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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF STANISLAUS

RACHEL V. CORREIA, an individual; and on
behalf of all others similarly situated and
aggrieved; REBEKAH MEDINA, an
individual; and on behalf of all others similarly
situated and aggrieved; CARLOS
COUSINEAU, an individual; and on behalf of
all others similarly situated and aggrieved;
DANIEL GARCIA, an individual; and on
behalf of all others similarly situated and
aggrieved,

Plaintiffs,

v.

GALLO GLASS COMPANY, a Nevada
corporation; NIGEL DART, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **CV-21-006459**

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: September 1, 2023

Hearing Time: 8:30 a.m.

Judge: Honorable Sonny S. Sandhu

Dept.: 24

Action Filed: December 1, 2021

Trial Date: Not set

1 The motion by Plaintiffs Rachel Correia, Rebekah Medina, Carlos Cousineau, and Daniel
2 Garcia (“Plaintiffs”) for an order finally approving the Class Action and PAGA Action Settlement
3 Agreement (the “Agreement”) with Defendants Gallo Glass Company and Nigel Dart
4 (“Defendants”), and the motion for attorneys’ fees, costs, and service awards, duly came on for
5 hearing on September 1, 2023, at 8:30 a.m., in Department 24 of this Court, before the Honorable
6 Sonny S. Sandhu. In accordance with the Preliminary Approval Order, Class Members have been
7 given notice of the terms of the Settlement, as well as the opportunity to comment on or object to
8 it or to exclude themselves from its provisions.

9 **I.**

10 **FINDINGS**

11 Based on the oral and written argument and evidence presented in connection with the
12 motion, the Court makes the following findings:

13 26. All terms used herein shall have the same meaning as defined in the Agreement.

14 27. This Court has jurisdiction over the subject matter of this litigation pending before
15 the California Superior Court for the County of Stanislaus, and over all Parties to this litigation,
16 including the Class.

17 28. Based on a review of the papers submitted by Plaintiffs and a review of the
18 applicable law, the Court finds that the Gross Settlement Amount of Three Million Eight Hundred
19 Twenty Thousand Dollars (\$3,820,000) and the terms set forth in the Agreement are fair,
20 reasonable, and adequate.

21 29. The Court further finds that the Settlement was the result of arm’s length
22 negotiations conducted after Class Counsel had adequately investigated the claims and became
23 familiar with the strengths and weaknesses of those claims. In particular, the amount the
24 Settlement, the significant risks relating to certification, liability, and damages issues, and the
25 assistance of an experienced mediator in the settlement process, among other factors, support the
26 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

1 **Preliminary Approval of the Settlement**

2 30. On April 14, 2023, the Court entered the order granting preliminary approval of the
3 Settlement (“Preliminary Approval Order”). In this Preliminary Approval Order, the Court
4 approved conditional certification of the Class for settlement purposes only.

5 **Notice to the Class**

6 31. In compliance with the Preliminary Approval Order, the Class Notice was mailed
7 by first class mail to the Class Members at their last known addresses on or about June 12, 2023.
8 Mailing of the Class Notice to their last known addresses was the best notice practicable under the
9 circumstances and was reasonably calculated to communicate actual notice of the litigation and
10 the proposed settlement to the Class. The Class Notice given to the Class Members fully and
11 accurately informed the Class Members of all material elements of the proposed Settlement and of
12 their opportunity to object to or comment thereon or to seek exclusion from the Settlement; was
13 valid, due, and sufficient notice to all Class Members; and complied fully with the requirements of
14 California Code of Civil Procedure § 382, California Rules of Court §§ 3.766 and 3.769, the
15 California and United States Constitutions, and other applicable law. The Class Notice fairly and
16 adequately described the Settlement and provided Class Members adequate instructions and a
17 variety of means to obtain additional information.

18 32. The deadline for opting out of the Class or submitting written objections to the
19 Settlement was July 27, 2023. There was an adequate interval between notice and the deadline to
20 permit Class Members to choose what to do and act on their decision. A full opportunity has been
21 afforded to the Class Members to participate in this hearing, and all Class Members and other
22 persons wishing to be heard have been heard. Class Members also have had a full and fair
23 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
24 Court determines that all Class Members who did not timely and properly submit a signed Request
25 for Exclusion are bound by the Settlement and this Final Approval Order and Judgment.

