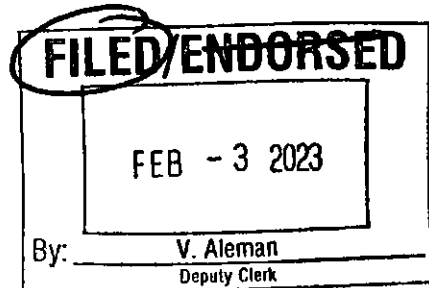


1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Brittany V. Berzin (Cal. State Bar No. 325121)
Shimoda & Rodriguez Law, PC
3 9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

5 Attorneys for Plaintiff SILVIANO VASQUEZ



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8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**
10

11 SILVIANO VASQUEZ, individually and on
12 behalf of all other similarly situated
employees,

13 Plaintiff,

14 vs.

15
16 CHRISWELL HOME IMPROVEMENTS,
INC., A California Corporation; and DOES 1
17 to 100, inclusive,

18 Defendants.
19
20
21
22

Case No. 34-2021-00305938

CLASS ACTION

AMENDED [PROPOSED] ORDER
GRANTING PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT

Date: February 3, 2023

Time: 9:00 a.m.

Dept.: 28

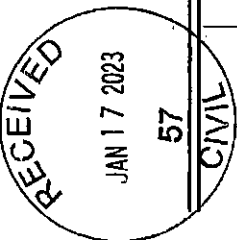
Judge: Hon. Lauri A. Damrell

Filed: August 10, 2021

FAC Filed: January 5, 2022

Trial Date: None Set

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**AMENDED [PPSD] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**



BY FAX

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") in the
3 above referenced case came before this Court, on December 2, 2022, at 9:00 a.m., in Department 28
4 before the Honorable Lauri Damrell, presiding. The Court continued the hearing to February 3, 2023
5 and requested supplemental briefing to address the concerns the Court raised in the December 2, 2022,
6 Minute Order. Named Plaintiff Silviano Vasquez ("Plaintiff") filed this putative class action on
7 August 10, 2021. The operative Complaint alleges that Defendant Chriswell Home Improvements,
8 Inc. ("Defendant") violated California law by failing to pay overtime, failing to pay minimum wages,
9 failing to provide meal periods, failing to provide rest periods, failing to provide accurate wage
10 statements, failing to pay final wages, failing to reimburse expenses, and engaging in unfair
11 competition. Plaintiff has also alleged Defendant is liable for a civil penalties under the Private
12 Attorneys General Act ("PAGA") based on these violations. Plaintiff sought attorneys' fees and costs
13 as part of this Action. Defendant denied all of Plaintiff's claims and denied that this case was
14 appropriate for class treatment. No class has been certified.

15 The parties have agreed to settle the class and PAGA claims. Defendant and its owners, Paul
16 C. Cromwell ("Cromwell") and Chris J. Mesunas ("Mesunas"), will provide monetary consideration in
17 exchange for a release of claims consistent with the terms of the proposed settlement as set forth in the
18 Joint Stipulation Regarding Class Action and PAGA Settlement and Release ("Agreement"). Any
19 capitalized terms herein shall have the same meaning as set forth in the Agreement. The Court, having
20 received and considered Plaintiff's Motion for Preliminary Approval of Class Action and PAGA
21 Settlement, the declarations and supplemental declaration in support, the Agreement, the proposed
22 Notice of Settlement, supplemental briefing, and other evidence, HEREBY ORDERS AND MAKES
23 DETERMINATIONS AS FOLLOWS:

24 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
25 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

26 The Court finds that certification of the following class for settlement purposes only is
27 appropriate under the California Code of Civil Procedure and related case law:
28

1 All individuals who have, or continue to, perform work for Defendant in
2 California as non-exempt employees from August 10, 2017 up to
September 26, 2022.

2017 LAURI A. DAMRELL

3 The Court recognizes that the foregoing definition is for Class Member identification purposes only and
4 is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

5 The Court finds that Class Members meet the ascertainability and numerosity requirements since
6 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
7 the definition and the number of Class Members would make joinder impractical. The commonality and
8 predominance requirements are met for settlement purposes since there are questions of law and fact
9 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
10 contentions that Defendants caused the violations outlined above by 1) failing to pay Class Members for
11 all hours worked; and 2) failing to incorporate the value of nondiscretionary remuneration, such as
12 bonuses into Class Members' regular rates of pay for the purpose of calculating overtime and paid sick
13 time; 3) failing to authorize and permit all meal and rest periods and failing to keep track of whether
14 Class Members' took meal periods; and 4) failing to reimburse Class Members' for the use of personal
15 items for work, such as personal cellphones, vehicles, and tools. The PAGA, waiting time penalty, wage
16 statement violation, and unfair competition claims also derive from these violations. Additionally, Class
17 Members seek the same remedies under state law. The typicality requirement for settlement purposes is
18 also satisfied since the claims of the Class Representative is based on the same facts and legal theories as
19 those applicable to the class members.

