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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

MARIA COCA OSPINA, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

PRECISE INDUSTRIES, INC., a corporation,
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2021-01228457-CU-OE-CXC

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT**

*[[Assigned for all purposes to Judge William
Claster, Dept. CX-101]]*

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFF'S MOTION
TO APPROVE PAGA SETTLEMENT**

*[Filed concurrently with: Plaintiff's Notice of
Motion and Motion to Approve PAGA
Settlement; Memorandum of Points and
Authorities; Declarations of Justin F.
Marquez and Maria Coca Ospina; and
[Proposed] Order]*

Date: February 9, 2024

Time: 9:00 a.m.

Dept: CX-101

Complaint filed: October 26, 2021

FAC filed: February 9, 2022

Trial date: Not Set

Pursuant to California Evidence Code (“Evid. Code”) sections 452 and 453, Plaintiff Maria Coco Ospina (“Plaintiff”) hereby requests that this Court take judicial notice of the following:

Exhibit	Description
1	<i>Diaz v. GKN Aerospace ChemTronics Inc.</i> , Case No. 37-2016-0004445-CU-OE-CTL, Minute Order Granting Final Approval of Class Action Settlement
2	<i>Cristobal v. Planned Parenthood Los Angeles</i> , Case No. BC572766, Order Granting Final Approval
3	<i>Ontiveros v. Safelite Fulfillment, Inc.</i> , Case No. 2:15-cv-07118-DMG-RAO, Order Granting Final Approval

The matters to be noticed are relevant to this case because they address an argument raised in this action. The matters are subject to judicial notice under Evidence Code section 452(d) because they constitute records of any court of this state. (Evid. Code 452 [“Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451: ... (d) Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.”].)

Evidence Code § 453 provides that “the trial court shall take judicial notice of any matter specified in Section 452 if a party requests it...” and “(a) gives each adverse party sufficient notice of the request...; and (b) furnishes the court with sufficient information to enable it to take judicial notice of the matter.” Evid. Code § 453.

The documents listed above meet the requirements of Evidence Code § 452(d) because they constitute records of courts of this state or the United States. The attached exhibits are records of the San Diego County Superior Court, the Los Angeles Superior Court, and the U.S. District Court for the Central District of California, respectively.

Additionally, these documents are relevant to this case because they address the argument raised in this matter that the “catalyst” theory is applicable and warrants Plaintiff’s request for an award of attorneys’ fees. All documents demonstrate examples of cases where attorneys’ fees were awarded under a catalyst theory where Defendants paid additional monies, in the form of *Pick Up Stix* campaigns, to the monies agreed to in the applicable settlement agreements. These documents are relevant because Plaintiff in this case is making a similar

1 argument that she is entitled to attorneys' fees based off the total compensation received by the
2 Class, including the Settlement Agreement and the *Pick Up Stix* campaign, since her lawsuit
3 was the "catalyst" for all of Defendant's settlement payments to class members.

4 For the foregoing reasons, Plaintiff requests that the Court take judicial notice of Exhibits
5 1 through 3 in ruling on Plaintiff's Motion to Approve PAGA Settlement.

6
7
8 Dated: January 4, 2024

Respectfully submitted,

WILSHIRE LAW FIRM

9
10 By: _____

Justin L. Marquez
Christina M. Le
Arsine Grigoryan

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12 Attorneys for Plaintiff
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Exhibit 1

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 07/27/2018

TIME: 09:30:00 AM

DEPT: C-71

JUDICIAL OFFICER PRESIDING: Gregory W Pollack

CLERK: Terry Ray

REPORTER/ERM: Gloria Mazon CSR# 9356

BAILIFF/COURT ATTENDANT: L. Wilks

CASE NO: **37-2016-00044445-CU-OE-CTL** CASE INIT.DATE: 12/16/2016

CASE TITLE: **Diaz vs GKN Aerospace Chem Tronics Inc [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT TYPE: Motion Hearing (Civil)

MOVING PARTY: Ismael Diaz

CAUSAL DOCUMENT/DATE FILED: Motion for Approval of Class Settlement, 06/18/2018

APPEARANCES

Paul K Haines, counsel, present for Plaintiff(s).

Matthew Holder, specially appearing for counsel Brian S Fong, present for Defendant(s).

The Court orally advises the parties of its tentative ruling, after which oral argument is conducted. Upon completion of oral argument, the court makes the below ruling:

RULING AFTER ORAL ARGUMENT: The Court rules on the motion for final approval of class action settlement as follows:

This unopposed motion is granted for the reasons stated below.

