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FILED
Superior Court of California
County of Los Angeles

03/15/2024

David W. Slayton, Executive Officer / Clerk of Court

By: A. He Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MAYDA AGUIRRE and ROBERT
RODRIGUEZ, individually, and on behalf of
other members of the general public similarly
situated;

Plaintiff,

v.

ORMCO CORPORATION, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 22STCV12358
[Consolidated with Case Nos.
21STCV36034 and 22PSCV00363]

Assigned for All Purposes to:
Honorable Stuart M. Rice
Department 1

CLASS ACTION

**[PROPOSED] FURTHER AMENDED
ORDER OF FINAL APPROVAL AND
JUDGMENT**

Hearing Date: March 15, 2024
Hearing Time: 10:30 a.m.
Hearing Place: Department 1

Complaint Filed: April 12, 2022
FAC Filed: August 15, 2023
Trial Date: None Set

MAYDA AGUIRRE, DANIEL ALCOGER,
and ROBERT RODRIGUEZ, individually, and
on behalf of aggrieved employees pursuant to
the Private Attorneys General Act (“PAGA”);

Plaintiffs,

v.

ORMCO CORPORATION, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

ERIKA MORROW, individually, and on behalf
of other members of the general public similarly
situated;

Plaintiffs,

v.

ORMCO CORPORATION, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 22PSCV00363

Case No.: 21STCV36034

1 The Court, having read the papers filed regarding Plaintiffs Erika Morrow, Mayda
2 Aguirre, Daniel Alcocer, and Robert Rodriguez’s (“Plaintiffs,” “Plaintiff Morrow,” “Plaintiff
3 Aguirre,” “Plaintiff Alcocer,” and “Plaintiff Rodriguez”) Motion for Final Approval of Class
4 Action Settlement, and considering the papers submitted in support of the motion, including the
5 Amended Class, Collective, and Representative Action Settlement Agreement (“Settlement
6 Agreement,” “Settlement,” or “Agreement”), hereby **FINDS AND ORDERS:**

7 Plaintiffs and Defendant Ormco Corporation (“Defendant”) entered the Settlement
8 Agreement on or about September 21, 2023 to settle this lawsuit.

9 The Court entered an order dated October 2, 2023 preliminarily approving the settlement
10 of this lawsuit (“Preliminary Approval Order”), consistent with the Code of Civil Procedure
11 section 382 and California Rule of Court 3.769, ordering notice to be sent to the Class Members,
12 providing the Class Members with an opportunity to object to the Settlement or exclude
13 themselves from the Class, and scheduling a Final Approval Hearing.

14 The Court held a Final Approval Hearing on March 15, 2024 to determine whether to
15 give final approval to the Settlement of this lawsuit.

16 1. Incorporation of Other Documents. This Further Amended Order of Final
17 Approval and Judgment (“Order and Judgment”) incorporates the Settlement Agreement. Unless
18 otherwise provided herein, all capitalized terms in this Order and Judgment shall have the same
19 meaning as set forth in the Settlement Agreement.

20 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
21 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
22 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
23 including jurisdiction to approve the Settlement and grants final certification of the Class.

24 3. Final Class Certification. The Court finds the Class satisfies all applicable
25 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
26 process. The Court certifies the Class consisting of all individuals whom Defendant employed in
27 California during the period from September 30, 2017 through November 21, 2022 who have not
28 entered into an arbitration agreement or release agreement with Defendant (“Class Members”

1 and “Settlement Period for Class Members”). There are one hundred ninety-seven (197) Class
2 Members who did not file timely and valid Requests for Exclusion (“Settlement Class
3 Members”). The Court also certifies the Collective Members that are defined as all individuals
4 whom Defendant employed in California during the period from September 30, 2018 through
5 November 21, 2022 who have not entered into an arbitration agreement or release agreement
6 with Defendant (“Collective Members” and “Settlement Period for Collective Members”).

7 4. Adequacy of Representation. Class Counsel fully and adequately represented the
8 Class for the purposes of entering and implementing the Settlement and satisfied the
9 requirements of Code of Civil Procedure section 382.

