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

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

13 Plaintiff,

14 vs.
15

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

18 Defendants.
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Case No. 34-2021-00305938

CLASS ACTION

**SUPPLEMENTAL BRIEF IN SUPPORT OF
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

1 Plaintiff Silviano Vasquez (“Plaintiff”) respectfully submits this supplemental brief in support
2 of his Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”) to address
3 the issues raised by the Court in its December 2, 2022, Minute Order.

4 **I. THE ADDITIONAL DETAIL AND ANALYSIS PROVIDED BY PLAINTIFF**
5 **REGARDING THE STRENGTHS AND WEAKNESSES OF THE CLAIMS**
6 **DEMONSTRATES THAT THE CLASS ACTION AND PAGA SETTLEMENT IS A**
7 **REASONABLE COMPROMISE OF CLAIMS**

8 The percentage of recovery and risk analysis put forth in Plaintiff’s initial moving papers was
9 based on the maximum possible damage calculations based on the sample data set provided in
10 connection with mediation. *See* Supplemental Declaration of Brittany V. Berzin (“Supp. Decl.
11 Berzin”), ¶ 10. The gross and net percentage values were not based on claim values that incorporated
12 consideration of risks on the merits or ability to prove damages to the exact amount possible based on
13 the sample data. *See id.* This was a stricter standard than was otherwise required by *Kullar*, which
14 only requires the settlement be fair, reasonable, and adequate with respect to the *realistic* range of
15 outcomes of this litigation. *See Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th
16 399, 408-409 (2010). Even in federal court, where the adequacy of class and Private Attorney General
17 Act (“PAGA”) settlements are viewed in comparison to their potential *maximum* verdict value rather
18 than the realistic range of outcomes based on the risks of litigation, Courts have completely excluded
19 the value of claims from consideration where they were substantially disputed. *O’Connor v. Uber*
20 *Techs., Inc.*, 201 F.Supp.3d 1110, 1124-1125, 1128-1129 (N.D. Cal. 2016) (excluding from
21 consideration any value associated with the meal period, rest period, overtime, and minimum wage
22 claims for approximately 240,000 class members because they were substantially disputed claims).

23 Each of the asserted claims in this case were heavily disputed with regard to certification, the
24 merits, and damages. *See* Supp. Decl. Berzin, ¶ 9. Compared against the maximum likely damages,
25 the gross recovery is 5.4% and the net recovery is 2%. *See id.* at ¶¶ 9-10. Compared to the more
26 realistic range of potential recovery, the gross recovery is between 10.8% and 43.5% and the net
27 recovery is between 5% and 20.2%. *See id.* Plaintiff was able to achieve this even though Defendant
28 made financial distress claims, which Plaintiff verified through document review in connection with
mediation. *See id.* at ¶¶ 5, 7-8. Defendant’s financial condition was a main factor in Plaintiff agreeing

1 to the gross settlement amount in this case. *See id.* at ¶ 8. With respect to the PAGA claim in
2 particular, after accounting for the valuation disputes regarding the applicable civil penalty amount for
3 each particular claim, the total amount of penalties available would be \$530,800, which still would not
4 include any reductions for risk on the merits or discretionary reductions by the Court. *See id.* at ¶ 9(i).
5 The substantial variances in the potential amount of discretionary reductions employed as well as the
6 penalty amounts, means, before consideration of merits issues, the value of the PAGA claim could
7 range from \$95,544 to \$832,406.96. *See id.* After accounting for merits issues affecting the claims on
8 which the PAGA violations are based, Plaintiff believes any amounts ultimately awarded would be low,
9 especially in light of Defendant's financial condition. *See id.* Ultimately, the amount allocated for the
10 PAGA claim is comparable to other cases either in absolute terms or as a percentage of the total
11 recovery. *See Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to
12 the resolution of PAGA claims based on their being disputed and being part of a class settlement which
13 was evaluated based on the terms of the agreement overall); *Davis v. Cox Commc'ns California, LLC*,
14 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation
15 in \$275,000 settlement); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal.
16 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson &*
17 *Co.*, 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in
18 \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal.
19 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.*,
20 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a
21 \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL 5941801, at *14 (E.D. Cal. 2012)
22 (\$10,000 in PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*,
23 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the
24 LWDA out of \$6.9 million common-fund settlement); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL
25 2318173, at *8 n.2 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from
26 .037%-1%).

