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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

PRISCILLA AGUILAR, JULIAN HARO,
JUAN MADERA, and RICHARD NUNEZ, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

OWENS-BROCKWAY GLASS
CONTAINER, INC., a Delaware Corporation,
and DOES 1-50, inclusive,

Defendant.

Case No. 21STCV33017

Assigned for All Purposes:
Hon. Yvette M. Palazuelos

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT AND ENTRY
OF JUDGMENT**

Hearing Information

Date: September 12, 2024
Time: 10:00 a.m.
Dept: 9

Complaint Filed: September 8, 2021
Trial Date: None set

1 This matter came before the Court for hearing on Plaintiffs' Motion for Final Approval of
2 a Class Action and PAGA Settlement and Award of Attorneys' Fees, Costs, and Class
3 Representative Incentive Payment. The Court considered the proposed Amended Joint
4 Stipulation of Class Action Settlement and Release of Claims ("Settlement Agreement"), the
5 submissions of counsel, and all other papers filed in this action. This matter having been
6 submitted, and good cause appearing therefore, this Court **HEREBY FINDS THAT:**

7 1. This Court adopts and incorporates by reference the terms and conditions of the
8 Settlement Agreement, together with the definitions and terms used and contained therein.

9 2. The Court finds that it has jurisdiction over the subject matter of the action and over
10 all parties to the action, including all members of the Class.

11 3. The Court finds the Settlement was entered into in good faith, that it is fair,
12 reasonable and adequate, and that it satisfies the standards and applicable requirements for final
13 approval of this class action settlement under California law, including the provisions of California
14 Code of Civil Procedure section 382 and California Rules of Court, Rule 3.769.

15 4. In so finding, the Court considered all evidence presented, including evidence
16 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented;
17 the likely duration of further litigation; the amount offered in settlement; the extent of investigation
18 and discovery completed; and the experience and views of counsel. The Parties have provided the
19 Court with sufficient information about the nature and magnitude of the claims being settled, as
20 well as the impediments to recovery, to make an independent assessment of the reasonableness of
21 the terms of the Settlement.

22 5. With respect to the Class and for the purpose of approving the Settlement only, the
23 Court finds and concludes that: (a) the Class Members are ascertainable and so numerous that
24 joinder of all members is impracticable; (b) there are questions of law or fact common to the Class
25 Members, and there is a well-defined community of interest among Class Members with respect
26 to the subject matter of the claims in the action; (c) the claims of the Plaintiffs are typical of the
27 claims of the Class Members; (d) the Plaintiffs have fairly and adequately protected the interests
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1 of the Class Members; (e) a class action is superior to other available methods for an efficient
2 adjudication of this controversy; and (f) the counsel for the Plaintiffs are qualified to serve as Class
3 Counsel for the Class.

4 6. The Notice of Class Action Settlement (“Class Notice”) was provided to the Class
5 Members in compliance with the Settlement Agreement and Preliminary Approval Order,
6 California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the
7 California and United States Constitutions, and any other applicable law. The Class Notice (i) fully
8 and accurately informed Class Members about all material elements of the action and proposed
9 Settlement; (ii) provided sufficient information so that Class Members were able to decide whether
10 to opt-out and pursue their own remedies, or object to the proposed Settlement; (iii) provided
11 procedures for Class Members to request exclusion from the Settlement, to state written objections
12 to the proposed Settlement, to dispute the amount of pay periods, and to appear at the hearing; and
13 (iv) provided the time, date and place of the final fairness hearing.

14 7. There were no objections to the Settlement.

15 8. There were two requests for exclusion from the Settlement. Those Class Members
16 who timely and properly opted out from the settlement are identified as Cory Hillis and Lucio
17 Lemus.

18 9. Class Members were given a full opportunity to participate in the final fairness
19 hearing, and all Class Members and other persons wishing to be heard have been heard.

20 10. The Gross Settlement Amount and the means of distributing the Net Settlement
21 Amount to Participating Class Members are fair and reasonable in light of the nature of this case.