The terms of the settlement are as follows: Defendant GKN Aerospace Chem-Tronics Inc.'s (Defendant) will pay a gross settlement sum of \$750,000.00 to the class, which includes attorneys' fees, settlement administration costs, class representative enhancements, and a payment to the Labor and Workforce Development Agency for its share of PAGA penalties. (Haines Dec., Exh. B (Expense Summary); Nguyen Dec., ¶17.) The net settlement fund is estimated to be \$201,071.25. (Haines Dec., ¶11.) Significantly, this \$750,000.00 is in addition to \$648,680.00 previously paid to settled class members for which this litigation was the catalyst and for which the attorneys had received no compensation.

There have been no objections or two opt-out requests. (Nguyen Dec., ¶¶11-13.)

Legal Standard. When faced with a motion for final approval of a class action settlement, a court's inquiry is whether the settlement is "fair, adequate and reasonable." (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 fn. 7 (hereafter "*Dunk*").) California strongly favors settlements. (*Western Steamship Lines, Inc. v. San Pedro Peninsula Hosp.* (1994) 8 Cal.4th 100, 110.)

The presumption of fairness exists where, as here "(1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation, and (4) the percentage of objectors is small. (*Dunk, supra*, 48 Cal.App.4th at p. 1802.)

The factors that courts routinely consider in reviewing a proposed settlement are: (1) the strength of the plaintiffs' case, (2) the risk, complexity, length, and expense of continued litigation, (3) the risk of maintaining class action status through trial, (4) the amount offered in settlement, (5) the stage of the proceedings and the amount of discovery already undertaken at the time of the settlement, (6) the experience and views of counsel, and (7) the reaction of the class members to the proposed settlement. (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1166-1167.)

Here, Plaintiff Ismael (Plaintiff) presented evidence establishing that the settlement is fair and adequate. The parties engaged in arm's length negotiations and extensive investigation and discovery. (*Hianes Dec.*, ¶¶12, 17.) Finally, counsel for Plaintiff is experienced and skilled in class actions. (*Id.* at ¶¶3-8.)

In addition, Defendant does not oppose the following proposed payments: (1) Class representative payments totaling of \$24,000.00, (2) Class Counsel's attorney fees and litigation costs of \$466,226.00 and \$24,202.75, respectively, (3) claims administration costs of \$21,000.00, and a payment to Labor and Workforce Development Agency of \$7,500.00. (Settlement, ¶¶23, 42.)

Deadline to file accounting is 2/8/19.

IT IS SO ORDERED.



Judge Gregory W Pollack

Exhibit 2

FILED
LOS ANGELES SUPERIOR COURT
DEC 13 2016
SHERRILL C. GRIFFIN, EXECUTIVE CLERK
BY Nancy Navarro Deputy
NANCY NAVARRO

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

CRISTINA CRISTOBAL, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PLANNED PARENTHOOD LOS ANGELES,
a California corporation,

Defendant.

Case No.: BC572766
BC580126

ORDER GRANTING
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT

Dept.: 307
Date: December 13, 2016
Time: 11:00 a.m.

I. BACKGROUND

These related cases were filed by employees against employer Planned Parenthood for various wage and hour violations. The *Cristobal* action alleges claims for failure to pay overtime, failure to pay minimum wages, meal period violations, wage statement violations, unfair competition, and PAGA penalties. The related *Ceniceros v. Planned Parenthood* action contains claims for meal period violations, rest break violations, failure to pay regular and overtime wages, wage statement violations, failure to timely pay final wages, unfair competition, forfeiture of vested vacation benefits, and PAGA.

Following mediation that included both plaintiffs, the parties settled the actions and executed a written agreement. The parties then sought and obtained preliminary approval of the settlement. Now before the Court is Plaintiffs' request for final approval.

II. DISCUSSION

A. SETTLEMENT CLASS DEFINITION

The proposed Class is composed of any, "individual who was employed by PPLA in California at any time during the Class Period." (Settlement Agreement, ¶1.4)

Class Period is February 17, 2011, through November 1, 2015. (¶1.5)

The Release Subclass means all Class Members who signed the Release Offer. (¶1.31)

The Non-Release Subclass means all Class Members who did not sign the Release Offer. (¶1.16)

Release Offer means the release of claims offered by PPGA to its current and certain former employees around March, 2015. (¶1.29)

B. TERMS OF SETTLEMENT AGREEMENT

The essential terms of the Settlement Agreement are as follows:

- The Litigation Settlement Amount is \$700,000, non-reversionary. (¶1.14)
- Other Settlement Consideration refers to \$231,591.02 already paid to class members in exchange for releases and \$231,691.49 already paid to class members for which no releases were obtained: \$463,282.51. (¶1.24) [When combined with the \$700,000 new money, the total is \$1,163,282.51]
- The Maximum Amount for Payments (\$247,278) is Litigation Settlement Amount less:
 - Up to \$382,722 (~32.9% of total money) for attorney fees;
 - Up to \$30,000 for attorney costs;

