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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUDY GONZALEZ,

Plaintiff,

vs.

XTREME MANUFACTURING, LLC; and
DOES 1-100, inclusive,

Defendants.

Case No.: 1:20-cv-01704-JLT-SKO

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS AND
ACTION SETTLEMENT, MOTION FOR
ATTORNEYS' FEES, COSTS, SERVICE
PAYMENT, AND FINAL JUDGMENT**

Plaintiff Rudy Gonzalez's ("Gonzalez" or "Plaintiff") Motion for Final Approval of Class Action Settlement ("MFA") and Motion for Attorneys' Fees, Litigation Expenses, and Service Payment ("Fee Motion") came on for hearing on March 10, 2023, at 9:00 a.m., before the honorable Jennifer L. Thurston, District Judge, United States District Court for the Eastern District of California. Jenny D. Baysinger appeared on behalf of Plaintiff and Michael Nader appeared on behalf of Defendant Dart Xtreme Manufacturing, LLC ("Defendant" or "Xtreme"). The Court, having fully and carefully considered Plaintiff's Motion for Final Approval and Fee Motion, the memoranda and declarations in support thereof, the Parties' Joint Stipulation of Class and Representative Action Settlement (the "Settlement Agreement" or SA") attached as **Exhibit 1** to the Declaration of Jenny D. Baysinger in

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Support of Plaintiff's Motion for Final Approval of Class Action Settlement, and the oral arguments made at the hearing, hereby makes the following determinations and orders¹:

1. On October 25, 2022, this Court granted preliminary approval of the Settlement. Dkt. 31. The claims brought by Plaintiff are set forth in that order and will not be repeated here. Plaintiff's Motion for Final Approval and Fee Motion were timely filed based on the Court's preliminary approval order and posted to the Court's website for interested Class Members to review. No objections to the Plaintiff's motions were filed.

2. The Court finds that the Settlement was reached after arm's-length negotiations between the Parties, including a full-day mediation before experienced class action mediator Louis Marlin, Esq.; the proposed Settlement occurred only after counsel for the Parties conducted adequate investigation and discovery; and the Settlement of this action, as embodied in the terms of the Settlement, is finally approved as fair, reasonable, and adequate and in compliance with all applicable requirements of the Federal Rules of Civil Procedure and any other applicable law, and in the best interests of the Class Members.

3. Plaintiff Rudy Gonzalez is confirmed as Class Representative.

4. Mayall Hurley P.C., by and through Lead Counsel Jenny D. Baysinger and Robert J. Wassermann are confirmed as Class Counsel.

5. Simpluris, Inc. is confirmed as Administrator of the Settlement.

6. Prior to granting preliminary approval, the Court evaluated the standards for class certification. Nothing has been raised subsequently that might affect the Court's prior analysis as to whether certification is appropriate here, and the Court has no cause to revisit that analysis. The Court finds that final certification as to the following Class is appropriate under Rule 23:

All current and former non-exempt California employees of Xtreme who worked at least one shift from December 4, 2016 to March 1, 2022 (the "Class Members")

¹ All terms used in this Order Granting Final Approval of Class Action Settlement, Attorneys' Fees, Litigation Expenses, and Service Payment (the "Order") shall have the same meanings given those terms in the Parties' Settlement Agreement a copy which is attached as **Exhibit 1** to the Declaration of Jenny D. Baysinger in Support of Plaintiff's Motion for Final Approval.

1 7. The Court reviewed the Class Notice that was proposed when the Parties sought
2 preliminary approval of the Settlement and found it sufficient, with specific modifications as outlined in
3 the Order Re: Preliminary Approval of Class Action Settlement (“PAO”) (Dkt. 31). The Court has
4 reviewed the content of the Notice attached as **Exhibit A** to the Declaration of Evelin Reyes Regarding
5 Notice and Settlement Administration, February 3, 2023 (“Admin. Dec.”) filed with the MFA and
6 determined it is consistent with the instructions in the PAO. The Court-approved Notice informed the
7 Class Members of the Settlement terms, the claims they would be releasing if they chose to participate in
8 the settlement, Class Members’ rights to opt-out of, comment on or object to the Settlement, and their
9 rights to appear at the Final Approval Hearing and be heard regarding the Settlement. Adequate periods
10 of time to respond and to act, specifically 45 days from the date the Notice was mailed, and 20
11 additional days for Class Members whose Notice Packets were re-mailed, were provided by each of
12 these procedures.

13 8. The Administrator sent Notice to 218 individuals on December 5, 2022. Notice was
14 effectuated on all 216 Class Members; 99% of the Class Members received Notice. See Admin. Dec. at
15 ¶¶ 8-9.

16 9. The Court concludes that adequate notice was provided to the Class here. *Silber v.*
17 *Mabon*, 18 F.3d 1449, 1453–54 (9th Cir. 1994) (noting the court need not ensure all class members
18 receive actual notice, only that “best practicable notice” is given); *Winans v. Emeritus Corp.*, No. 13-cv-
19 03962-HSG, 2016 WL 107574 *3 (N.D. Cal. Jan. 11, 2016) (“While Rule 23 requires that ‘reasonable
20 effort’ be made to reach all class members, it does not require that each individual actually receive
21 notice.”). The Court accepts the Admin Dec. and finds sufficient notice has been provided so as to
22 satisfy Federal Rule of Civil Procedure 23(e)(1) and due process.

23 10. No Class Member submitted a valid and timely opt-out. As such, all Class Members will
24 be deemed Participating Class Members and bound by the terms of the Settlement Agreement.

25 11. None of the Class Members has raised any objection to the Settlement.

26 12. The Settlement contemplates a PAGA allocation of \$10,000, which will be distributed
27 \$7,500 to the LWDA, and \$2,500 to the PAGA Members. The proposed allocation is fair and
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1 reasonable, serves the deterrent and punitive purposes of the PAGA, is within the range commonly
2 approved by state and federal courts, and is confirmed.

3 13. The Court also approves payment to the Administrator in the total amount of \$5,500, to
4 be paid from the Gross Settlement Amount.

5 14. The proposed Service Payment of \$5,000 to Plaintiff, 1.72% of the Gross Settlement
6 Amount, for his service as Class Representative is approved.

7 15. Class Counsel's request of attorneys' fees in the amount of 1/3 of the Gross Settlement
8 Amount, or \$96,666.67, and declared litigation expenses of \$12,897.03, are approved.

9 16. In accordance with the terms of the Settlement, as of the Effective Date, Participating
10 Class Members will forever and completely release and discharge Defendants and Released Parties from
11 the Released Claims. SA ¶ 59(a). Additionally, Plaintiff, on behalf of himself, the LWDA, and the
12 PAGA Members, will release Defendants and Released Parties from the Released PAGA Claims. SA ¶
13 59(b).

14 17. Participating Class Members shall be permanently enjoined and restrained from and
15 against initiating or pursuing against Defendant any individual, representative, or class claims released
16 by this Settlement.

17 18. Final Judgment is hereby entered based on the Parties' Settlement. The Court retains
18 jurisdiction, however, to enforce the terms of the Settlement, and ensure that its terms and this Order are
19 carried out.

20 Dated: _____
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22 _____
23 HON. JENNIFER L. THURSTON
24 UNITED STATES DISTRICT JUDGE
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