10 5. Class Notice. The Court finds the Notice of Class, Collective and Representative
11 Action Settlement (“Class Notice”) and its distribution to the Class Members were implemented
12 pursuant to the Settlement Agreement and this Court’s Preliminary Approval Order. The Court
13 also finds the Class Notice:

- 14 a. constitutes notice reasonably calculated to apprise the Class Members of: (i)
15 pendency of this lawsuit; (ii) material terms and provisions of the Settlement
16 Agreement and their rights; (iii) their right to object to any aspect of the
17 Settlement Agreement; (iv) their right to exclude themselves from the Settlement
18 Agreement; (v) their right to receive settlement payments; (vi) their right to
19 appear at the Final Approval Hearing; and (vii) binding effect of the orders and
20 judgment in this lawsuit on all the Settlement Class Members;
- 21 b. constitutes notice that fully satisfied the requirements of Code of Civil Procedure
22 section 382, California Rule of Court 3.769, and due process;
- 23 c. constitutes the best practicable notice to the Class Members under the
24 circumstances of this lawsuit; and
- 25 d. constitutes notice reasonable, adequate, and sufficient to the Class Members.

26 6. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
27 any action to enforce the terms and provisions of the Settlement Agreement.

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1 7. Final Settlement Approval. The terms and provisions of the Settlement
2 Agreement have been entered into in good faith and are the product of arm's-length negotiations
3 by experienced counsel who have carried out a meaningful investigation of the claims. The
4 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,
5 reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to
6 implement the Settlement Agreement according to its terms and provisions.

7 8. Binding Effect. The terms and provisions of the Settlement Agreement and this
8 Order and Judgment are binding on Plaintiffs, Settlement Class Members, Private Attorneys
9 General Act of 2004 ("PAGA") Employees, and their spouses, heirs, registered domestic
10 partners, executors, administrators, successors, and assigns. Those terms shall have res judicata
11 and other preclusive effect in all pending and future claims, lawsuits, or other proceedings
12 maintained by or on behalf of any such persons to the extent those claims, lawsuits, or other
13 proceedings involve matters that were or could have been raised in this lawsuit and are
14 encompassed by the released claims. The Settlement Agreement will have no binding effect
15 upon, and provide no res judicata preclusion to, those Class Members who have submitted timely
16 requests for exclusion.

17 9. California Released Claims. Upon final approval of the Settlement Agreement,
18 and except as to the right to enforce the terms and conditions of the Settlement Agreement, each
19 Settlement Class Member – and each Settlement Class Member's executors, administrators,
20 representatives, agents, heirs, successors, assigns, trustees, or guardians – will release the
21 Released Parties from the California Released Claims.

22 a. PAGA Release. Upon final approval of the Settlement Agreement, and except as
23 to the right to enforce the terms and conditions of the Settlement Agreement, each
24 PAGA Employee – and each PAGA Employee executors, administrators,
25 representatives, agents, heirs, successors, assigns, trustees, or guardians – will
26 release the Released Parties from the PAGA Released Claims.

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- b. Additional Release by Class Representatives and Erica Morrow. In addition to the release given by each Settlement Class Member, the Class Representatives (Plaintiff Aguirre and Plaintiff Rodriguez) and Plaintiff Morrow generally release claims against each Released Party through the date of Final Approval. This general release by the Class Representatives and Plaintiff Morrow also includes a waiver of rights under Civil Code Section 1542.
- c. FLSA Released Claims. Effective on the date when the settlement is fully funded, Collective Members – and each Collective Member’s executors, administrators, representatives, agents, heirs, successors, assigns, trustees, or guardians – will release the Released Parties from the FLSA Released Claims.
- d. Released Parties. The Released Parties include Defendant and each and all of its current or former subsidiaries, parents, affiliates, joint ventures, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans’ respective current or former trustees and administrators, agents, employees, and fiduciaries.
10. Gross Settlement Amount and Net Settlement Amount. The Gross Settlement Amount approved by the Court is \$557,000. After deducting the court-approved payments from the Gross Settlement Amount, the Net Settlement Amount is \$293,351.90.
11. Service Awards. The Court finds the Service Awards of \$7,500, to be paid by Defendant to Plaintiff Aguirre and Plaintiff Rodriguez each and \$5,000 to Plaintiff Morrow out of the Gross Settlement Amount (totaling \$20,000), to be reasonable and appropriate. The Service Awards are to be paid pursuant to the terms and provisions set forth in the Agreement.
- a. The rationale for making enhancement payments is that representatives should be compensated for the expense and risk they incurred in conferring a benefit on the Class. Criteria courts consider include: (i) risk to the representatives in commencing suit; (ii) notoriety and personal difficulties; (iii) amount of time and

1 effort spent by the representatives; (iv) duration of the litigation; and (v) personal
2 benefit (or lack thereof) enjoyed by representatives.