- Up to \$10,000 for two \$5,000 service awards;
 - An estimated \$20,000 for claims administration costs;
 - \$10,000 [75% of 13,333.33 PAGA penalty] to the LWDA; and
 - Employer share of taxes. (§1.14)
- Settlement Remainder means the Maximum Amount for Payments less the total of all Release Offer Consideration payments. (§1.37) The share for each class member will be a pro rata portion of the Settlement Remainder amount, calculated by multiplying the fund by a fraction wherein the numerator is the number of pay periods worked by that class member and the denominator is the total of all weeks worked by the class. (§1.38)
 - Settlement Sum means the amount due to a class member which is comprised of her or her Settlement Remainder Share plus, for Non-Release Class Members, the Release Offer Consideration. (§1.39) Release Offer Consideration means \$400. (§1.30)
 - There is no claims process. (§2.1.1)
 - The Notice Response Deadline is 45 days. (§1.22)
 - For tax purposes, payments will be allocated 1/3 for unpaid wages and 2/3 for penalties, interest, and all other non-wage recovery. (§2.1.1)
 - Checks will be valid for 180 days from the date of mailing, and funds checks that remain uncashed after that time will revert to the State Unclaimed Property Division. (§2.7.3)
 - The class representatives and all class members who do not opt out will release, “all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever including without limitations, statutory, constitutional, contractual or common law claims, whether known or unknown, against the PPLA Releasees, or any of them, for any type of relief, that accrued prior to the Preliminary Approval Date, that are

1 in any way related to alleged or actual (a)(i) failure to pay wages, including minimum or
2 overtime wages; (ii) failure to provide proper meal or rest breaks or premium
3 compensation in lieu thereof; (iii) failure to comply with payroll or wage record-keeping
4 or wage statement itemization requirements; or (iv) failure to timely pay wages due at
5 termination or otherwise; (b) penalties or any other remedies for any of the claims
6 covered by subsection (a)(i) through (a)(iv) above under any statute or regulation or
7 other provision of law, including without limitation claims under California Labor Code
8 sections 203, 226, 226.3, 1194, California Labor Code section 2698 *et seq.*, California
9 Business and Professions Code section 17200 *et seq.*, any applicable California
10 Industrial Welfare Commission Wage Order, and the Fair Labor Standards Act, 29.
11 U.S.C. Section 201 *et seq.*, and associated regulations, including but not limited to 29
12 C.F.R. section 778; (c) injunctive relief, restitution, disgorgement, accounting,
13 declaratory relief or other equitable relief for any of the claims covered by subsection
14 (a)(i) through (a)(iv); (d) any and all associated claims for interest, costs, or attorney fees
15 for any of the claims covered by subsection (a)(i) through (a)(iv) above, including
16 without limitation California Labor Code sections 218.5 & 1194 and California Code of
17 Civil Procedure 1021.5; and (e) to the extent not covered above, any and all claims that
18 were or reasonably could have been pled in the Litigation, based on the facts alleged in
19 the operative complaints in the Litigation. For the avoidance of doubt, Class Members
20 are being informed of all Released Claims through the Notice: Pendency of Class Action
21 . . . and thus all such claims are deemed to be known claims.” (§§ 1.32, 2.8.1)
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1 **C. ANALYSIS OF SETTLEMENT AGREEMENT**

2 **1. Standards for Final Fairness Determination**

3 “Before final approval, the court must conduct an inquiry into the fairness of the
4 proposed settlement.” CRC 3.769(g). “If the court approves the settlement agreement after the
5 final approval hearing, the court must make and enter judgment. The judgment must include a
6 provision for the retention of the court’s jurisdiction over the parties to enforce the terms of the
7 judgment. The court may not enter an order dismissing the action at the same time as, or after,
8 entry of judgment.” CRC 3.769(h).

9 “In a class action lawsuit, the court undertakes the responsibility to assess fairness in
10 order to prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class
11 action. The purpose of the requirement [of court review] is the protection of those class
12 members, including the named plaintiffs, whose rights may not have been given due regard by
13 the negotiating parties.” See Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of
14 America (2006) 141 Cal. App.4th 46, 60 (internal quotation marks omitted); see also Wershba v.
15 Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 245 (Court needs to “scrutinize the proposed
16 settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is
17 not the product of fraud or overreaching by, or collusion between, the negotiating parties, and
18 that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned”) (internal
19 quotation marks omitted).

20
21 “The burden is on the proponent of the settlement to show that it is fair and reasonable.
22 However ‘a presumption of fairness exists where: (1) the settlement is reached through arm’s-
23 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to
24 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of
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objectors is small.” See Wershba at 245 (citing Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1802. Notwithstanding an initial presumption of fairness, “the court should not give rubber-stamp approval.” See Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130. “Rather, to protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished.” Id. In that determination, the court should consider factors such as “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.” Id. at 128. “Th[is] list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case.” Wershba at 245.

