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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 09 2021

BY 
JESSICA MORALES, DEPUTY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN BERNARDINO**

13 FERNANDO HERRERA, individually, and on
14 behalf of other members of the general public
15 similarly situated,

16 Plaintiff,

17 vs.

18 AIRTECH INTERNATIONAL, INC., a
19 California corporation; ADVANCED
20 MATERIALS GROUP, an unknown business
21 entity; and DOES 1 through 100, inclusive,

22 Defendants.

23 SALVADOR SALAMANCA, on behalf of
24 himself and other members of the general
25 public similarly situated,

26 Plaintiff,

27 vs.

28 AIRTECH INTERNATIONAL, INC., a
California corporation; and DOES 1 through
100,

Defendants.

Case No.: CIVDS 1930833 (lead case)
CIVDS 2020465

Honorable David S. Cohn
Department S26

**AMENDED [~~PROPOSED~~] FINAL ORDER
AND JUDGMENT GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT, ATTORNEYS' FEES
AND COSTS, AND CLASS
REPRESENTATIVES' SERVICE
AWARDS**

Final Approval Hearing

Date: September 9, 2021
Time: 10:00 a.m.
Dept.: S26

AMENDED [~~PROPOSED~~] FINAL ORDER AND JUDGMENT GRANTING PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

1 **WHEREAS**, this matter came on for hearing on September 09, 2021, at 10:00 a.m. before
2 the Honorable David S. Cohn, in Department S26 of the San Bernardino County Superior Court,
3 located at 247 W. 3rd Street, San Bernardino, California 92415, upon the application of Plaintiffs
4 Fernando Herrera, Lizbeth Cisneros, and Salvador Salamanca (collectively, "Plaintiffs" or "Class
5 Representatives") for final approval of the settlement set forth in the long-form Stipulation of
6 Settlement ("Settlement Agreement" or "Settlement") dated April 19, 2021, attached at **Exhibit**
7 **"1"** to the Declaration of Anthony J. Orshansky filed concurrently with Plaintiffs' Motion For
8 Final Approval of Class and Representative Action Settlement. Full and adequate notice having
9 been given to the Class as required in the Court's Preliminary Approval Order, and the Court
10 having considered all papers filed and proceedings held herein and otherwise being fully
11 informed and good cause appearing therefore,

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

13 1. Capitalized terms not otherwise defined herein shall have the same meaning as set
14 forth in the Settlement Agreement.

15 2. The Court has jurisdiction over this matter and venue is proper.

16 3. The Court finds that this Action is properly maintained as a class action, for
17 settlement purposes only, pursuant to California Code of Civil Procedure § 382 and California
18 Rule of Court 3.769.

19 4. For settlement purposes only, the "Class" and "Class Member(s)" shall mean:

20 All current and former hourly-paid or non-exempt employees who worked for
21 Defendants in the state of California at any time from October 15, 2015 through
22 May 14, 2021.

23 After distribution of the Court-approved *Notice of Class Action Settlement* ("Class Notice"), and
24 a forty-five (45) day opt-out period, the Settlement Administrator reports that response from the
25 343 Class Members resulted in no objections and zero opt-out/requests for exclusion. Thus, a
26 Settlement Class consisting of 343 Settlement Class Members shall be bound by the Settlement
27 Agreement and this Final Approval Order.

28 5. Lawyers for Justice, P.C. and CounselOne, P.C. are appointed Class Counsel.

1 6. Named Plaintiffs Fernando Herrera, Lizbeth Cisneros, and Salvador Salamanca
2 are appointed Class Representatives.

3 7. The Court approves CPT Group, Inc. as the Settlement Administrator.

4 8. The Court finds that the Class Notice – a copy of which is attached as Exhibit “A”
5 and authenticated by the Settlement Administrator, CPT Group, Inc. in the Declaration of Abel
6 E. Morales Regarding Notification And Settlement Administration – as mailed to Class Members
7 by the Settlement Administrator was the best notice practicable under the circumstances. The
8 Class Notice provided adequate notice of the proceedings and of the matters set forth therein,
9 including the proposed terms of settlement set forth in the Settlement Agreement, to all persons
10 entitled to such notice, and said Class Notice fully satisfied the requirements of the law and the
11 requirements of due process.