20 The Court also finds that preliminarily and conditionally certifying the settlement class is
21 required to avoid each Class Member from litigating similar claims individually. This settlement will
22 achieve economies of scale for Class Members with relatively small individual claims and conserve the
23 resources of the judicial system.

24 The Court finds that Plaintiff Silviano Vasquez and Plaintiff's counsel, Galen T. Shimoda, Justin
25 P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC, to be adequate representatives
26 of the settlement class. The Court appoints them as Class Representative and Class Counsel,
27 respectively.

1 **II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

2 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
3 A. The Court finds on a preliminary basis that the Agreement falls within the range of reasonableness of
4 a settlement, which could ultimately be given final approval by this Court. The Court also
5 acknowledges that Class Members may object to the settlement at a fairness hearing approved by this
6 Court or opt-out of being bound by the preliminarily approved Agreement.

7 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
8 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
9 preliminarily approves the Agreement and all terms therein as if stated here in full, including the
10 \$110,000 Gross Settlement Amount.

11 **III. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
12 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

13 The Court finds that the proposed Notice of Settlement, which was submitted with Plaintiff's
14 Motion as Exhibit F, fairly and adequately advises Class Members of the terms of the Agreement, the
15 rights being waived, their right to opt out, the ability to dispute the number of workweeks worked during
16 the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the settlement,
17 how to file documentation in opposition to the proposed settlement, and when to appear at the fairness
18 hearing to be conducted on the date set forth below. The Court further finds that the Notice of
19 Settlement and proposed distribution of such notice by first class mail to each identified Class Member
20 at his or her most recent address based on a National Change of Address database search from the Class
21 Members' last known address and a skip trace on any Class Members who have the Notice of Settlement
22 returned as "undeliverable" or "not at this address" comports with all constitutional requirements,
23 including those of due process.

24 The Court also finds that because there is a strong interest in providing Class Members the
25 opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to
26 privacy rights, the sharing of employment information, including social security numbers, is not a
27 serious intrusion on their privacy rights. Hence, the Court orders Defendant to provide first and last
28

1 name, last known mailing address, social security number, and hire and termination dates, total number
2 of workweeks during which the Class Member performed any actual work to the Claims Administrator
3 only, and not to Plaintiff or Class Counsel, in order to process this settlement as contemplated within the
4 Agreement and approved by this Order. The Claims Administrator shall only use this information for
5 settlement purposes identified herein, and this information shall be kept confidential, not be shared with
6 any third-party, and used only to administer the settlement.

7 **IV. IMPLEMENTATION SCHEDULE**

8 Accordingly, with good cause shown, the Court hereby approves and orders that the following
9 implementation schedule be adhered to:

10 Last day for Defendant to provide Claims 11 Administrator with Class Member and Aggrieved 12 Employee information	Within 14 calendar days after the Preliminary Approval Date
13 Last day for Claims Administrator to complete 14 NCOA search, update Class Member and 15 Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Claims Administrators' receipt of Class Members' information from Defendant
16 Last day for Class Members to opt-out, submit 17 disputes, submit objections, and submit data 18 requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
19 Last day for Claims Administrator to provide 20 Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
21 Last day for Claims Administrator to calculate the 22 final Net Settlement Amount, the final Claim 23 Amounts for Qualified Claimants and/or 24 Aggrieved Employees, any applicable taxes 25 thereon, and report the results of these calculations to Class Counsel and Defendant's Counsel	Within 7 calendar days after the Effective Date
26 Last day for Defendant, Cromwell, and Mesunas 27 to fund settlement	Within 30 calendar days after the Effective Date
28	

1 2 3 4	Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days after funding
5 6 7	Last day for Qualified Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Qualified Members and Aggrieved Employees
8 9	Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
10 11	Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

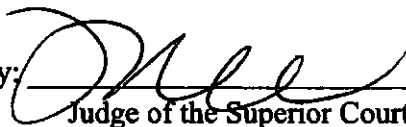
FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date of June 16, 2023, at 9:00 a.m., with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Class Members who object in a timely manner, and in the manner set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

If for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and rights of the parties to the litigation, including all challenges to personal jurisdiction and to class certification for any purpose other than approving a settlement class. The parties will revert to their respective positions as if no settlement had been reached at all.

IT IS SO ORDERED.

Date: 2/3/23

By: 
Judge of the Superior Court

LAURI A. DAMRELL