Nevertheless, “[a] settlement need not obtain 100 percent of the damages sought in order to be fair and reasonable. Compromise is inherent and necessary in the settlement process. Thus, even if ‘the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated,’ this is no bar to a class settlement because ‘the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.’” Id. at 250.

2. Does a presumption of fairness exist?

- a. Was the settlement reached through arm’s-length bargaining? Yes. The parties chose to mediate the two cases together. (Haines Declaration ISO Preliminary

1 Approval, ¶12.) The parties participated in a full-day of mediation with Jeffrey
2 Krivis on October 26, 2016. (Id. at ¶14)

- 3 b. Were investigation and discovery sufficient to allow counsel and the court to act
4 intelligently? Yes. The parties engaged in informal discovery, pursuant to
5 which Defendant produced its relevant wage and hour policies, relevant data
6 including the total number of workweeks for the class, the size of the class, and
7 time and payroll records for 142 putative class members, or approximately 16.4%
8 of the class. (Id. at ¶13.) Class Counsel conducted an analysis of these records,
9 utilizing the help of an expert labor economist. (Ibid.)
- 10 c. Is counsel experienced in similar litigation? Yes. (Haines Declaration ISO Final
11 Approval, ¶¶ 2-8; Declaration of Shaun Setareh, ¶¶ 3-5.)
- 12 d. What percentage of the class has objected? Zero. (Declaration of Tin Nguyen,
13 ¶10.)

14
15 CONCLUSION: The settlement is entitled to a presumption of fairness.

16 **3. Is the settlement fair, adequate, and reasonable?**

- 17 a. Strength of Plaintiffs' case. "The most important factor is the strength of the case for
18 plaintiffs on the merits, balanced against the amount offered in settlement." See Kullar
19 v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130. At the time of preliminary
20 approval, Class Counsel provided evidence regarding the value of the class claims.
21 (Haines Declaration ISO Preliminary Approval, ¶¶ 27-34.) The total realistic recovery
22 for the class was calculated to be approximately \$874,491. The \$700,000 Litigation
23 Settlement Amount represents approximately 80% of that exposure, and thus is well
24 within the ballpark of reasonableness. (*City of Detroit v. Grinnell Corporation* (2d Cir.
25

1 1974) 495 F.2d 448, 455; settlement amounted to 12% of the plaintiffs' potential
2 recovery.) The meal period claim was assessed a value of \$536,104. Following the filing
3 of this action, however, Defendant sent checks to hundreds of employees to compensate
4 them for underpaid meal periods. The \$231,691.49 already paid reduces the potential
5 liability to \$304,412.51. This amount was further reduced based upon the risks
6 associated with certification and proof to \$246,574. Plaintiffs did not realistically
7 anticipate recovery on the rounding claim and assigned it no value. The rest period claim
8 was valued at a maximum value of \$566,198; after reduction for the money already paid
9 out and for the risks associated with certification and proof, the realistic exposure is
10 \$97,103. The claim for forfeited vacation pay was assigned no value as it would be
11 highly individualized. Waiting time penalties were calculated to have a maximum value
12 of \$3,340,814, reduced to \$334,081 based upon the risks associated with continued
13 litigation. The wage statement penalties were assessed a maximum value of \$993,600
14 and a realistic value of \$97,373. The PAGA claim was assessed a maximum value of
15 \$1,987,200; given the Court's discretion to drastically reduce such penalties, the realistic
16 value was calculated at \$99,360.

17
18 b. Risk, expense, complexity and likely duration of further litigation. Given the nature of
19 the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles
20 (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any
21 recovery by the class members.

22 c. Risk of maintaining class action status through trial. Even if a class is certified, there is
23 always a risk of decertification. See Weinstat v. Dentsply Intern., Inc. (2010) 180
24 Cal.App.4th 1213, 1226 ("Our Supreme Court has recognized that trial courts should
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1 retain some flexibility in conducting class actions, which means, under suitable
2 circumstances, entertaining successive motions on certification if the court subsequently
3 discovers that the propriety of a class action is not appropriate.”).

- 4 d. Amount offered in settlement. As indicated above, the \$700,000 non-reversionary
5 settlement represents recovery of approximately 80% of the realistic value of the class
6 claims. The claims administrator has calculated the average settlement payment to be
7 \$434.38 to the Non-Release Subclass and \$84.66 to the Release Subclass. (Nguyen
8 Declaration, ¶13.)
- 9 e. Extent of discovery completed and stage of the proceedings. As discussed above, at the
10 time of the settlement, the parties had conducted extensive discovery.
- 11 f. Experience and views of counsel. The settlement was negotiated and endorsed
12 by Class Counsel who, as indicated above, are experienced in class action
13 litigation, including wage and hour cases.
- 14 g. Presence of a governmental participant. This factor is not applicable here.
- 15 h. Reaction of the class members to the proposed settlement.

