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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

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT

Date: June 16, 2023

Time: 9:00 a.m.

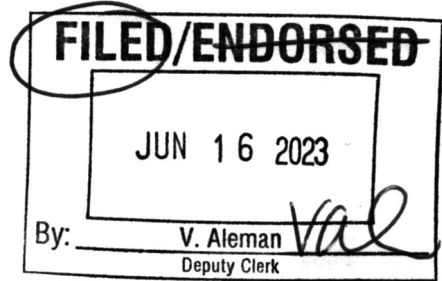
Dept.: 28

Judge: Hon. Lauri Damrell

Filed: August 10, 2021

FAC Filed: January 5, 2022

Trial Date: None Set



~~PPSD~~ ORDER GRANTING FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT



1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement ("Motion") in the above
3 referenced case came before this Court, on June 16, 2023 at 9:00 a.m., in Department 28 before the
4 Honorable Lauri Damrell, presiding. Named Plaintiff Silviano Vasquez ("Plaintiff") filed this putative
5 class action on August 10, 2021. The operative Complaint alleges that Defendant Chriswell Home
6 Improvements, Inc. ("Defendant") violated California law by failing to pay overtime, failing to pay
7 minimum wages, failing to provide meal periods, failing to provide rest periods, failing to provide
8 accurate wage statements, failing to pay final wages, failing to reimburse expenses, and engaging in
9 unfair competition. Plaintiff has also alleged Defendant is liable for a civil penalties under the Private
10 Attorneys General Act ("PAGA") based on these violations. Plaintiff sought attorneys' fees and costs
11 as part of this Action. Defendant denied all of Plaintiff's claims and denied that this case was
12 appropriate for class treatment. No class has been certified. The class settlement was preliminarily
13 approved by this Court on February 3, 2023.

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

22 **I. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
23 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

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

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

28 The Court recognizes that the foregoing definition is for Class Member identification purposes only and

1 is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

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

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

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

24 **II. APPROVING CLASS ACTION AND PAGA SETTLEMENT**

25 The Court has again reviewed the preliminarily approved Agreement, which was submitted with
26 Plaintiff's Motion as Exhibit A. The Court finds that final approval is warranted as the Agreement falls
27 within the range of reasonableness and is fair, reasonable, and adequate for the class. The Court also
28 finds the Settlement was agreed upon only after extensive investigation, litigation, and arms-length

1 negotiations by counsel experienced in complex litigation, who took reasonable steps and measures to
2 weigh the potential value of the disputed claims against the risks of continued litigation. Class Members
3 had an opportunity to object to the Agreement and its terms through the administration process and at a
4 fairness hearing or opt-out of being bound by the preliminarily approved Agreement. No objections
5 were made by Class Members and no Class Members opted out of the settlement.

6 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
7 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
8 gives final approval to the Agreement and all terms therein as if stated here in full, including the
9 \$133,065.24 Gross Settlement Amount.

10 The Court approves of the \$2,500 PAGA Payment, which shall be paid from the Gross
11 Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged PAGA
12 claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and Workforce
13 Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved Employees
14 on a pro rata basis as described in the Agreement. The Court also finds that based on the facts of this
15 case and the disputed issues, the Agreement provides a recovery that creates an effective substantial
16 deterrent to any potential future non-compliance, furthering the purpose of the Labor Code and LWDA.

17 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
18 Qualified Claimants and/or Aggrieved Employees that are not cashed by the deadline to do so shall be
19 donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights. No portion
20 of the Gross Settlement Amount will revert to Defendant for any reason.

21 The releases and waivers for Class Members who did not opt out of being bound by the
22 Agreement (*i.e.*, Qualified Claimants), Aggrieved Employees, and the Class Representative are also
23 approved by the Court as set forth in the Agreement.

24 Class Counsel sought an award of attorneys' fees of 35% of the Gross Settlement Amount,
25 \$46,572.83, attorneys' costs of \$6,661.23, an Enhancement Payment to the Class Representative in the
26 amount of \$10,000, and for Claims Administrator Costs in the amount of \$7,500. Defendant does not
27 oppose these requests. The Notice of Settlement sent to Class Members included information regarding
28 these amounts and that they would be requested in connection with final approval of the Agreement.

1 Class Members have been given the opportunity to object to these amounts and no objections have been
2 submitted. The Court has reviewed the evidence submitted by Class Counsel regarding their hourly
3 rates, including a prior fee award in Sacramento County Superior Court at the requested rates, and the
4 amount of time expended in the litigation for the benefit of Class Members. The Court finds that the
5 rates requested and hours expended are reasonable. The Court has also reviewed the updated itemized
6 costs submitted by Class Counsel, the information provided by the Class Representative regarding the
7 efforts and burdens undertaken for the benefit of the class, and the cost information provided by the
8 Claims Administrator in the declaration of Cassandra Polites. The Court finds that these amounts
9 requested for attorneys' fees and costs, the Enhancement Payment, and the Claims Administrator Costs
10 are fair and reasonable, and awarded as requested and deducted from the gross settlement amount. This
11 finding is further supported by the lack of objection by Class Members to these amounts. The difference
12 between the actual attorneys' costs and Claims Administrator Costs awarded and the originally allocated
13 \$10,000 under the Agreement for each payment will be added to the Net Settlement Amount pursuant to
14 the terms of the Agreement.

15 **III. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF**
16 **SETTLEMENT, OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE**
17 **SETTLEMENT**

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

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1 **IV. IMPLEMENTATION SCHEDULE**

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

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5 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
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9 Last day for Defendant, Cromwell, and Mesunas to fund settlement	Within 30 calendar days after the Effective Date
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11	
12 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
13	
14	
15	
16 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
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19 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
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21 Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline
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1 IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each
2 party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to
3 the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved
4 Agreement.

5 **IT IS SO ORDERED.**

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7 Date: 6/16/23



8 By: [Signature]
9 Judge of the Superior Court

10 LAURI A. DAMRELL
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