22 11. The Court finds that James R. Hawkins, Christina M. Lucio, and Mitchell J. Murray
23 of James Hawkins APLC have the requisite qualifications, experience, and skill to protect and
24 advance the interests of the Class. The Court therefore finds that counsel satisfy the professional
25 and ethical obligations attendant to the position of Class Counsel, and hereby appoints James
26 Hawkins APLC as counsel for the Class.
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1 12. Class Counsel has provided services and benefits to absent Class Members and
2 expended efforts and resources to secure the benefits and is thus entitled to the requested and
3 unopposed attorneys' fees and costs as approved by the Court. The Court finds that the requested
4 award of attorneys' fees of 35% of the common fund created by the Settlement is reasonable for a
5 contingency fee in a class action and that use of this method for determining the fee award is
6 reasonable because it encourages efficient litigation.

7 13. The Class Representatives prosecuted this lawsuit, worked with counsel, undertook
8 the risks associated with litigation, acted to protect the interests of the Class, and conferred a
9 benefit on absent Class Members, and is thus entitled to receive incentive payments as approved
10 by the Court.

11 14. The appointed Settlement Administrator, CPT Group, Inc., rendered services and
12 will continue to render services, in connection with administering the notice and settlement
13 process, and is thus entitled to its requested administration fees.

14 15. The Gross Settlement Amount or "common fund" is \$3,700,000, with the Net
15 Settlement Amount to be paid to Participating Class Members being calculated by deducting the
16 following payments from the Gross Settlement Amount in the amounts set forth below: (1) Class
17 Counsel's attorneys' fees; (2) Class Counsel's litigation costs; (3) Class Representatives' Incentive
18 Payments; (4) Settlement Administrator expenses; and (5) the PAGA Payment. The Net Settlement
19 Amount which will be paid as Individual Settlement Payments to Participating Class Members is
20 estimated to be approximately \$2,005,926. There is no reversion to Defendant.

21 16. The proposed PAGA settlement of \$300,000 as set forth in the Settlement
22 Agreement between the parties is approved pursuant to California Labor Code section 2699(1)(2).
23 The Court finds that it is fair and reasonable and furthers PAGA's objectives. The Court further
24 finds that notice of the Settlement has been provided to the LWDA as required by PAGA and
25 Labor Code section 2699(1)(2), in particular.

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1 **IT IS ORDERED THAT:**

2 1. Class. The Court certifies, for settlement purposes only, a Class defined as all
3 persons who are employed or have been employed by Owens-Brockway Glass Container, Inc.
4 (“Defendant”) as hourly-paid or non-exempt employees at any time during the time period from
5 March 8, 2017 through April 30, 2023.

6 2. Requests for Exclusion. The following individuals requested exclusion from the
7 Settlement: Cory Hillis and Lucio Lemus. Accordingly, these individuals will not receive an
8 Individual Settlement Payment for their share of the Net Settlement Amount and will not be bound
9 by the Release by Settlement Class Members pursuant to Paragraph 6.1 of the Settlement
10 Agreement. However, these individuals will receive a payment for their share of the PAGA
11 Payment as PAGA Members and will be bound by the Release by PAGA Members pursuant to
12 Paragraph 6.2 of the Settlement Agreement.

13 3. Class Period: March 8, 2017 through April 30, 2023.

14 4. PAGA Members: All persons who are employed or have been employed by
15 Defendant as hourly-paid or non-exempt employees at any time during the time period from April
16 6, 2020 to April 30, 2023.