16
17 Number of class members: 950
18 Number of notices mailed: 950
19 Number of undeliverable notices: 11
20 Number of opt-outs: 4
21 Number of objections: 0
22 Number of participating class members: 946 (99.58%)
23 (Declaration of Tin Nguyen, ¶¶5 – 13.)

24 CONCLUSION: The settlement can be deemed “fair, adequate, and reasonable.”
25

1 **D. ATTORNEY FEES AND COSTS**

2 Class Counsel request \$382,722 for attorney fees and \$21,382.04 for costs.

3 At the time of preliminary approval, the attorneys presented evidence of Plaintiffs'
4 written consent to their fee-splitting agreement, pursuant to which Setareh Law Group will
5 receive 50%, Haines Law Group 33.91%, Michael Burgis & Associates 11.25% and Boren,
6 Osher & Luftman, LLP will receive 4.84% of any fee award. (Supplemental Haines Declaration
7 ISO Preliminary Approval, ¶4, and Exhibits 3 and 4 thereto.)

8 In determining the appropriate amount of a fee award courts use the lodestar method,
9 applying a multiplier where appropriate. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,
10 1095-1096.) A percentage calculation with lodestar cross-check is permitted in common fund
11 cases. (*Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503.) Despite any agreement by
12 the parties to the contrary, courts have an independent responsibility to review an attorney fee
13 provision and award only what it determines is reasonable. (*Garabedian v. Los Angeles Cellular*
14 *Telephone Company* (2004) 118 Cal.App.4th 123, 128.)

15 Here, Class Counsel seek a percentage of the total compensation received by the class
16 under the catalyst theory. (Motion at 10, citing *Tipton-Whittingham v. City of Los Angeles*
17 (2004) 34 Cal.4th 604, 608.) Under this theory, counsel are entitled to fees based on all funds
18 Defendant paid to the class as a result of the filing of this litigation, both prior to this settlement
19 (payments to the Release Subclass) and the settlement fund. As noted above, the \$382,722 fee
20 request is approximately 32.9% of the of the total settlement funds paid by Defendant, which is
21 average. (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558, FN13: "Empirical
22 studies show that, regardless whether the percentage method or the lodestar method is used, fee
23 awards in class actions average around one-third of the recovery.")

24
25 Class Counsel have presented evidence from which the lodestar may be calculated:

Timekeeper	Hours	Hourly Rate	Total Lodestar
Shaun Setareh	138	\$650	\$ 89,700
Paul K. Haines	120.3	\$575	\$ 69,172.50
Tuvia Korobkin	119.4	\$450	\$ 53,730
Fletcher W. Schmidt	30.5	\$375	\$ 11,437.50
Farrah Grant	10.35	\$350	\$ 3,622.50
Alice Kim	9.7	\$350	\$ 3,395
Paralegals	12.2	\$175	\$ 2,135
TOTAL			\$233,192.50

(Haines Declaration, ¶¶16-18; Setareh Declaration, ¶¶9, 10, 14; Declaration of Tuvia Korobkin, ¶¶ 5, 6; Declaration of Fletcher W. Schmidt, ¶¶ 7, 8; Declaration of Farrah Grant, ¶¶ 4, 5.) The hourly rates charged appear to be reasonable and in line with prevailing rates in the community, and the hours spent on this litigation appear reasonable as well. Accordingly, class counsel's actual attorney fees of \$233,192.50 acts as the lodestar.

The \$382,722 fee request would require a positive multiplier of 1.64 if fees were being calculated under the lodestar.

Here, the \$382,722 fee request represents a reasonable percentage of the total funds paid by Defendant, and is supported by the lodestar analysis. Further, the notice expressly advised class members of the fee request, and not a single class member objected to it. Accordingly, the Court awards fees in the amount requested.

As for costs, Class Counsel request \$21,382.04. (Haines Declaration, ¶19 and Exhibit B thereto (\$14,111.47); Setareh Declaration, ¶6 and Exhibit A thereto (\$7,270.57).) The costs to date include experts (\$7,491), mediation (\$2,945, \$2,750, \$2445), filing fees, messenger fees, Case Anywhere costs, travel, and other miscellaneous items. The costs appear to be reasonable and necessary to the litigation, are reasonable in amount. The \$30,000 litigation cost cap was not objected to by the class.

For all the foregoing reasons, costs of \$21,382.04 are approved.

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E. INCENTIVE AWARD TO CLASS REPRESENTATIVE

An incentive fee award to a named class representative must be supported by evidence that quantifies time and effort expended by the individual and a reasoned explanation of financial or other risks undertaken by the class representative. See Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806-807; see also Cellphone Termination Cases (2010) 186 Cal.App.4th 1380, 1394-1395 (“[C]riteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. [Citations.]”)

Here, the named Plaintiffs each request \$5,000 incentive awards.