12 9. The Court finds that the Settlement Agreement is fair, reasonable, and adequate
13 to the Settlement Class Members, is in the best interest of the Settlement Class Members, has
14 been entered into in good faith and should be finally approved. More specifically, the Court finds
15 that the Settlement was reached following meaningful discovery and investigation conducted by
16 Class Counsel; that the Settlement is the result of informed, adversarial, and arm’s-length
17 negotiations between the Parties; and that the terms of the Settlement are fair, adequate, and
18 reasonable. In so finding, the Court has considered all of the evidence presented, including
19 evidence regarding the strength of the Plaintiffs’ case; the risk, expense, and complexity of the
20 claims presented; the likely duration of further litigation; the amount offered in the Settlement;
21 the extent of investigation and discovery completed; and the experience and views of Class
22 Counsel. The Court considers the absence of any objections and opt-outs/requests for exclusion
23 as a favorable response from Class Members. The Settlement represents a fair resolution of all
24 claims asserted on behalf of Plaintiffs and the Settlement Class Members, and fully and finally
25 resolves all such claims.

26 10. The Court hereby approves the settlement set forth in the Settlement Agreement
27 and finds that it is, in all respects, fair, adequate and reasonable and directs the Parties and the
28 Settlement Administrator to effectuate the Settlement according to its terms. The Court finds that

1 the Settlement has been reached as result of intensive, serious and non-collusive arm's-length
2 negotiations. The Court finds that the Parties have conducted extensive investigation and research
3 and counsel for the Parties are able to reasonably evaluate their respective positions. The Court
4 also finds that settlement at this time will avoid additional substantial costs, as well as avoid the
5 delay and risks that would be presented by the further prosecution of this Action. The Court has
6 noted the significant benefits to the Settlement Class Members under the Settlement.

7 11. As of the Effective Date, Plaintiffs and each Settlement Class Member, on behalf
8 of himself or herself and on behalf of his or her respective heirs, estates, trustees, executors,
9 administrators, representatives, agents, successors, and assigns, and anyone claiming through
10 them or acting or purporting to act on their behalf, shall be deemed to have, and by operation of
11 the Final Approval Order shall have, fully and irrevocably released and forever discharged the
12 Released Parties from all Released Claims.

13 a) "Released Parties" means (i) Defendants Airtech International, Inc.,
14 Advanced Materials Group, and their past, present, and future parents,
15 subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and
16 any other legal entities, whether foreign or domestic, and (ii) the past,
17 present, and future shareholders, officers, directors, members, investors,
18 agents, employees, consultants, representatives, fiduciaries, insurers,
19 attorneys, legal representatives, predecessors, successors, and assigns of the
20 entities listed in (i). (Settlement Agreement ¶ 2.27); and,

21 b) "Released Claims" means all claims actually alleged or that could have been
22 alleged in the Action by Plaintiffs, on behalf of themselves and the Class
23 Members, during the Class Period, based on the facts alleged in the Action,
24 including but not limited to: (1) Violation of California Labor Code §§ 510,
25 1194 and 1198, and IWC Wage Order 4-2001, § 3 (Unpaid Overtime); (2)
26 Violation of California Labor Code §§ 226.7, 510, 512, 1194, 1197, and
27 IWC Wage Order 4-2001, § 11 (Failure to Provide Meal Periods and Unpaid
28 Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7,
512 and IWC Wage Order 4-2001, § 12 (Failure to Provide Rest Periods
and Unpaid Rest Period Premiums); (4) Violation of California Labor Code
§§ 1194, 1197, and 1197.1, and IWC Wage Order 4-2001, § 4 (Unpaid
Minimum Wages); (5) Violation of California Labor Code §§ 201, 202, and
203 (Final Wages Not Timely Paid); (6) Violation of California Labor Code
§ 204 (Wages Not Timely Paid during Employment); (7) Violation of
California Labor Code § 226(a) and IWC Wage Order 4-2001, § 7 (Non-
Compliant Wage Statements); (8) Violation of California Labor Code §§
226, 1174, and Industrial Welfare Commission Wage Order 4-2001, § 7
(Failure to Keep Requisite Payroll Records); (9) Violation of California
Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10)
Violation of California Business & Professions Code §§ 17200, et seq.; (11)
PAGA Claims in violation of California Labor Code § 2699, et seq.; and

(12) attorneys' fees and costs of litigation associated with this Action.
(Settlement Agreement ¶ 2.1.)

12. The Court orders that, upon the Effective Date, the Settlement shall be the exclusive remedy for any and all of Settlement Class Members' Released Claims as to each and every Settlement Class Member.

13. Notwithstanding the submission of a timely request for exclusion, all Class Members are still bound by the settlement and release of the PAGA Claims and the State's claims for civil penalties pursuant to PAGA are also extinguished.