1 **Notice to the LWDA**

2 33. Pursuant to the Labor Code Private Attorneys General Act (“PAGA”), Cal. Lab.
3 Code §§ 2699(1)(2), (1)(4), the Labor Workforce and Development Agency (“LWDA”) has been
4 given notice of the Settlement. Pursuant to PAGA, on the date the Plaintiffs filed with the Court
5 their motion seeking approval of the Settlement, Plaintiffs submitted to the LWDA a notice of the
6 Settlement, enclosing a copy of the Settlement. The Court finds and determines that the notice of
7 the Settlement complied with the statutory requirements of PAGA.

8 **Fairness Of Settlement**

9 34. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
10 48 Cal.App.4th 1794, 1801 (1996).

11 a. The settlement was reached through arm's-length bargaining between the
12 parties during an all-day mediation before Jeffrey Ross, a respected and experienced mediator of
13 wage and hour class actions. There has been no collusion between the parties in reaching the
14 proposed settlement.

15 b. Plaintiffs’ investigation and discovery have been sufficient to allow the
16 Court and counsel to act intelligently.

17 c. Counsel for the Parties are experienced in similar employment class action
18 litigation. All counsel recommended approval of the Agreement.

19 d. The percentage of objectors and requests for exclusion is small. No
20 objections were received. Three (3) requests for exclusion were received.

21 e. The participation rate was high. 971 Class Members will be mailed a
22 settlement payment, representing 99.69% of the overall Class.

23 35. The consideration to be given to the Class Members, and each Class Member,
24 under the terms of the Agreement is fair, reasonable and adequate considering the strengths and
25 weaknesses of the claims asserted in this action and is fair, reasonable and adequate compensation
26 for the release of Class Members’ claims, given the uncertainties and significant risks of the
27 litigation and the delays which would ensue from continued prosecution of the action.

1 36. The Agreement is approved as fair, reasonable and adequate and in the best
2 interests of the Class Members.

3 **Attorneys' Fees and Costs**

4 37. An award of \$1,273,333 for attorneys' fees, representing one-third (1/3) of the
5 Gross Settlement Amount, and \$29,840.86 for litigation costs and expenses, is reasonable and
6 adequate, in light of the contingent nature of Class Counsel's fee, the hours worked by Class
7 Counsel, and the results achieved by Class Counsel. The requested award is cross-checked by
8 reference to Class Counsel's lodestar.

9 **Service Payments**

10 38. The Agreement provides for a Service Payments of not more than \$10,000 to each
11 of the Plaintiffs, subject to the Court's approval. The Court finds that Service Payments in the
12 amount of \$10,000 each to the Plaintiffs is reasonable in light of the risks and burdens undertaken
13 by the Plaintiffs in the litigation and for their time and effort in bringing and prosecuting this
14 matter on behalf of the Class.

15 **Settlement Administration Fees and Expenses**

16 39. The Settlement Administrator shall calculate and administer the payment to be
17 made to each of the Class Members, transmit payment for attorneys' fees and costs to Class
18 Counsel, transmit the Service Payments to the Plaintiffs, distribute the PAGA Settlement Amount,
19 issue any required tax reporting forms, calculate withholdings and perform the other remaining
20 duties set forth in the Agreement. The Settlement Administrator has documented \$14,000 in fees
21 and expenses, and this amount is reasonable in light of the work performed by the Settlement
22 Administrator.

23 **PAGA Settlement Amount**

24 40. The Agreement provides for a PAGA Settlement Amount out of the Gross
25 Settlement Amount of \$100,000, which shall be allocated \$75,000 to the California Labor &
26 Workforce Development Agency ("LWDA") as the LWDA Payment and \$25,000 to be
27 distributed to the Aggrieved Employees based on the number of Pay Periods that each worked in
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1 each position covered by the Settlement during the PAGA Period (the “Individual PAGA
2 Payment”). “Aggrieved Employees” are all current and former employees of Defendant Gallo
3 Glass Company who worked for Gallo Glass Company in the State of California, while classified
4 as non-exempt, at any time during the PAGA Period, which is September 23, 2020 through April
5 14, 2023. The Individual PAGA Payments shall be allocated and paid to all Aggrieved Employees
6 regardless of whether they request exclusion. The PAGA Settlement Amount is fair, reasonable
7 and adequate.

8 II.

9 ORDERS

10 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

11 16. The Class meets all of the legal requirements for class certification for the purposes
12 of settlement, and thus, the certification of the Class for the purposes of settlement is finally
13 approved. The Class is defined as follows:

14 All current and former employees of Defendant Gallo Glass Company who worked
15 for Gallo Glass Company in the State of California, while classified as non-exempt,
at any time during the Class Period.