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II. THE SCOPE AND TIMING OF THE RELEASE IS APPROPRIATE

While the effective date for the release precedes the date that payment is due to Class Members, the Agreement, and all obligations therein by all parties, become effective and are triggered on the date a signed order granting final approval is filed with the Court, assuming no objections to the Agreement have been lodged by Class Members. *See* Exhibit A, ¶¶ 1.16-1.17. This puts all parties, including Class Members, in the same position that they would have been had Plaintiff prevailed at trial. At final approval, and as part of the final approval order, judgement is entered consistent with the terms of the Agreement. *See* Cal. Rules of Court, 3.769(h). Just as in the case of judgment after trial, judgment by consent or stipulation has res judicata affects, preventing litigation of claims covered by the settlement. *See Johnson v. Am. Airlines, Inc.*, 157 Cal.App.3d 427, 431 (1984); *Villacres v. ABM Indus. Inc.*, 189 Cal.App.4th 562, 583 (2010). The Court retains jurisdiction to enforce the judgment to ensure compliance. *See* Cal. Rules of Court, 3.769(h); *see also* Exhibit A, ¶ 10.6. To the extent Defendant does not comply with its contractual obligations and Court judgment, Plaintiff will utilize the Enforcement of Judgments Law (“EJL”), which is the comprehensive scheme governing the enforcement of all civil judgments in California. *See* Cal. Civ. Proc. Code §§ 680.010-724.260. These are the exact same mechanisms any plaintiff would be subject to, and utilize, to the extent a defendant did not pay as required after trial. The proposed Agreement with release and payment timing that mirrors what would apply after trial is fair, reasonable, and adequate to all involved, which is the appropriate standard of review. *See North County Contr. ’s Assn., Inc. v. Touchstone Ins. Svcs.*, 27 Cal.App.4th 1085, 1089-1090 (1994); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 133 (2008).

Failing to treat all parts of the Agreement as effective raises serious enforcement questions that would undermine Class Counsel’s ability to enforce Defendant’s obligation to pay. *See* Supp. Decl. Berzin, ¶ 11. To the extent a provision delaying the applicability of waivers is meant to preserve Class Members’ ability to bring individual claims, so long as the Court grants final approval there is a judgment and all Class Member’s claims would be extinguished under res judicata as a matter of law. *See Johnson*, 157 Cal.App.3d at 431; *Villacres*, 189 Cal.App.4th at 583; Cal. Rules of Court, 3.769(h). The same is true for any claims under the PAGA. Attempting to circumvent that calls into question

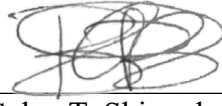
1 whether the judgment is actually final. If not, Class Counsel would not be able to utilize the EJI to
2 secure payment from a recalcitrant defendant. Furthermore, the potential for such individual actions
3 would raise questions of set offs to the gross settlement amount yet to be funded. This scenario also
4 raises a potential conflict between any Class Member who attempts to bring their own claim and those
5 wish to wait and utilize the ELJ rather than relitigate the merits. To the extent that there is any pending
6 bankruptcy, Class Members would have an increased likelihood of getting *some* recovery where there is
7 a judgment, and the only remaining obligation is payment by Defendant. *See In re Marciano*, 459 B.R.
8 27, 53 (B.A.P. 9th Cir. 2011), *aff'd*, 708 F.3d 1123 (9th Cir. 2013).

9 For these reasons, the timing of the waivers and payment dates under the Agreement are
10 appropriate.

11
12 Dated: January 17, 2023

Shimoda & Rodriguez Law, PC

13
14 By: _____


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16 Justin P. Rodriguez
17 Brittany V. Berzin
18 Attorneys for Plaintiff
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SUPERIOR COURT OF CALIFORNIA
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SILVIANO VASQUEZ, individually and on
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Plaintiff,

vs.

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

Defendants.

Case No. 34-2021-00305938

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
BRITTANY V. BERZIN IN SUPPORT OF
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

1 I, Brittany V. Berzin, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Silviano Vasquez (“Plaintiff”) herein. I am making
4 this declaration on behalf of the named Plaintiff, the putative class members, and in support of
5 Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”). A true
6 and correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
7 (“Agreement”) in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiff’s contention
9 that Defendant Chriswell Home Improvements, Inc. (“Defendant”) failed to pay overtime, failed to pay
10 minimum wages, failed to provide meal periods, failed to provide rest periods, failed to provide
11 accurate wage statements, failed to pay final wages, failed to reimburse expenses, and engaged in unfair
12 competition. Plaintiff also alleged liability for civil penalties under the Private Attorneys General Act
13 (“PAGA”). These claims were based allegations that Defendant violated California law by 1) failing to
14 pay Class Members for all hours worked; 2) failing to incorporate the value of nondiscretionary
15 remuneration, such as bonuses into Class Members’ regular rates of pay for the purpose of calculating
16 overtime and paid sick time; 3) failing to authorize and permit all meal and rest periods and failing to
17 keep track of whether Class Members’ took meal periods; and 4) failing to reimburse Class Members’
18 for the use of personal items for work, such as personal cellphones, vehicles, and tools. The PAGA,
19 waiting time penalty, wage statement violation, and unfair competition claims also derive from these
20 violations.