Plaintiff Cristina Cristobal worked for Defendant from October, 2005 to September, 2015. (Declaration of Cristina Cristobal, ¶2.) She has been active in this litigation from the beginning, assisting her attorneys by gathering documents and identifying potential witnesses, attending meetings, and providing information. (Id. at ¶4.) All in all, Cristobal estimates that she devoted approximately 15 hours to this litigation. (Ibid.)

Plaintiff Elizabeth Cenicerros worked for Defendant during the class period, and has spent significant time on this litigation. (Declaration of Elizabeth Cenicerros, ¶¶ 4, 7.) She assisted her attorneys by providing them with information about Defendant’s policies and practices, preparing for mediation, and reviewing settlement documents. (Id. at ¶7.) Cenicerros placed in the interests of the class ahead of her own and accepted the potential career risks associated with acting as a class representative. (Id. at ¶¶ 6, 8.)

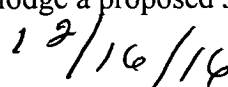
1 In light of the above as well as the benefits obtained on behalf of the class, \$5,000
2 appears to be a reasonable inducement for Plaintiff's participation in this case. The requested
3 incentive awards are approved.

4 **F. CLAIMS ADMINISTRATION COSTS**

5 Claims administrator CPT requests \$18,500 for costs. (Nguyen Declaration, ¶14.) This is
6 slightly less than the \$20,000 estimated at the time of preliminary approval. Given the tasks
7 performed (and still to be performed), this amount appears to be reasonable. This amount was
8 also disclosed to class members and deemed unobjectionable.

9 **III. CONCLUSION AND ORDER**

10 **A. TENTATIVE RULING**

- 11 (1) Grant class certification for purposes of settlement;
- 12 (2) Grant final approval of the settlement as fair, adequate, and reasonable;
- 13 (3) Award \$382,722 in attorney fees and \$21,382.04 in costs to Class Counsel (Paul K.
14 Haines, Tuvia Korobkin and Fletcher W. Schmidt of Haines Law Group, APC, and
15 Shaun Setareh of Setareh Law Group);
- 16 (4) Award \$5,000 each as incentive awards to the Class Representatives Cristina Cristobal
17 and Elizabeth Cenicerros;
- 18 (5) Award \$18,500 in claims administration costs to CPT Group, Inc.;
- 19 (6) Approve \$10,000 PAGA penalty payment to the LWDA;
- 20 (7) Order class counsel to lodge a proposed Judgment, consistent with this ruling by
21 _____, 2016;
22 
- 23 (8) Order class counsel to provide notice to the class members pursuant to California Rules
24 of Court, rule 3.771(b); and
25

(9) A Non-Appeal Case Review re: Final Report re: Distribution of Settlement Funds is

set for 8/31/17, at 8:30am.

Final Report is to be filed by 8/24/17.

Dated:

12/13/16



MAREN E. NELSON

Judge of the Superior Court

Exhibit 3

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

YADIR ONTIVEROS, et al., as an
individual, and on behalf of all others
similarly situated,

Plaintiffs,

vs.

SAFELITE FULFILLMENT, INC., a
Delaware corporation; SAFELITE
GROUP, INC., a Delaware corporation;
SAFELITE GLASS CORP., a Delaware
corporation; and DOES 1 through 10,

Defendants.

Case No.: CV 15-7118-DMG (RAOx)

**FINAL JUDGMENT AND ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT [142]**

1 This matter came on for hearing on September 20, 2019, at 10:00 a.m., in the
 2 United States District Court for the Central District of California before the undersigned.
 3 Due and adequate notice having been given to the Settlement Classes (defined below),
 4 and the Court having considered all papers filed and proceedings held herein, and having
 5 reviewed the record in the above captioned matter, and good cause appearing,
 6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

7 1. The Court has jurisdiction over the subject matter of the above-captioned
 8 action (the “Action”), the Class Representatives Yadir Ontiveros and Francisco Curiel
 9 (“Plaintiffs” or “Class Representatives”), Defendant Safelite Fulfillment, Inc.
 10 (“Safelite”), and all members of the following Settlement Classes:

11 **Class 1a (PPP Incentive Plan Class – Unpaid Rest Periods):** All current and
 12 former non-exempt employees of Safelite who worked in California as a
 13 Technician, and who were paid pursuant to Safelite’s PPP Incentive Plan, during
 14 the time period September 9, 2011 through April 9, 2017.

15 **Class 1b (PPP Incentive Plan Class – Unpaid Non-Productive Time):** All
 16 current and former non-exempt employees of Safelite who worked in California as
 17 a Technician, and who were paid pursuant to Safelite’s PPP Incentive Plan, during
 18 the time period June 4, 2013 through April 9, 2017.

19 **Class 1c (PPP Incentive Plan Class – Wage Statements):** All current and former
 20 non-exempt employees of Safelite who worked in California as a Technician, and
 21 who were paid pursuant to Safelite’s PPP Incentive Plan, during the time period
 22 September 9, 2014 through April 9, 2017.