16 The Class Period is from December 1, 2017 through April 14, 2023.

17 17. All persons who meet the foregoing definition are Class Members, except for those
18 individuals who timely submitted a signed request for exclusion (“opt out”) from the Class. The
19 three (3) individuals who submitted a signed request for exclusion are Javier Calderon, Michelle
20 Dickinson and Eric Foss.

21 18. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
22 best interest of the Class and each Class Member.

23 19. Class Counsel are awarded attorneys' fees in the amount of \$1,273,333 and costs in
24 the amount of \$29,840.8630,000.00, which shall be allocated and distributed in accordance with
25 the Agreement. Class Counsel shall not seek or obtain any other compensation or reimbursement
26 from Defendant, Plaintiffs or Class Members.
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1 20. The payment of the Service Payments in the amount of \$10,000 to each of the
2 Plaintiffs is approved and is to be distributed in accordance with the Agreement.

3 21. The payment of \$14,000 to the Settlement Administrator for their fees and
4 expenses is approved and is to be distributed in accordance with the Agreement.

5 22. The PAGA Settlement Amount of \$100,000 is approved and is to be distributed in
6 accordance with the Agreement.

7 23. The Agreement and this Settlement are not an admission by Defendants, nor is this
8 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
9 wrongdoing by Defendants or that this Action is appropriate for class treatment (other than for
10 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
11 document referred to herein, nor any action taken to carry out the Agreement, may be construed
12 as, or may be used as an admission by or against Defendants of any fault, wrongdoing or liability
13 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
14 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
15 admission or concession with regard to the denials or defenses by Defendants. Notwithstanding
16 these restrictions, Defendants may file in the Action or in any other proceeding this Final
17 Approval Order and Judgment, the Agreement, or any other papers and records on file in the
18 Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel,
19 release, or other theory of claim or issue preclusion or similar defense as to the claims released by
20 the Settlement.

21 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
22 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Judgment shall be
23 made available to Class Members as set forth in the Class Notice. It shall not be necessary to send
24 notice of entry of this Final Approval Order and Judgment to individual Class Members.

25 25. If the Agreement does not become final and effective in accordance with the terms
26 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
27 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
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1 revert to their respective positions as of before entering into the Agreement, and expressly reserve
2 their respective rights regarding the prosecution and defense of this Action, including all available
3 defenses and affirmative defenses, and arguments that any claim in the Action could not be
4 certified as a class action and/or managed as a representative action.

5 26. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts
6 necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the
7 Settlement Administrator no later than 14 days after the Effective Date. Neither Defendants nor
8 any of the Released Parties shall have any further liability for costs, expenses, interest, attorney's
9 fees, or for any other charge, expense or liability, except as provided by the Agreement.

10
11 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

12 27. Final judgment is hereby entered in conformity with the Agreement and this
13 Court's Preliminary Approval Order. This document shall constitute a final judgment pursuant to
14 California Rule of Court 3.769(h).

15 28. Except as set forth in the Agreement and this Final Approval Order and Judgment,
16 Plaintiffs, and all Class Members, shall take nothing in the Action.

17 29. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
18 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
19 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
20 arising from or in connection with the distribution of settlement benefits without affecting the
21 finality of the Order in any way.

22 30. Each party shall bear its own attorneys' fees and costs, except as otherwise
23 provided in the Agreement and in this Final Approval Order and Judgment.

24 31. As of the Effective Date of the Settlement, and payment by Defendant Gallo Glass
25 Company to the Settlement Administrator of the full amount of the Gross Settlement and
26 Employer's Taxes, the Participating Class Members fully release and discharge Gallo Glass
27 Company, Nigel Dart, and the other Released Parties of any and all claims that were alleged, or
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1 that reasonably could have been alleged based on the facts asserted, in the Operative Complaint,
2 for the duration of the Class Period. This includes statutory, constitutional, contractual or
3 common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages,
4 punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, that were
5 alleged or reasonably could have been alleged based on the facts asserted in the Operative
6 Complaint for violations of the California Labor Code, California Industrial Welfare Commission
7 Wage Orders, and California Business and Professions Code § 17200, *et seq.* for the following
8 categories of allegations, to the fullest extent such claims are releasable by law: (a) all claims for
9 failure to pay wages, including overtime premium pay and the minimum wage; (b) all claims for
10 the failure to provide meal and/or rest periods in accordance with applicable law, including
11 payments equivalent to one hour of the employee's regular rate of pay for missed, short or late
12 meal and/or rest periods and alleged non-payment of wages for meal periods worked and not
13 taken; (c) all claims for the alleged omission of any kind of remuneration when calculating an
14 employee's regular rate of pay; (d) all claims for the alleged failure to pay compensation at
15 employees' final rate of pay for unused vested paid vacation days; (e) all claims for the alleged
16 failure to indemnify and/or reimburse employees for any business expenses; (f) all claims for
17 failure to maintain required records; (g) all claims for failure to issue compliant wage statements;
18 (h) all claims for failure to issue timely payment of wages during, and upon termination of,
19 employment; (i) all claims for engaging in unfair business practices; and (j) all associated claims
20 for civil and statutory penalties. The Class Members understand and agree that this release
21 includes a good-faith compromise of disputed wage claims. The Class Members do not release
22 any other claims, including claims for vested benefits, wrongful termination, violation of the Fair
23 Employment and Housing Act, unemployment insurance, disability, Social Security, workers'
24 compensation, or claims based on facts occurring outside the Class Period. The "Released
25 Parties" are (i) Gallo Glass Company, (ii) Nigel Dart, (iii) any of Gallo Glass Company's present
26 and former parents, subsidiaries and affiliated companies or entities, and (iv) the respective
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1 officers, directors, employees, partners, shareholders and agents, and any other successors, heirs,
2 assigns and legal representatives of the entities and individuals in (i) through (iii).

