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

EARL RHODES and SALVADOR  
RODRIGUEZ, individually, and on behalf  
of other members of the general public  
similarly situated;

Plaintiffs,

v.

CAVOTEC DABICO US INC., a Delaware  
corporation; CAVOTEC INET US INC., a  
Delaware corporation; and DOES 1 through  
100, inclusive;

Defendants.

Case No.: 30-2021-01177305-CU-OE-CXC

Judge James Di Cesare  
Department C-16

**CLASS ACTION**

**PLAINTIFFS' SUPPLEMENTAL BRIEF IN  
SUPPORT OF PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT**

**[Reservation ID: 73592455]**

[Supplemental Declaration of Proposed Class  
Counsel (Douglas Han); and Revised [Proposed]  
Order filed concurrently herewith]

Hearing Date: January 7, 2022  
Hearing Time: 9:30 a.m.  
Hearing Place: Department C-16

Complaint Filed: January 5, 2021  
FAC Filed: July 20, 2021  
Trial Date: None Set

Plaintiffs Earl Rhodes and Salvador Rodriguez (“Plaintiffs”) provide this supplemental submission in response to the Court’s tentative ruling on Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement originally scheduled for hearing on September 16, 2021. On September 16, 2021, the Court continued the Motion to November 12, 2021, with instructions to address the concerns outlined in the ruling.

The chart below lists each of the Court’s concerns from the tentative ruling and the revisions/submissions made to address each concern.

| Ruling                                                                                                                                                                       | Revisions/Submissions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) Did Defendant alter any of its policies or procedures in connection with the litigation or settlement of this matter?                                                     | <i>See</i> the Declaration of Mo Jadbabaei, Director of Manufacturing Operations and corporate office at Covtec USA, Inc. (Attached as <b>Exhibit 6</b> to Supplemental Declaration of Douglas Han In Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Supp. Han Decl.”) ¶ 8.                                                                                                                                                                                                                                              |
| 2) Explain how the allocation of wages and penalties was reached. The Notice’s stated allocation is inconsistent with the Settlement. (Compare § III(F) with Notice at p.7.) | The settlement payout to the settlement class will be computed as thirty-three percent (33%) wages and sixty-six percent (66%) as non-wages. This allocation of wages, penalties, and interest was reached based on the realistic exposure Plaintiff could expect to receive for rest break premiums, meal break premiums, and unpaid wages due to rounding if this case went to trial. While unpaid wages due to off-the-clock work and failure to factor non-discretionary bonuses into regular rates of pay qualify as wages, failure to pay premium wages |

for noncompliant meal and rest breaks could be characterized as wages or penalties. As a result, the Parties added the realistic exposure for rest break premiums and meal break premiums ( $\$98,361.37 + \$399,526.76 = \$497,888.13$ ) and divided the sum in half to represent one half for wages and one half for penalties ( $\$248,944.07$ ). The Parties then added the  $\$248,944.07$  representing wages to the low end of the realistic exposure for unpaid wages due to off-the-clock work and failure to factor non-discretionary bonuses into regular rates of pay ( $\$248,944.07 + \$107,086.12 + \$21,700.56 = \$377,730.75$ ). The realistic exposure of  $\$377,730.75$  that Plaintiff can expect to receive for the wage portion of rest break premiums, meal break premiums, and unpaid wages due to off-the-clock work and failure to factor non-discretionary bonuses into regular rates of pay represents thirty-seven percent (37.15%) of the low end of the realistic exposure of the maximum total exposure plus the Private Attorneys General Act of 2004 (“PAGA”) penalties ( $\$761,760.86 + \$255,000 = \$1,016,760.86$ ). Because this represents roughly one-third ( $1/3$ ) of wages, the Parties determined allocating thirty-three percent (33%) as wages and sixty-six percent (66%) as non-wages

