

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Tel./Fax: (213) 488-6555 / (213) 488-6554

THE CARTER LAW FIRM
Roger R. Carter (State Bar No. 140196)
roger@carterlawfirm.net
23 Corporate Plaza Drive, Suite 150
Newport Beach, California 92660
Tel./Fax: (888) 914-6900 / (949) 629-2501

THE PHELPS LAW GROUP
Marc H. Phelps (State Bar No. 237036)
marc@phelpslawgroup.com
23 Corporate Plaza Drive, Suite 150
Newport Beach, California 92660
Tel./Fax: (949) 409-1211 / (949) 629-2501

Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

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

Plaintiffs,

vs.

CONTROL AIR ENTERPRISES LLC, a
Delaware limited liability company; CONTROL
AIR CONDITIONING CORP., a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 30-2020-01155488-CU-OE-CXC

[Hon. Glenda Sanders, Department CX101]

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

*[Filed concurrently with Notice of Motion and
Motion for Preliminary Approval of Class Action
Settlement; Declaration of Larry W. Lee;
Declaration of Simon L. Yang; Declaration of
Roger R. Carter; Declaration of Marc J. Phelps;
Declaration of Tara Joy]*

Date: July 8, 2022
Time: 1:30 p.m.
Department: CX101

1 Plaintiff's motion for an Order Granting Preliminary Approval of Class Action Settlement was
2 filed with the Court on or about June 13, 2022, and a hearing was held before this Court on July 8, 2022.
3 Simon L. Yang of Diversity Law Group, P.C. appeared on behalf of Plaintiff, Tara Joy, and Sarkis A.
4 Atoyan of Atkinson, Andelson, Loya, Ruud & Romo appeared for Defendants Control Air Enterprises
5 LLC and Control Air Conditioning Corp.

6 **I. RECITALS**

7 1. On August 17, 2020, Plaintiff initiated this class and action to remedy Defendants' wage
8 statement violations since April 6, 2019. The Complaint also seeks penalties as a proxy for the State of
9 California pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"). During the
10 litigation, the Parties met and conferred about the transfer of employees previously employed by Control
11 Air Conditioning Corporation to Control Air Enterprises LLC on June 1, 2019. The operative complaint
12 also alleges pursues claims based on Control Air Conditioning Corporation's failure to pay all wages
13 and accrued PTO upon termination of employment.

14 2. After 10 months of litigation, the Parties commenced settlement negotiations through a
15 well-respected mediator, the Hon. Steven R. Denton (Ret.). Following the mediation, the Parties were
16 ultimately able to agree to the current settlement described in the Joint Stipulation of Class Action and
17 PAGA Settlement ("Agreement").

18 **II. FINDINGS**

19 3. The Court conditionally certifies the following Classes: (i) The "Wage Statement Class"
20 of all non-union employees who were issued wage statements from May 29, 2019, through August 9,
21 2020; and (ii) The "Vacation Class" of all employees whose employment with Control Air Conditioning
22 Corporation ended on May 31, 2019. The Wage Statement Class is comprised of approximately 332
23 individuals. The Vacation Class is comprised of no more than 180 individuals. "Class Members" include
24 all members of the Wage Statement Class and Vacation Class.

25 4. The Court hereby approves the terms and conditions provided for in the Agreement. The
26 Court finds that on a preliminary basis the Agreement falls within the range of reasonableness of a
27 settlement and appears to be presumptively valid, subject to any objections that may be raised at the
28 final fairness hearing and subject to final approval by the Court. It appears to the Court on a preliminary

1 basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when
2 balanced against the uncertain outcome of further litigation relating to liability and damages issues. It
3 also appears that investigation, research, and proceedings have been conducted so that counsel for the
4 Parties are able to reasonably evaluate their respective positions. It appears to the Court that settlement
5 at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
6 would be presented by the further prosecution of the action. It also appears that settlement has been
7 reached as a result of intensive, serious, and non-collusive arms-length negotiations.

8 **III. ORDERS**

9 After considering the papers and evidence, arguments of counsel, and all other matters presented
10 to the Court, and having taken the matter under submission, **IT IS HEREBY ORDERED** as follows:

11 5. The Court grants preliminary approval of the Agreement submitted by the Parties. The
12 Agreement appears to be fair, adequate, and reasonable to the Class.

13 6. The Court appoints and designates: (a) Plaintiff, Joseph Guevara, as Class
14 Representative, and (b) Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., Roger R.
15 Carter of The Carter Law Firm, and Marc H. Phelps of The Phelps Law Group as Class Counsel for the
16 Class. Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents
17 required by, or which may be given, pursuant to the Agreement, and such other acts reasonably
18 necessary to finalize the Agreement and its terms. Any Class Member may enter an appearance through
19 his or her own counsel at such Class Member's own expense. Any Class Member who does not enter an
20 appearance or appear on his or her own behalf will be represented by Class Counsel.

21 7. A final fairness hearing on the question of whether the proposed Agreement, the
22 allocation of payments to Class Members, attorneys' fees and costs to Class Counsel, the payment to the
23 Labor & Workforce Development Agency, and the Class Representative Enhancement Payment should
24 be finally approved as fair, reasonable, and adequate as to the members of the Class is set for
25 _____, 2022, at _____ in this Court.

26 8. The Court hereby approves, as to form and content, the Notice of Class Action and
27 PAGA Settlement ("Class Notice"), which is attached as Exhibit 1 to the Agreement and this Order. The
28 Court finds that distribution of the Class Notice to Class Members substantially in the manner and form

1 set forth in the Agreement and this Order meets the requirements of due process and shall constitute due
2 and sufficient notice to all parties entitled thereto.

3 9. The Court appoints and designates Phoenix Settlement Administrators as the
4 Administrator. The Court hereby directs the Administrator to provide the approved Class Notice to Class
5 Members using the procedures set forth in the Agreement.

6 10. Any Class Member may choose to opt out of and be excluded from the settlement as
7 provided in the Agreement and Class Notice and by following the instructions for requesting exclusion.
8 Any person who timely and properly opts out of the settlement will not be bound by the Agreement or
9 have any right to object, appeal, or comment thereon. Any request for exclusion must be in writing and
10 signed by each such Class Member opting out and must otherwise comply with the requirements
11 delineated in the Class Notice. Class Members who have not requested exclusion by submitting a valid
12 and timely request for exclusion shall be bound by all determinations of the Court, the Agreement, and
13 Judgment.

14 11. Any Class Member may object to the Agreement or express his or her views regarding
15 the Agreement. Any Class Member may present evidence and file briefs or other papers relevant to the
16 issues to be heard and determined by the Court as provided in the Class Notice.

17 12. A Motion for Final Approval shall be filed by the Class Representatives no later than
18 sixteen (16) court days before the final fairness hearing.

19 13. The Court reserves the right to adjourn or continue the date of the final fairness hearing
20 and all dates provided for in the Agreement without further notice to the Class. The Court retains
21 jurisdiction to consider all further applications arising out of or connected with the Agreement.

22 14. Should for whatever reason final approval is not granted, the fact that the Parties were
23 willing to stipulate to certification of a class as part of the settlement shall have no bearing on the issue
24 of whether a class should be certified in a non-settlement context.

25 **IT IS SO ORDERED.**

26 DATED: _____, 2022

27 _____
THE HONORABLE GLENDA SANDERS