23 **Class 2a (Wage Statement Class – Meal Period Premium):** All current and
 24 former non-exempt employees of Safelite who worked in California, and were paid
 25 a meal period premium payment, during the time period September 9, 2014
 26 through October 16, 2017.

27 **Class 2b (Wage Statement Class – Installation Bonus):** All current and former
 28 non-exempt employees of Safelite who worked in California, earned an Installation

1 Bonus and worked overtime hours during the corresponding time period that the
 2 Installation Bonus was earned, during the time period September 9, 2014 through
 3 October 16, 2017.

4 **Class 3a (Unpaid Overtime Class – Artificial Dilution of Regular Rate):** All
 5 current and former non-exempt employees of Safelite who worked in California,
 6 and who in the same time period: (i) were paid a meal period premium payment as
 7 “regular” hours worked; and (ii) earned any form of incentive pay; and (iii) worked
 8 overtime hours, during the time period September 9, 2011 to October 16, 2017 (but
 9 limited to the time period of June 4, 2013 through October 16, 2017 for those
 10 individuals who worked as Technicians or Windshield Repair Specialists).

11 **Class 3b (Unpaid Overtime Class – Underpaid Double-time Premium):** All
 12 current and former non-exempt employees of Safelite who worked in California,
 13 and who, in the same time period: (i) earned any form of incentive pay; and (ii)
 14 worked double-time hours, during the time period September 9, 2011 to October
 15 16, 2017 (but limited to the time period of June 4, 2013 through October 16, 2017
 16 for those individuals who worked as Technicians or Windshield Repair
 17 Specialists).

18 **Class 4 (Waiting Time Penalty Class):** All members of Classes 1a, 1b, 2a, 2b, 3a,
 19 and 3b who separated their employment from Safelite at any point in time between
 20 March 2, 2014 through January 18, 2019.

21 **Class 5 (PAGA Settlement Class):** All members of Classes 1a, 1b, 1c, 2a, 2b, 3a,
 22 and 3b who worked for Safelite during the time period September 10, 2014
 23 through January 18, 2019.

24 2. The terms “Settlement” or “Settlement Agreement” shall refer to the
 25 Stipulation of Settlement and Release filed by Plaintiffs as Exhibit 1 to the Declaration of
 26 Paul K. Haines in Support of Preliminary Approval of Class Action Settlement, on March
 27 8, 2019 [Doc. # 130-1], and all terms herein shall have the same meaning as the terms
 28 defined in the Settlement Agreement, unless specifically provided otherwise herein.

1 3. The Court grants final approval of the Settlement Agreement because it meets
2 the criteria for final settlement approval. The Settlement falls within the range of
3 possible approval as fair, adequate, and reasonable, appears to be the product of arm's-
4 length and informed negotiations, and treats all members of the Settlement Classes fairly.

5 4. The Court finds that the distribution by U.S. first-class mail of the Rule 23 Class
6 Notice constituted the best notice practicable under the circumstances to all persons
7 within the definition of the Settlement Classes and fully met the requirements of due
8 process under the United States Constitution and applicable state law. Based on evidence
9 and other material submitted in conjunction with the Final Approval Hearing, the notice
10 to the Settlement Classes was adequate. The notice informed members of the Settlement
11 Classes of the terms of the Settlement, their right to participate in the Settlement and how
12 to do so, their right to object to the Settlement, their right to appear at the Final Approval
13 Hearing and be heard regarding approval of the Settlement, and their right to exclude
14 themselves from the Settlement and pursue their own remedies. Adequate periods of
15 time were provided by each of these procedures. No members of the Classes objected to
16 the Settlement or Class Counsel's Motion for Attorneys' Fees, Costs, and Class
17 Representative Incentive Payments, and no Settlement Class Members opted out of the
18 Settlement.

19 5. The Court finds, for purposes of settlement only, that the Settlement Classes
20 satisfy the applicable standards for certification under Federal Rules of Civil Procedure
21 23(a) and 23(b)(3). Accordingly, solely for purposes of effectuating the Settlement, this
22 Court has certified the Settlement Classes, as defined above. Because the Settlement
23 Classes are being certified here for settlement purposes only, the Court need not (and
24 does not) address the manageability requirement of Rule 23(b)(3). *See Amchem*
25 *Products, Inc. v. Windsor*, 521 U.S. 591 (1997).

26 6. The Court approves the Settlement, and each of the releases and other terms set
27 forth in the Settlement Agreement, as fair, just, reasonable, and adequate as to the
28 Settlement Classes, the Class Representatives, and Safelite (collectively the "Settling

Parties”). The Settling Parties and the Settlement Administrator are directed to perform in accordance with the terms set forth in the Settlement Agreement.