21 3. Plaintiff is the only named representative in this matter. From our initial investigations
22 of Plaintiff’s claims and documents, we believed these claims had merit and could be maintained as a
23 class action. We filed the action on or about August 10, 2021. Plaintiff exhausted administrative
24 remedies through the Labor and Workforce Development Agency (“LWDA”) prior to amending the
25 Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on August 10, 2021, setting
26 forth the facts and theories of liability. A true and correct copy of the notice filed with the LWDA is
27 being filed with this Motion as Exhibit C. A copy of the notice was also sent to Defendant via certified
28 mail and the \$75.00 filing fee was remitted to the LWDA at that time. There was no response by the

1 LWDA regarding its intent to investigate the claims alleged in Plaintiff's notice for more than 65 days.
2 As such, Plaintiff became authorized to commence a civil action under the PAGA and filed a First
3 Amended Complaint on January 5, 2022. A true and correct copy of Plaintiff's operative Complaint is
4 filed with this Motion as Exhibit B. A copy of the Complaint was uploaded to the LWDA on January
5 21, 2022, after we received an endorsed copy back from Court.

6 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

7 5. Defendant is represented in this matter by Coggins Law and Elguindy Meyer & Koegel,
8 APC. From the beginning, Defendant has contested the merits of this case, the suitability of the case
9 for class action or representative treatment, the manageability of the case at trial, and Plaintiff's ability
10 to prove a violation in each pay period for each employee among other defenses and contentions it
11 made challenging the propriety of this action. Defendant further contended, even assuming there was a
12 finding supporting the imposition of PAGA penalties, that the Court would likely exercise its discretion
13 to substantially reduce any such penalties owed based on evidence of good faith attempts to comply
14 with California Labor Code obligations by Defendant and Defendant's financial condition.
15 Notwithstanding its agreement to settle this matter, Defendant believes the practices Plaintiff is
16 contending are unlawful either do not exist or, to the extent they do exist, fully comply with all state
17 and federal employment laws with respect to Plaintiff and Class Members. Defendant also contends
18 that this matter is not appropriate for class certification outside of this proposed class settlement.
19 Finally, Defendant contends that it is experiencing substantial financial hardship and that defense of
20 this class litigation would likely force Defendant into bankruptcy.

21 6. Based on the expected testimony from Plaintiff and Class Members, a review of
22 Defendant's policies and procedures and other documents relating to the alleged claims, information on
23 the number of Class Members, Class Members' dates of employment, and a representative sample of
24 Class Members' time and payroll data, the scope of the potential damages to Plaintiff and Class
25 Members in light of the claims alleged, the uncertainty in the law with regard to certification, and the
26 negotiations that have taken place, I am convinced that the proposed settlement is in the best interest of
27 the class. The length and risks of trial and other normal perils of litigation that impact the value of the
28 claims were also considered and weighed in reaching the Agreement. In addition, I carefully considered

1 Defendant's financial condition, the prospect of potential class certification issues as well as the
2 uncertainty of class certification, the difficulties of complex litigation, and the lengthy process of
3 establishing specific damages and various possible delays and appeals in agreeing to the proposed
4 settlement. I further considered the fact that penalties under the PAGA could be substantially cut at the
5 discretion of the Court even if Plaintiff was successful on proving those claims and there was risk that a
6 Court could find no willfulness in the failure to pay wages at separation, which would eliminate the
7 value of the waiting time penalty claim entirely. Overall, I believe it is more beneficial to secure a
8 guaranteed benefit to the class now rather than to proceed with litigation and potentially obtain zero
9 funds to the class due to legal or factual issues in the case.

10 7. My office, including the partners Galen T. Shimoda and Justin P. Rodriguez, our
11 paralegals, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the
12 claims, potential damages for such claims, and Defendant's financial condition. The parties engaged in
13 formal and informal discovery and exchange of documents, including a representative sampling of
14 employee data, such as timecards, paystubs, and relevant policies for the entirety of the statute of
15 limitations applicable to the alleged claims. The discovery covered all aspects of the asserted claims,
16 including certification issues, merits issues, damages, the scope and configuration of Class Members, the
17 content and implementation of the wage and hour policies at issue, issues relating to manageability
18 concerns at trial, among other relevant areas. From this production we were able to determine
19 information critical to a reliable damages analysis such as the average hourly rate, average daily hours
20 worked, average number of workweeks and pay periods that had potential violations based on the
21 asserted claims, the frequency with which violations occurred in a given week and/or pay period, and the
22 number of former employees. This information allowed my office to assess both liability and damages
23 and create an accurate damages model. This information also allowed my office to assess Defendant's
24 ability to pay. Plaintiff assisted in all aspects of this litigation including providing factual information
25 relating to Plaintiff's and Class Members' employment conditions, providing a substantial number of
26 documents, and answering questions regarding Defendant's factual contentions in this matter. This was
27 important because it directly related to our ability to maintain this case as a class action and our ability
28 to obtain a favorable settlement for the class.

