ 2698 et seq.

16 **A. Class Members**

17 The Class is defined to include:

18 Any person whom Defendant employed in California as a non-exempt employee who earned
19 shift premium wages in the same workweek he/she took paid time off at any time during the
20 Class Period and did not execute a severance agreement at any time during the Class Period,”
with the “Class Period” meaning April 6, 2016, through January 18, 2021.

21 The settlement also involves a subset of aggrieved “PAGA Employees” defined as “any Class
22 Member employed at any time during the period from April 6, 2019 through January 18, 2021 (the
23 ‘PAGA Period’) and who earned shift premium wages in the same workweek he/she took PTO at any
24 time during the PAGA Period.”

25 **B. Operation of the Settlement**

26 Pursuant to the Court’s June 11, 2021 Preliminary Approval Order, the Court conditionally
27 certified the Class and granted preliminary approval to the settlement. The Preliminary Approval Order
28 also approved of the proposed forms of notice to the Class. The Court entered the Preliminary Approval

Order after review and consideration of all of the pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

In compliance with the Preliminary Approval Order, the Notice of Class Action Settlement (“Class Notice”) was sent to all Class Members via first class mail. Class Notice was sent to 441 of 442 Class Members, and Class Notice remains undeliverable to one individual. The notice process was timely completed.

This Court finds that the Agreement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to any individuals. The Court finds that the Settlement was entered into in good faith pursuant to California Code of Civil Procedure section 877.6. The Court further finds that the Agreement is fair, adequate, and reasonable and that Plaintiff has satisfied the standards for final approval of a class action settlement under California law. Under the provisions of California Code of Civil Procedure section 382 and Rule 23 of the Federal Rules of Civil Procedure, as approved for use in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

[Q]uestions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to the available methods for the fair and efficient adjudication of the controversy

FED. R. CIV. PROC. 23.

Certification of a settlement class is the appropriate judicial device under these circumstances.

Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

1. For purposes of this Order, the Court adopts all defined terms as set forth in the Agreement.

2. The Court has jurisdiction over the subject matter of the litigation, the Class Representative, Settlement Class Members, and Defendant.

3. The Court finds that the dissemination of the Class Notice to the Class Members by the appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice practicable under the circumstances to all Class Members, and fully met the requirements of California law and due process under the State and Federal Constitutions.

1 4. The Court approves the settlement of the above-captioned action, as set forth in the
2 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. The Parties are directed
3 to perform in accordance with the terms set forth in the Agreement.

4 5. Except as otherwise provided in the Agreement, the Parties are to bear their own costs
5 and attorneys' fees.

6 6. The Court hereby certifies the following Class for settlement purposes only: "any person
7 whom Defendant employed in California as a non-exempt employee who earned shift premium wages in
8 the same workweek he/she took paid time off at any time during the Class Period and did not execute a
9 severance agreement at any time during the Class Period," with the "Class Period" meaning April 6,
10 2016, through January 18, 2021.

11 7. With respect to the Class and for purposes of approving the settlement only and for no
12 other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so
13 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
14 the Class, and there is a well-defined community of interest among members of the Class with respect to
15 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representative are
16 typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately
17 protected the interests of the members of the Class; (e) a class action is superior to other available
18 methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class
19 Representative, i.e., Class Counsel, are qualified to serve as counsel for Plaintiff in his individual and
20 representative capacities and for the Class.

21 8. Within seven (7) days after the grant of Final Approval of the settlement, Defendant shall
22 deposit the Gross Settlement Amount of Three Hundred Fifty Thousand Dollars (\$350,000.00) with the
23 Settlement Administrator, pursuant to the terms of the Agreement.

24 9. From the Gross Settlement Amount, the Settlement Administrator shall pay:

- 25 a. to Class Counsel attorneys' fees in the amount of One Hundred Sixteen Thousand
26 Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$116,666.67) and
27 reimbursement of costs in the amount of Ten Thousand Nine Hundred Sixty-Five
28 Dollars and Forty-Nine Cents (\$10,965.49);

- b. to Class Representative Branden Baggot for his unique services to the Class, and as consideration for the execution of a general release, the amount of Ten Thousand Dollars (\$10,000.00);
- c. to the California Labor and Workforce Development Agency the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) for its seventy-five percent (75%) share of PAGA Penalties; and
- d. to Phoenix Settlement Administrators the amount of Eight Thousand Five Hundred Dollars (\$8,500.00) for its fees and costs in administering the settlement administration process.

10. The Court finds that these amounts are fair and reasonable. The Settlement Administrator is directed to make such payments in accordance with the terms of the Agreement.

11. The Court approves the Individual Settlement Payment amounts, which shall be distributed by the Administrator pursuant to the terms of the Agreement from the Net Settlement Amount, after payment of those amounts set forth in Paragraph 9.

12. The Court hereby orders the parties to implement the terms of the Agreement, including distributing any uncashed settlement checks to the State Unclaimed Property Fund in the name of the recipient.

13. All Class Members who did not opt out of the Settlement shall be bound by the releases provided in the Agreement. All PAGA Employees shall be bound by the PAGA releases provided in the Agreement. The Class Representative shall be bound by the additional general releases provided in the Agreement.

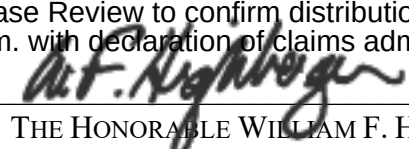
14. The Court hereby enters final judgment in this case in accordance with the terms of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the Parties, including all Settlement Class Members, for purposes of enforcing and interpreting this Order and the Settlement.

15. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered as of the filing of this judgment. This judgment makes no finding of any violation of the Labor Code, liability, or

1 other wrongdoing. None of the settlement or any of its terms, the order approving the settlement, or this
2 judgment are an admission of any liability or finding of any violation of the Labor Code.

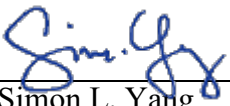
3 **IT IS SO ORDERED.** 16. Non-Appearence Case Review to confirm distribution of funds set for
4 August 10, 2022 at 9 a.m. with declaration of claims administrator due
August 3, 2022.

DATED: 11/19/2021, 2021


THE HONORABLE WILLIAM F. HIGHBERGER

1 Respectfully submitted on October 26, 2021, by:

2 DIVERSITY LAW GROUP, P.C.

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4 By:  _____

5 Simon L. Yang

6 Attorneys for Plaintiff
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