17 17. Release by Settlement Class Members. By operation of the entry of the Final
18 Approval Order and Judgment and upon funding of the Gross Settlement Amount by Defendant
19 pursuant to Paragraph 5.13 of the Settlement Agreement, and except as to such rights or claims as
20 may be created by the Settlement Agreement, each Participating Class member, and each of their
21 respective executors, administrators, representatives, agents, heirs, successors, assigns, trustees,
22 spouses, or guardians, will release each of the Released Parties of and from any and all claims,
23 rights, demands, charges, complaints, causes of action, obligations, or liability that were or could
24 have been raised based on the factual allegations made in the Action through April 30, 2023. This
25 includes, but is not limited to, California Labor Code sections 201, 202, 203, 204, 210, 218.5,
26 218.6, 223, 225.5, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1,
27 1198, , 2800, 2802; California Industrial Commission Wage Orders, Cal. Code Regs., Title 8,
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1 Section 11040, et seq.; and Business and Professions Code Sections 17200, et seq.; and including
2 all claims for or related to alleged failure to pay wages, overtime or double time wages, minimum
3 and regular wages, regular rate of pay; wages timely during employment, wages timely at
4 separation, meal periods and meal period premiums, rest periods and rest period premiums, off-
5 the-clock work; wage statements, written notice of sick leave, payroll records and recordkeeping;
6 unreimbursed business expenses; failure to pay additional 401(k) benefits and/or deferred
7 compensation benefits and/or matching benefits for payments received under the Settlement;
8 unfair competition; unfair business practices; conversion; class actions; representative actions;
9 aggrieved party claims; injunctive relief; declaratory relief; accounting; punitive damages;
10 liquidated damages; penalties of any nature (including but not limited to civil penalties, waiting-
11 time penalties,); interest; attorneys' fees and costs; and any other claims arising out of or related
12 to or filed in the Action through April 30, 2023. This Release does not constitute a general waiver
13 under California Civil Code Section 1542.

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15 18. Release by PAGA Members. By operation of the entry of the Final Approval Order
16 and Judgment, and upon funding of the Gross Settlement Amount by Defendant pursuant to
17 Paragraph 5.13 of the Settlement Agreement, and except as to such rights or claims as may be
18 created by this Agreement, each PAGA Member, and each of their respective executors,
19 administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians,
20 will release each of the Released Parties of and from all claims for PAGA penalties that were or
21 could have been raised based on the factual allegations made in the Action, and in the LWDA
22 Letter, through April 30, 2023. This includes, but is not limited to, PAGA penalties based on
23 alleged violation of California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223,
24 225.5, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800,
25 2802; California Industrial Commission Wage Orders, Cal. Code Regs., Title 8, Section 11040, et
26 seq.; and includes all claims for or related to alleged failure to pay wages, overtime or double time
27 wages, minimum and regular wages, regular rate of pay; wages timely during employment, wages
28 timely at separation, meal periods and meal period premiums, rest periods and rest period

1 premiums, off-the-clock work; wage statements, written notice of sick leave, payroll records and
2 recordkeeping; unreimbursed business expenses; and any other claims arising out of or related to
3 or filed in the Action through April 30, 2023.

4 19. Additional Release by Class Representatives. In addition to the above release
5 applicable to the Settlement Class members and PAGA Members, upon funding of the Gross
6 Settlement Amount by Defendant pursuant to Paragraph 5.13 of the Settlement Agreement, the
7 Class Representatives also generally release any and all claims against each of the Released
8 Parties. This general release includes any and all claims arising from the employment relationship
9 with Defendant between March 8, 2017 and the date they sign the Agreement, except as to those
10 that cannot be released as a matter of law. This general release by the Class Representatives also
11 includes a waiver of California Civil Code Section 1542. The Class Representatives expressly
12 waive all rights provided by California Civil Code Section 1542, or other similar statutes, that the
13 Class Representatives may have against each of the Released Parties. California Civil Code
14 Section 1542 states:

15 A general release does not extend to claims that the creditor or releasing
16 party does not know or suspect to exist in his or her favor at the time of
17 executing the release and that, if known by him or her, would have
materially affected his or her settlement with the debtor or released party.

18 20. Gross Settlement Amount and Funding the Settlement. Defendant shall deposit the
19 Gross Settlement Amount into an account established by the Settlement Administrator for the
20 benefit of the Class Members and Class Counsel, through the Settlement Administrator, according
21 to the terms of the Settlement Agreement. The Settlement Administrator shall calculate and
22 distribute the Individual Settlement Payments to the Class Members and PAGA Members. The
23 distribution shall be in accordance with the instructions and timeline set forth in the Settlement
24 Agreement.