1 8. Throughout this litigation our office had numerous communications with Defendant's
2 counsel discussing our respective positions. The parties engaged in mediation on July 28, 2022 using an
3 experienced mediator, Russ J. Wunderli, Esq. It was only after nearly one year of extensive, arm's
4 length negotiations that the parties were able to reach a settlement, which only occurred after a full-day
5 mediation. The negotiations were at all times contentious and adversarial, though still professional in
6 nature. Prior to mediation, Defendant's counsel expressed that Defendant was experiencing financial
7 hardship and contemplating filing for bankruptcy. As part of the mediation, Defendant produced its
8 recent tax returns, a profit and loss statement for 2021, a profit and loss statement for January 2022
9 through April 2022, a balance sheet for April 2022 through to the present, and W-2s for its owners, for
10 my office to be able to verify Defendant's financial condition. I also conducted independent research
11 through public records searches to identify potential assets of Defendant and its owners. Defendant's
12 financial hardship and the risk of Defendant filing bankruptcy was one of the main drivers for Plaintiff
13 agreeing to the settlement.

14 9. The following represents the potential maximum recovery for each of Plaintiff's claims
15 based on my office's analysis of Defendant's relevant policies and the data produced by Defendant,
16 including a sample of time and payroll records for Class Members. There were 3,987 workweeks in the
17 class period, 936 PAGA pay periods, an average base hourly rate of \$25.00 and an average overtime rate
18 of \$37.50. The average adjusted regular rate of pay based on Plaintiff's calculations was \$25.32. We
19 also interviewed several putative class members, covering their work experiences in relation to the
20 asserted claims and utilizing that information in conducting a merits and damages analysis:

- 21 a) Overtime Wages: This claim is based on allegations that 1) bonuses paid to Class
22 Members were non-discretionary and should have been included in Class Members'
23 regular rates of pay for the purpose of calculating overtime wages; and 2) Defendant
24 failed to pay Class Members for all hours worked due to its practice of rounding Class
25 Members' hours worked and failing to compensate Class Members for after-hours
26 scheduling communications. At the time of mediation, the maximum possible damages
27 for this claim based on Defendant's time and payroll records was \$568,805.36, which
28 was based on 3.75 unpaid overtime hours per week. This amount does not take into

1 account any potential risks with respect to Plaintiff proving the merits or damages. For
2 instance, a trier of fact could find that Defendant did not know or have reason to know
3 that Class Members were working off the clock, which would entirely preclude liability.
4 *Brinker Rest. Corp. v. Superior Ct.*, 53 Cal.4th 1004, 1051 (2012). Defendant maintained
5 a timekeeping policy in its Employee Handbook that “strictly prohibits” Class Members
6 from working off the clock for any reason and requires Class Members to log any time
7 spent working, including time spent using electronic devices for work-related purposes.
8 Defendant’s policy further states, “[i]t is the responsibility of all employees to submit and
9 approve their time records each week.” Defendant produced signed acknowledgments
10 showing that Class Members were provided with a copy of the Employee Handbook.
11 This presents significant hurdles to obtaining certification as well. *See id.* Additionally,
12 Defendant’s time and pay records reflect both underpayments and overpayments due to
13 Defendant’s rounding practice. *See See’s Candy Shops, Inc. v. Sup. Ct.*, 210 Cal.App.4th
14 889, 907 (2012) (holding California law allows rounding of employee work time if the
15 policy is neutral on its face and as applied, even if some employees ultimately are not
16 paid for all time they have actually worked).¹ Finally, the amount of any potential off-
17 the-clock work was contested and it was also contested whether the bonuses were truly
18 non-discretionary. If they were discretionary, then there would be no requirement to
19 include their value in Class Members’ regular rates of pay. Taking these factors into
20 account, a more realistic range of recovery for this claim is \$74,765.25 to \$149,512.50.