3 32. As of the Effective Date of the Settlement, and payment by Defendant Gallo Glass
4 Company to the Settlement Administrator of the full amount of the Gross Settlement and
5 Employer's Taxes, Plaintiffs—on behalf of the State of California, the LWDA, and the Aggrieved
6 Employees—release and discharge Gallo Glass Company, Nigel Dart, and the other Released
7 Parties of any and all claims for civil penalties that were alleged, or that reasonably could have
8 been alleged based on the facts asserted, in the PAGA Notices and Operative Complaint, for the
9 duration of the PAGA Period. This includes all claims for penalties, attorneys' fees, litigation
10 costs, restitution, or equitable relief, recoverable through PAGA and arising out of or based upon
11 the facts asserted in the PAGA Notices and Operative Complaint for violations of any provision of
12 the California Labor Code or California Industrial Welfare Commission Wage Orders; including
13 the following categories of allegations, to the fullest extent such claims are releasable by law: (a)
14 all PAGA claims predicated on the failure to pay wages, including overtime premium pay and the
15 minimum wage; (b) all PAGA claims predicated on the failure to provide meal and/or rest periods
16 in accordance with applicable law, including payments equivalent to one hour of the employee's
17 regular rate of pay for missed, late or short meal and/or rest periods and alleged non-payment of
18 wages for meal periods worked and not taken; (c) all PAGA claims predicated on the alleged
19 omission of any kind of remuneration when calculating an employee's regular rate of pay; (d) all
20 PAGA claims predicated on the alleged failure to pay compensation at employees' final rate of
21 pay for unused vested paid vacation days; (e) all PAGA claims predicated on the alleged failure to
22 indemnify and/or reimburse employees for all business expenses; (f) all PAGA claims for failure
23 to maintain required records; (g) all PAGA claims for failure to issue compliant wage statements;
24 (h) all PAGA claims for failure to issue timely payment of wages during, and upon termination of,
25 employment; and (i) all other associated PAGA penalties.

26 33. As of the Effective Date of the Settlement, and payment by Defendant Gallo Glass
27 Company to the Settlement Administrator of the full amount of the Gross Settlement and
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1 Employer's Taxes, and in consideration of their Service Payments and Individual Class Payments,
2 Plaintiffs Rebekah Medina and Dan viel Garcia hereby release any and all of their known and
3 unknown claims against Gallo Glass Company, Nigel Dart, and the other Released Parties, as fully
4 set forth in the Agreement.

5 34. As of the Effective Date of the Settlement, and payment by Defendant Gallo Glass
6 Company to the Settlement Administrator of the full amount of the Gross Settlement and
7 Employer's Taxes, and in consideration of their Service Payments and Class Member Payments,
8 Plaintiffs Carlos Cousineau and Rachel V. Correia hereby release any and all claims that were
9 alleged, or that reasonably could have been alleged based on the facts asserted, in the Operative
10 Complaint against Gallo Glass Company, Nigel Dart, and the other Released Parties, as set forth
11 fully in the Agreement.

12 35. Upon completion of the administration of the Settlement, the Settlement
13 Administrator will provide written certification of such completion to the Court and counsel for
14 the Parties.

15 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO**
16 **ORDERED.**

17
18
19 Dated: _____

HON. SONNY S. SANDHU
JUDGE, SUPERIOR COURT OF CALIFORNIA