14. Defendants shall pay the non-reversionary amount of \$3,315,000 to fund the Settlement: this amount is called the Total Settlement Amount. The Total Settlement Amount shall be inclusive of all settlement payments to Settlement Class Members, the service awards to the Class Representatives, the costs to the Settlement Administrator, the attorneys' fees and litigation costs to Class Counsel, and the Private Attorneys General Act ("PAGA") Payment, including payment to PAGA Group Members and to the California Labor and Workforce Development Agency ("LWDA") for civil penalties pursuant to statute. Defendants shall be responsible for payment of employer-side payroll taxes on the portion of the settlement allocated to wages.

15. The requested award of attorneys' fees to Class Counsel in the amount of \$1,160,250 is approved as fair, adequate, and reasonable and is to be divided between the two law firms, *Lawyers for Justice, P.C.* and *CounselOne, P.C.*, in accord with their respective 60% and 40% fee split terms per their written fee agreement.

16. The requested award of litigation costs of \$11,835.59 to Class Counsel for reimbursement of actual expenses incurred (\$9,185.85 to reimburse *Lawyers for Justice, P.C.* and \$2,649.74 to reimburse *CounselOne, P.C.*) is approved as fair, adequate, and reasonable.

17. The service award payments in the amounts of \$10,000 each to Class Representatives Herrera and Salamanca, and \$4,000 to Class Representative Cisneros, are approved as fair and reasonable compensation for the Class Representatives' efforts in initiating this Action, the time and effort involved, the benefits conferred on the Settlement Class, and the risks assumed by them.

1 18. The Court finds that the PAGA Payment – of which 75% of the PAGA Payment
2 is allocated for payment to the LWDA for civil penalties pursuant to statute and 25% of the
3 PAGA Payment is to be distributed to PAGA Group – is fair, reasonable, and adequate, and
4 orders the Settlement Administrator to distribute this payment in conformity with the terms of
5 the Settlement Agreement.

6 19. The Court approves the costs of the Settlement Administrator, CPT Group, Inc.,
7 in the amount of \$16,000 for the notification and settlement administration services it performed
8 in connection with this Action.

9 20. The Court orders that within ten (10) calendar days of the Effective Date,
10 Defendants shall deposit the Total Settlement Amount and the employer-side payroll taxes to be
11 paid by Defendants with the Settlement Administrator. (Settlement Agreement ¶ 4.1.)

12 21. Within fifteen (15) calendar days of receipt of the Total Settlement Amount, the
13 Settlement Administrator shall distribute the following payments: (a) payment to Plaintiffs/Class
14 Representatives for their Court-approved Service Awards; (b) payment to the LWDA for its 75%
15 portion of the PAGA Payment; (c) payment of the Court-approved Settlement Administrator
16 Expenses; (d) payment of the Court-approved Class Counsel Award to Class Counsel; (e)
17 payment of the Individual Settlement Payments to Settlement Class Members; and (f) payment
18 to the PAGA Group Members of their 25% portion of the PAGA Payment. (Settlement
19 Agreement ¶ 10.2.)

20 22. The Settlement provides that, if any payments are not cashed, deposited, or
21 negotiated on or before the 181st day after mailing (“Void Date”), then within thirty (30) calendar
22 days of the Void Date, the Settlement Administrator shall void the uncashed checks and transmit
23 such funds to the California State Controller’s Office’s Unclaimed Property Fund division in the
24 name of the Settlement Class Member who did not negotiate his or her check. (Settlement
25 Agreement ¶¶ 2.34, 10.4.)

26 23. The Court finds the settlement on the terms set forth in the Settlement Agreement
27 was made in good faith and constitutes a fair, reasonable, and adequate compromise of the
28 released claims against Defendants. Without affecting the finality of this Judgment in any way,

1 this Court hereby retains continuing jurisdiction over the interpretation, implementation, and
2 enforcement of the Settlement and all orders and judgments entered in connection therewith.

3 24. The Settlement Agreement and this Final Approval Order and Judgment are
4 binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or
5 other proceedings that encompass Plaintiffs' and Settlement Class Members' claims released
6 herein, and that are maintained by or on behalf of Plaintiffs and Settlement Class Members.

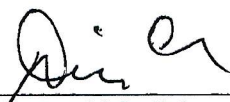
7 Based on the foregoing Order the Court enters the following Judgment:

8 **Judgment.**

9 25. Judgment is hereby entered pursuant to California Rules of Court, Rule 3.769(h).
10 Without affecting the finality of this Order and further pursuant to Rule 3.769(h), the Court
11 retains exclusive and continuing jurisdiction over the litigation for purposes of supervising,
12 implementing, interpreting, and enforcing this order and the Settlement Agreement.

13
14 **IT IS SO ORDERED.**

15
16 Dated: 9/9/21



Hon. David S. Cohn
Judge of the Superior Court