- 21 b) Minimum Wages: Like Plaintiff’s overtime claim, this claim is based on allegations that
22 Defendant failed to pay Class Members for all hours worked due to its practice of
23 rounding Class Members’ hours worked and failing to compensate Class Members for
24 after-hours scheduling communications. At the time of mediation, the maximum possible
25 damages for this claim based on Defendant’s time and payroll records was \$179,415.00

26
27 ¹ After the parties entered into the settlement, there became a split of California authority on this issue. The holding in *See’s*
28 *Candy Shops, Inc.* was questioned by another appellate court in *Camp v. Home Depot U.S.A., Inc.*, 210 Cal.App.5th 638
(2022). However, because this change of the state of the law occurred after the settlement was entered into, it is not relevant
for purposes of the fairness analysis. *See Sutter Health Uninsured Pricing Cases*, 171 Cal.App.4th 495, 506 (2009) (“a
settlement must be evaluated in light of the law applicable at the time of settlement”).

1 for liquidated damages pursuant to Labor Code section 1194.2.² This amount does not
2 take into account any potential risks with respect to Plaintiff proving the merits or
3 damages. For the same reasons described above (*i.e.*, Defendant's timekeeping policy,
4 which could potentially constitute a good faith defense pursuant to section 1194.2(b), and
5 California law regarding rounding), a more realistic range of recovery for this claim is
6 \$0.00 to \$47,844.00.

7 c) Meal Periods: This claim is based on allegations that Class Members did not receive all
8 meal periods they were entitled to due to pressure to quickly complete construction
9 projects and that Defendant failed to keep record of whether meal periods were taken. At
10 the time of mediation, the maximum possible damages for this claim based on
11 Defendant's time and payroll records was \$313,452.35, which was based on
12 approximately 11,841 shifts in excess of five hours where there was no record of a first
13 meal period and 538 shifts in excess of 10 hours without a record of a second meal
14 period. This amount does not take into account any potential risks with respect to
15 Plaintiff proving the merits or damages. Defendant produced an Employee Handbook
16 with a legally compliant meal period policy that requires Class Members to notify a
17 supervisor if a meal period is missed. Defendant produced signed acknowledgements
18 evidencing that it provided Class Members with a copy of the Employee Handbook. It is
19 disputed whether Defendant kept accurate records of meal periods. Defendant contends
20 documents it produced show that Class Members received meal periods. The policies
21 and acknowledgements provided by Defendant created substantial risk that any
22 presumption of meal period violations may be rebutted, which significantly affects the
23 value of this claim. Proving liability for this claim would likely require substantial
24 testimony from Class Members to counter Defendant's policy and records, which could
25 raise concerns about manageability. Taking these risks into account, a more realistic
26 range of recovery for this claim is \$0 to \$45,427.88.

28 ² Only liquidated damages were sought because any underlying unpaid minimum wages were accounted for in the value of Plaintiff's overtime claim.

- 1 d) Rest Period: This claim is based on allegations that Class Members did not receive all
2 rest periods they were entitled to due to pressure to quickly complete construction
3 projects. While it is possible that Defendant could make meal periods available, but not
4 rest periods, or vice versa, it is reasonable to infer, especially where the reasoning for
5 missed meal and rest periods is the same, that there would be a similar violation rate for
6 both types of breaks. At the time of mediation, the maximum possible damages for this
7 claim based on Defendant's time and payroll records was \$313,452.35, which is based on
8 the same violation rates and shift experiences that Plaintiff contends applied to the meal
9 period claims. This amount does not take into account any potential risks with respect to
10 Plaintiff proving the merits or damages. Defendant produced an Employee Handbook
11 with a legally compliant rest period policy that requires Class Members to notify a
12 supervisor if a rest period is missed. Defendant also produced signed acknowledgments
13 evidencing that Class Members were provided with a copy of the Employee Handbook.
14 Because there is no requirement to keep records of rest periods taken, this claim would
15 not benefit from any presumption of liability like that for meal period claims. The claim
16 would likely require substantial testimony from Class Members to counter Defendant's
17 policy, which could raise concerns about manageability. Taking these risks into account,
18 a more realistic range of recovery for this claim is \$0 to \$45,427.88.
- 19 e) Sick Time: This claim is based on allegations that bonuses paid to Class Members were
20 non-discretionary and should have been included in Class Members' regular rates of pay
21 for purposes of calculating paid sick time. At the time of mediation, the maximum
22 possible damages for this claim based on Defendant's time and payroll records was
23 \$588.85. This amount does not take into account any potential risks with respect to
24 Plaintiff proving the merits or damages. As mentioned above, it was contested whether
25 the bonuses were truly non-discretionary. If they were discretionary, then there would be
26 no requirement to include their value into Class Members' regular rates of pay, which
27 would eliminate damages for this claim entirely.
- 28