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>pursuant to the Amended Settlement Agreement was appropriate.</p> <p><i>See</i> Supp. Han Decl. ¶ 9.</p> <p>Section 10 of the Class Notice on page 7 has been revised to be consistent with the Settlement Agreement with regards to the allocation of wages and penalties.</p> <p><i>See</i> Supp. Han Decl. ¶ 10, <b>Exhibit 3</b> p. 7.</p>                                                                                    |
| <p>3) The Proposed Order should identify the Settlement by ROA number (not attach it) and attach the Notice as an Exhibit.</p>                                                                                                                                                                                                                                                                                                                                                                                            | <p>The Revised Proposed Order has been modified to: (a) identify the Settlement by ROA Number (not attach it); and (b) attach the Class Notice as an Exhibit.</p> <p><i>See</i> Supp. Han Decl. ¶ 11.</p>                                                                                                                                                                                                                            |
| <p>4) The Court reserves the right to review all disputes and requests for exclusion, regardless of timeliness. The Court requires the addition of language stating “absent good cause found by the Court” regarding waiver. The Court may request any dispute forms, objections, or requests for exclusion and independently review them. (See, e.g., Notice (at p.7) (“Any evidence submitted will be carefully weighed, and the Class Counsel and Defendant’s Counsel will make a final determination.”) The Court</p> | <p>The Settlement Agreement has been modified to include the language “absent good cause found by the Court” regarding Class Members submitting disputes and requests for exclusion.</p> <p><i>See</i> Supp. Han Decl. ¶ 12, <b>Exhibit 2</b> §§ III(I)(2)(e), III(I)(4)(c).</p> <p>Section 7 of the Class Notice on page 5 has also been revised to include the language “absent good cause found by the Court” regarding Class</p> |

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| <p>1 makes final determinations.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>                                       | <p>Members submitting requests for exclusion.</p> <p><i>See</i> Supp. Han Decl. ¶ 12, <b>Exhibit 3</b> p. 5.</p> <p>Finally, Section 10 of the Class Notice on page 7 has been modified to include the language “The Court may request any dispute forms, objections, or requests for exclusion and independently review them.”</p> <p><i>See</i> Supp. Han Decl. ¶ 12, <b>Exhibit 3</b> p. 7.</p> |
| <p>12 5) Notice (at p.7) should explain Unclaimed</p> <p>13 Property will be held in the name of the</p> <p>14 individual.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> | <p>Regarding uncashed settlement checks, section 10 of the Class Notice on page 7 has been modified to include the sentence, “Unclaimed property will be held in the name of the individual Class Member.”</p> <p><i>See</i> Supp. Han Decl. ¶ 13, <b>Exhibit 3</b> p. 7.</p>                                                                                                                      |
| <p>19 6) Counsel should include an OBJECTION</p> <p>20 FORM.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>                       | <p>Class Counsel drafted an Objection Form and attached it to the Settlement Agreement as an additional Exhibit.</p> <p><i>See</i> Supp. Han Decl. ¶ 14, <b>Exhibit 7</b>.</p> <p>The Settlement Agreement has been modified to refer to the Objection Form.</p> <p><i>See</i> Supp. Han Decl. ¶ 14, <b>Exhibit 2</b> §§ I(AA), III(I)(1)(a), and III(I)(3)(a).</p>                                |

|                                                                                        |                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                        | <p>The Class Notice has also been modified to refer to the Objection Form.</p> <p>See Supp. Han Decl. ¶ 14, <b>Exhibit 3</b> p. 5.</p> <p>The Revised Proposed Order has been modified to reference the Objection Form in paragraph 13.</p> <p>See Supp. Han Decl. ¶ 14.</p> |
| <p>7) As to the Proposed Order, Paragraph 14 is unnecessary and should be deleted.</p> | <p>Paragraph 14 in the Revised Proposed Order has been removed.</p> <p>See Supp. Han Decl. ¶ 15.</p>                                                                                                                                                                         |

Dated: October 19, 2021

**JUSTICE LAW CORPORATION**

By:   
 Douglas Han  
 Shunt Tatavos-Gharajeh  
 Phillip Song  
 Talia Lux  
 Haig Hogdanian  
*Attorneys for Plaintiffs*

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**PROOF OF SERVICE**  
**1013A(3) CCP**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is [aokada@justicelawcorp.com](mailto:aokada@justicelawcorp.com)

On October 19, 21, I served the foregoing document described as

**PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

for the following case: **Rhodes, et al. v. Cavotec Dabico US Inc., et al.**  
LWDA/Court Case No.: **LWDA-CM-836474-21**  
**30-2021-01177305-CU-OE-CXC**  
**Orange County Superior Court**

on interested parties in this action by electronically submitting as follows:

**State of California**  
**Labor & Workforce Development Agency**  
**800 Capitol Mall, MIC-55**  
**Sacramento, California 95814**

**[X] BY ELECTRONIC SUBMISSION**

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

**[X] STATE**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 19, 2021, at Pasadena, California.



Anna Okada