25 21. Uncashed Checks. Individual Settlement Payments shall be negotiable for 180 days
26 from the date of issuance. Any Individual Settlement Payment that has not been negotiated within
27 180 days after the date of issuance will be voided and the Settlement Administrator will report and
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1 send the unclaimed funds to the California State Controller Unclaimed Property fund to be held in
2 the name of the Class Member and/or PAGA Member.

3 22. Class Counsel's Attorneys' Fees and Costs. James Hawkins APLC is awarded
4 \$1,295,000.00 in attorneys' fees and \$24,074 in litigation costs.

5 23. Class Representative Incentive Payments. Plaintiffs Priscilla Aguilar, Julian Haro,
6 Juan Madera, and Richard Nunez are awarded \$15,000 each as an Incentive Payment for their
7 services on behalf of the Class, and for agreeing to broader releases than those required of the other
8 Class Members.

9 24. PAGA Payment. Pursuant to Labor Code § 2699(l)(1), the Court approves the
10 PAGA Payment of \$300,000 from the Gross Settlement Amount, which shall be allocated as
11 \$225,000 to the LWDA and \$75,000 to be distributed to PAGA Members.

12 25. Administration Costs. The Court approves settlement administration costs and
13 expenses in the amount of \$15,000 to CPT Group, Inc.

14 26. Final Accounting Report. The Parties shall file a report concerning any uncashed
15 checks or other cash residue by 16 court days before the Compliance Hearing. The report shall be
16 in the form of a declaration from the Settlement Administrator and shall describe: (i) the date the
17 checks were mailed, (ii) the total number of checks mailed to class members, (iii) the number of
18 checks that remain uncashed, (iv) the total value of those uncashed checks, and (v) the nature and
19 date of the disposition of those unclaimed funds.

20 27. No Admission. The Settlement Agreement and this Settlement are not an admission
21 by Defendant, nor is this Order and Judgment a finding, of the validity of any claims in the lawsuit
22 or of any wrongdoing by Defendant or that this lawsuit is appropriate for class treatment (other
23 than for settlement purposes). Neither this Order and Judgment, the Settlement Agreement, nor
24 any document referred to herein, nor any action taken to carry out the Settlement Agreement is,
25 may be construed as, or may be used as an admission by or against Defendant of any fault,
26 wrongdoing or liability whatsoever. The entering into or carrying out of the Settlement
27 Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed
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1 as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses
2 by Defendant. Notwithstanding these restrictions, Defendant may file in the Action or in any other
3 proceeding this Final Approval Order and Judgment, the Settlement Agreement, or any other
4 papers and records on file in the lawsuit as evidence of the Settlement to support a defense of res
5 judicata, collateral estoppel, release, or other theory of claim or issue preclusion or similar defense
6 as to the Release by Settlement Class Members and and/or the Release by PAGA Members.

7 28. Compliance Hearing. The Court sets a compliance hearing for
8 _____ at _____.

9 29. Entry of Judgment. This Final Approval Order shall constitute a final judgment in
10 accordance with California Rule of Court 3.769(h). The Court directs the Clerk to enter judgment
11 in accordance with the terms of this Final Approval Order.

12 30. Notice of Entry of Judgment. The Parties are to give notice to all Class Members
13 of this Final Approval Order and Judgment in accordance with California Rule of Court 3.771(b)
14 by filing a Notice of Entry of Judgment with the Court and posting a copy on the settlement website
15 at <https://www.cptgroup.com/cases/aguilar-v-owens-brockway-glass-container-inc>.
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17 31. Court's Jurisdiction. Pursuant to the Parties' request, California Code of Civil
18 Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains jurisdiction over
19 this action and the parties until final performance of the Settlement Agreement.

20 **IT IS SO ORDERED.**

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22 DATED: _____ By: _____
23 HON. YVETTE M. PALAZUELOS
24 JUDGE OF THE SUPERIOR COURT
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