1 f) Wage Statement: This claim is wholly derivative of the above claims and is based on
2 allegations that Defendant's wage statements did not contain accurate information as a
3 result of its failure to pay all minimum wages, overtime wages, and paid sick time, and its
4 failure to provide all meal and rest periods. At the time of mediation, the maximum
5 possible damages for this claim based on Defendant's time and payroll records was
6 \$46,800. This amount does not take into account any potential risks with respect to
7 Plaintiff proving the merits or damages. This was calculated using a \$50 penalty for each
8 pay period during the 1-year statute of limitations. This damages amount is likely an
9 overestimation because it is derivative and assumes violations present in 100% of pay
10 periods during the claim period and assumes that Plaintiff would succeed in proving that
11 alleged wage statement inaccuracies were the result of knowing and intentional conduct
12 by Defendant that caused Class Members to suffer harm. If Plaintiff failed to prove
13 violations in each pay period for the above claims, the number of pay periods could be
14 substantially reduced resulting in a much lower penalty amount. Moreover, if Plaintiff
15 could not prove Class Members suffered harm and that Defendant's conduct was
16 knowing and intentional, recovery for this claim could be eliminated entirely. Because
17 there is potential variance with the ability to prove each of the violations the wage
18 statement claim is based on, it is hard to exactly quantify the more realistic range of
19 damages. However, it would be less than \$46,800.

20 g) Waiting Time: Similar to Plaintiff's wage statement claim, this claim is derivative of the
21 above claims. It is based on allegations that Class Members had wages due and owing to
22 them that remained unpaid after the end of their employment. Because this claim is
23 derivative, it carries the same risks identified above for Plaintiff's overtime, minimum
24 wage, sick time, and meal and rest period claims. At the time of mediation, the
25 maximum possible damages for this claim based on Defendant's time and payroll records
26 was \$534,758.40. This amount does not take into account any potential risks with respect
27 to Plaintiff proving the merits or damages. This amount was calculated based on an
28 assumption that all 88 former employees within the 3-year statute of limitations ended

1 their employment with wages owing to them. Plaintiff's failure to prevail on any of the
2 above claims would likely reduce the number of former employees with unpaid wages
3 who would be eligible to recover waiting time penalties. Moreover, there is substantial
4 risk that Defendant's policies and records would provide it with a good faith affirmative
5 defense, which would eliminate the value of this claim entirely. *See Diaz v. Grill*
6 *Concepts Servs., Inc.*, 23 Cal.App.5th 859, 868 (2018). Plaintiff's best argument for
7 unpaid wages that might be deemed to avoid a good faith defense was the regular rate of
8 pay overtime claim. However, as noted above this was not without risk and only
9 approximately 37.5% of Class Members were affected by the regular rate of pay claim.
10 As a result, a more realistic range of recovery for this claim is \$0.00-\$200,534.40.

11 h) Failure to Reimburse: This claim is based on allegations that Defendant failed to
12 reimburse Class Members for necessary expenses incurred from personal cellphone use,
13 use of personal tools, and the use of personal vehicles for work. At the time of
14 mediation, the maximum possible damages for this claim based on Defendant's payroll
15 records was \$343,703.00. This calculation is based on \$7.50 owed per week for
16 cellphone use, \$5,000 owed to each of the 60 Class Members who utilized tools at work,
17 and 30 miles per day driven by each Class Member at the IRS rate of 0.575. This amount
18 does not take into account any potential risks with respect to Plaintiff proving the merits
19 or damages. Defendant produced a policy it had to reimburse Class Members for
20 expenses they incurred for work. The policy requires Class Members to submit expense
21 reports and receipts in order to be reimbursed. There is substantial risk in proving this
22 claim, especially in regards to whether, and to what extent, personal tools were required
23 and estimates regarding amounts owed for reimbursement, and why Class Members did
24 not submit for reimbursement of the expenses, or if they did, why no amount was
25 reimbursed. This raises substantial risk regarding manageability. Additionally, the
26 \$5,000 per individual in tool costs was based on the average purchase price of the items
27 rather than the depreciated value for continued use. Identifying the depreciated value may
28 require extensive and contentious dueling experts and would result in only a fraction of

the total purchase price being available as damages. As a result, a more realistic range of recovery for this claim is \$35,000.00-\$110,000.00.