7. Pursuant to the Settlement Agreement, and after the fulfillment of Safelite’s obligations under the Settlement Agreement, all of the Released Claims are dismissed with prejudice against the Released Parties as to the Class Representatives and the members of the Settlement Classes, for the duration of the Class Period. The Settling Parties are to bear their own attorneys’ fees and costs, except as otherwise provided in the Settlement Agreement and in this Judgment and Order.

8. By this Judgment, and after the fulfillment of Safelite’s obligations under the Settlement Agreement, the Class Representatives and all Settlement Class Members shall release the Released Parties (as defined in the Settlement Agreement) from all Released Claims, pursuant to the terms of the Settlement Agreement, for the duration of the Class Period.

9. The Court finds that the plan of allocation of the Net Settlement Amount as set forth in the Settlement Agreement is fair and reasonable, and that distribution of Individual Settlement Payments to members of the Settlement Classes shall be effected in accordance with the terms outlined in the Settlement.

10. The Court hereby confirms the appointment of Yadir Ontiveros and Francisco Curiel as Class Representatives for Settlement Classes 1a, 1b, 1c, 2a, 2b, 3a, 3b, and 5, and confirms the appointment of Francisco Curiel as the Class Representative of Settlement Class 4, for purposes of the Settlement.

11. The Court hereby confirms the appointment of Paul K. Haines, Fletcher W. Schmidt, Tuvia Korobkin, Sean M. Blakely, Andrew J. Rowbotham, and Matthew K. Moen of Haines Law Group, APC as Class Counsel for purposes of the Settlement.

12. The Court hereby approves the payment from the Settlement Amount of settlement administration costs in the amount of \$22,000.00 to CPT Group, Inc., the Settlement Administrator, for services rendered in this matter. The Court also approves payment from the Settlement Amount of Class Representative Enhancement Payments to

1 the Class Representatives in the amount of \$10,000.00 to Yadir Ontiveros and \$5,000.00
2 to Francisco Curiel, to compensate the Class Representatives for their valuable services
3 in initiating and maintaining this litigation (as well as the companion Curiel action in
4 California Superior Court) and the benefits conferred onto the Settlement Classes as a
5 result of the litigation. The Court finds that these payments are fair and reasonable. The
6 Settlement Administrator is directed to make the foregoing payments in accordance with
7 the terms of the Settlement Agreement.

8 13. The Court hereby approves a payment from the Settlement Amount of
9 \$150,000.00 to the California Labor & Workforce Development Agency for its share of
10 penalties under the Labor Code Private Attorneys General Act, pursuant to Cal. Lab.
11 Code § 2699(i), in accordance with the terms of the Settlement Agreement.

12 14. The Court hereby awards to Class Counsel the amount of \$2,733,833.33 for
13 attorney's fees, and the amount of \$109,456.98 for costs. Based on Plaintiffs' Motion for
14 Attorneys' Fees, Costs, and Class Representative Incentive Payments [Doc. # 139], the
15 Court finds that Class Counsel advanced legal theories on a contingent-fee basis; Class
16 Counsel are experienced in the types of claims litigated in the Action; Class Counsel
17 diligently advocated for the Settlement Classes; and Class Counsel's efforts resulted in
18 substantial monetary recovery for the Settlement Classes. The Court therefore finds this
19 payment of attorneys' fees and costs to be fair and reasonable. The Settlement
20 Administrator is ordered to make these payments to Class Counsel in accordance with the
21 terms of the Settlement Agreement.

22 15. Final judgment is hereby entered pursuant to Rule 23(c)(3) of the Federal Rules
23 of Civil Procedure and in conformity with the Settlement Agreement. The Court reserves
24 and retains exclusive and continuing jurisdiction over the Action, the Class
25 Representatives, the Settlement Classes, and Safelite for the purposes of supervising the
26 implementation, effectuation, enforcement, construction, administration, and
27 interpretation of the Settlement Agreement and this Judgment. This document shall
28

1 constitute a final judgment for purposes of Rule 58 of the Federal Rules of Civil
2 Procedure.

3 **IT IS SO ORDERED.**

4
5 DATED: September 20, 2019


DOLLY M. GEE
UNITED STATES DISTRICT JUDGE

PROOF OF SERVICE

Maria Coco Ospina v. Precise Industries, Inc., et al.
30-2021-01228457-CU-OE-CXC

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

On **January 4, 2024**, I served the foregoing **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S MOTION TO APPROVE PAGA SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Kevin J. Abbott (SBN 281312)
kabbott@fennermorelaw.com
FENNEMORE LLP
550 E. Hospitality Lane, Suite 350
San Bernardino, CA 92408-4205
Telephone: (909) 890-4499
Facsimile: (909) 890-9877

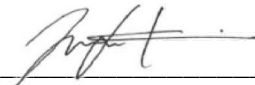
Attorneys for Defendant Precise Industries, Inc.

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on January 4, 2024, at Los Angeles, California.



Min Jee Kim