- i) PAGA: This claim is derivative of the Labor Code violations identified above and would be subject to all the same risks as the underlying claims it is based on. Additionally, based on our research, we did not find any prior Labor Commissioner or court decisions that stated Defendant's practices and/or policies were improper. As such, a "subsequent violation" may not be found for penalty calculation purposes, and the exposure analysis here is based on an "initial violation" valuation being adopted by any fact finder if this matter went to trial. Based on Class Members' payroll data, the maximum total exposure for this claim is \$1,189,152.80.³ This amount does not take into account any of the risks in proving the merits of the underlying claims that the PAGA damages are based on. Beyond the risks on the merits, the correct valuation of civil penalty amounts for certain claims under PAGA is in dispute. For example, the calculation valued civil penalties for failure to pay final wages under Labor Code section 256 (which provides the civil penalty amount will not exceed 30 days' pay as waiting time under the terms of Section 203) for a total of \$431,452.80 instead of the \$100 per violation default penalty under Labor Code 2699(f), which results in a reduction to \$7,100.00 for this claim. Similarly, the calculation valued civil penalties for wage statement violations under Labor Code section 226.3 (which provides the civil penalty amount is \$250 per violation) for a total of \$234,000.00 instead of the \$100 per violation default penalty under Labor Code 2699(f), which results in a reduction to \$93,600.00. The calculation also values civil penalties for the overtime claim based on the default 100 per violation for a total of \$93,600.00 instead of the \$50 per violation in Labor Code section 558, which results in a reduction to \$46,800.00. Finally, the calculation values civil penalties for the meal period claim based on the default \$100 per violation for a total of \$93,600.00 instead of the \$50 per violation

³ My declaration previously stated the total exposure for PAGA to be \$1,329,522.80. This amount was based on an inadvertent miscalculation of civil penalties owed for failure to pay minimum wages using \$250 per violation (the penalty applicable for subsequent violations) instead of \$100 (the penalty applicable for initial violations). See Labor Code § 1197.1. The difference is \$93,600.00 versus \$234,000.00.

1 identified in Labor Code section 558, which results in a reduction to \$46,800.00. Using
2 the lowered valuations would reduce the maximum available PAGA penalties to
3 \$530,800.00. In addition to the risks on the merits and disputes regarding the proper
4 valuation of the penalty amounts, I believe the Court may exercise its discretion to reduce
5 PAGA penalties in this case in light of Defendant's financial condition, because a
6 majority of the civil penalties sought would be in addition to amounts owed for
7 substantive violations, some of the violations are due to technical non-compliance with
8 the Labor Code, such as derivative wage statement violations, and Defendant produced
9 legally compliant policies among other documents, that a Court may find demonstrates a
10 good faith attempt at compliance. Courts are statutorily authorized to use discretion to
11 reduce penalties and the range of discretion used varies substantially. *See Thurman v.*
12 *Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30% reduction);
13 *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, *9 (C.D. Cal. 2011) (82%
14 reduction). Thus, even if using the maximum values possible and setting aside risks of
15 proving the claims on the merits, the total exposure may be cut to approximately
16 \$214,047.50 (82% reduction) to \$832,406.96 (30%) or lower. Using the lower, disputed
17 PAGA penalty values (\$530,800 total) would lower the potential exposure further to
18 \$95,544.00 (82% reduction) to \$371,560.00 (30%). It is important to note that this
19 discretionary reduction is completely separate and in addition to any risks on the merits.
20 Given Defendant's financial hardship, the importance of ensuring Class Members receive
21 some compensation for unpaid wages, the associated risks, and the disputed nature of the
22 claims, we believe the amount that might ultimately be awarded under this claim would
23 be low. Allocating \$2,500 to the PAGA claims in this case is appropriate, especially in
24 light of amounts that Courts have approved as reasonable valuations in other cases. *See*
25 *Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the
26 resolution of PAGA claims based on their being disputed and being part of a class
27 settlement which was evaluated based on the terms of the agreement overall); *Davis v.*
28 *Cox Commc 'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017)

(preliminarily approving \$4,000 PAGA allocation in \$275,000 settlement); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

10. Based on my office's analysis and review of all relevant documents and Class Member information, I have determined that the maximum likely damages for the asserted claims is approximately \$3,029,830.56. This amount includes recovery of civil penalties under the PAGA in the amount of \$1,189,152.80. Taking into account the probable discretionary reduction of civil penalties, the maximum likely recovery after a reduction of the PAGA penalties would be approximately \$2,054,725.26. Although these amounts represent the maximum likely damages available without taking into account the risk on the merits, we utilized these numbers in connection with the initial preliminary approval filing to show the strength of the settlement even under the most stringent of circumstances. Taking into account the more realistic range of recovery, the value of the settlement based on the strengths and weaknesses of the case increases substantially. As outlined above, the more likely range of recovery is between \$252,698.10 to \$1,017,695.51. Plaintiff's \$110,000 gross recovery under the Agreement represents approximately 5.4% of the maximum likely value in this matter and between 10.8% and 43.5% of the likely recovery. After deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees (\$38,500) and costs (\$10,000⁴), any Enhancement Payment to the Class Representative (\$10,000), Claims Administrator Costs (\$7,500), and the 75% portion of the

⁴ Actual costs are anticipated to be closer to \$6,556.93.

1 PAGA Payment to the LWDA (\$1,875), the net recovery under the Agreement represents
2 approximately 2% of the maximum likely value in this matter. The net recovery also represents
3 between 5% and 20.2% of the likely recovery. The average net award is approximately \$263.28. I
4 believe the Agreement represents a reasonable compromise of claims based on the legal and factual
5 disputes in this case. The ability to secure a guaranteed settlement now and ensure Class Members
6 receive some compensation, rather than proceed to further litigation and potentially recover nothing,
7 was also a motivating factor in reaching this Agreement.

8 11. On December 6, 2022, I conferred with defense counsel, Brian Coggins, Esq. regarding
9 the timing of the release of claims for Class Members. Funding of the settlement is set to occur 37 days
10 after the Effective Date (*i.e.*, the entry of a signed Final Approval Order). If Class Members did not
11 release their claims until funding occurred, there would be potential for Class Members to bring
12 separate actions in that time period against Defendant, which would create uncertainty and complicate
13 enforcement of this Agreement. It is unclear how pending separate actions by Class Members would be
14 handled in that scenario and poses a risk to enforcement of the Agreement for the benefit of all other
15 Class Members. Defendant could be deterred from following through with funding if it anticipated
16 having to defend actions filed by Class Members after completing its obligations under the Settlement.
17 Moreover, seeking enforcement of the settlement is the easiest and most practical if the only
18 outstanding item to be performed in the contract is payment. It is to the benefit of Class Members for
19 enforcement of the Agreement to be as straightforward as possible.

20
21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
22 true and correct. Executed January 17, 2023, in Elk Grove, California.

23
24
25 

26 Brittany V. Berzin
27
28

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Attorneys for Plaintiff SILVIANO VASQUEZ

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

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

Plaintiff,

vs.

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

Defendants.

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

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, 2021 up to
September 26, 2022.

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

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

IV. IMPLEMENTATION SCHEDULE

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

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

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
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
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
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: _____

By: _____

Judge of the Superior Court

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Justin P. Rodriguez (Cal. State Bar No. 278275)
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6
7

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

11 SILVIANO VASQUEZ, individually and on
behalf of all other similarly situated
12 employees,
13 Plaintiff,
vs.
14 CHRISWELL HOME IMPROVEMENTS,
INC., A California Corporation; and DOES 1
15 to 100, inclusive,
16 Defendants.
17

Case No. 34-2021-00305938

CLASS ACTION

PROOF OF SERVICE

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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Vasquez v. Chriswell Home Improvements, Inc.
Sacramento County Superior Court, Case No. 34-2021-00305938

**PROOF OF SERVICE — CCP §§ 1013a and 2015.5
and California Rules of Court, Rule 1.21 and Rule 2.150**

I, Shaniya Baird, declare that:

I am a citizen of the United States and am over the age of eighteen years and not a party to the within above-entitled action.

On January 17, 2023, I served the following documents on the party below:

- **Amended [Proposed] Order Granting Plaintiff's Motion For Preliminary Approval Of Class Action And PAGA Settlement**
- **Supplemental Brief In Support Of Plaintiff's Motion For Preliminary Approval Of Class Action And PAGA Settlement**
- **Supplemental Declaration Of Brittany V. Berzin In Support Of Plaintiff's Motion For Preliminary Approval Of Class Action And PAGA Settlement**

Brian Coggins (SBN: 239481)

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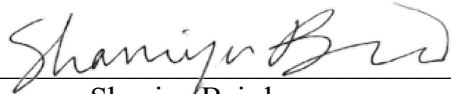
[] [By Mail] I am familiar with my employer's practice for the collection and processing of correspondence for mailing with the United States Postal Service and that each day's mail is deposited with the United States Postal Service that same day in the ordinary course of business. On the date set forth above, I served the aforementioned document(s) on the parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing on this date, following ordinary business practices, at Elk Grove, California, addressed as set forth above.

[] [By Personal Service] By personally delivering a true copy thereof to the office of the addressee above.

[XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above. No error was reported by the e-mail service that I used.

[] [By Overnight Courier] By causing a true copy and/or original thereof to be personally delivered via the following overnight courier service: _____.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct, and that this declaration was executed on January 17, 2023, at Salt Lake City, Utah.

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4 _____
5 Shaniya Baird
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