- 3 b. The Court reviewed Plaintiffs' declarations outlining their involvement. Given the
4 risks inherent in the services as the Class Representative and PAGA
5 Representatives, duration of the case and time involved, and benefits created for
6 the Class, the Court approves the payment of the Service Awards of \$7,500, to be
7 paid by Defendant to Plaintiff Aguirre and Plaintiff Rodriguez each and \$5,000 to
8 Plaintiff Morrow.

9 12. Class Counsel Award. The Court finds the attorneys' fees of \$185,648.10, to be
10 paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and
11 appropriate. Additionally, the Court finds the attorneys' costs as reimbursement for actual
12 litigation costs incurred of \$10,000, to be paid by Defendant to Class Counsel out of the Gross
13 Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant
14 to the terms and provisions set forth in the Settlement Agreement. Defendant shall not be
15 required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
16 Class Counsel or any other counsel representing Plaintiffs or Class Members. Defendant shall
17 also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements
18 incurred by Plaintiffs or Class Members in connection with or related in any manner to this
19 lawsuit, Settlement Agreement, settlement administration, and/or released claims.

- 20 a. The Court has an independent right and responsibility to review the attorneys'
21 fees and only award so much as it determines reasonable. (See *Garabedian v. Los*
22 *Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) The
23 attorneys' fees of \$185,648.10 is thirty-three and one-third (33.33%) of the
24 common fund created for the benefit of the Class and is supported by use of the
25 percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1
26 Cal.5th 480, 504.) Considering the results achieved, financial risk undertaken,
27 difficult nature of this litigation, skills required, percentage fees award in previous
28 and other cases, and contingent fees charged in the marketplace, the Court finds

1 the attorneys' fees is consistent with the marketplace, is reasonable, and is
2 approved.

- 3 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
4 in prosecuting this case. Under the terms of the Settlement, Class Counsel may
5 seek reimbursement of up to \$10,000 in litigation costs. The Court finds Class
6 Counsel expended \$10,231.50 in litigation costs, and such costs were reasonable.
7 Since the above-mentioned amount exceeds the maximum amount permitted
8 under the Settlement, the Court approves the payment of the attorneys' costs of
9 \$10,000 from the common fund for the reimbursement of Class Counsel's
10 litigation costs.

11 13. Administrative Costs. The Court finds Administrative Costs of \$10,500, to be
12 paid by Defendant to the Settlement Administrator out of the Gross Settlement Amount, to be
13 reasonable and appropriate. The Administrative Costs are to be paid pursuant to terms and
14 provisions set forth in the Settlement Agreement.

- 15 a. The Court reviewed the declaration of Kevin Lee from Phoenix Class Action
16 Administration Solutions, the Court-approved Settlement Administrator. The
17 Court finds notice was provided to the Class pursuant to the Preliminary Approval
18 Order, constitutes the best practicable notice to the Class, and satisfied due
19 process. The Court approves the payment of the Administrative Costs of \$10,500
20 for the Settlement Administrator's services in administering the Settlement.

21 14. PAGA Payment. The Court finds the PAGA Payment of \$50,000, seventy-five
22 percent (75%) of which (\$37,500) will be go to the California Labor and Workforce
23 Development Agency ("LWDA") out of the Gross Settlement Amount and twenty-five percent
24 (25%) of which (\$12,500) will go to the Net Settlement Amount to be distributed to the PAGA
25 Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Payment is to be
26 paid pursuant to the terms and provisions set forth in the Settlement Agreement.

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1 15. Final Funding of Gross Settlement Amount. Within twenty-five (25) business
2 days of the Effective Date, Defendant will deposit the Gross Settlement Amount and its share of
3 employer payroll taxes into the Qualified Settlement Fund. The Settlement Administrator shall
4 issue settlement payments to the appropriate entities and persons no later than thirty-five (35)
5 business days after the Effective Date.

6 16. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
7 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiffs contend the
8 Settlement was the product of arm's-length negotiations following extensive litigation,
9 discovery, and exchange of documentation. The negotiations were facilitated with the aid of Eve
10 Wagner, an experienced and well-respected mediator.

11 a. The fairness of the Settlement is demonstrated by there being no objections to and
12 no requests for exclusion from the Settlement.

13 b. The fairness of the Settlement is further illustrated by the gross *average*
14 Individual Settlement Payment being approximately \$1,489.10, and the gross
15 *highest* Individual Settlement Payment being about \$3,129.55.

16 17. Uncashed Checks. All individual settlement checks will remain negotiable for
17 one hundred eighty (180) days from the date of their mailing. After one hundred eighty (180)
18 days from the mailing, the amount of any settlement checks from the California Released Claims
19 Amount that has not been cashed will be directed to the California Controller in the Class
20 Member's name. As to all uncashed settlement checks to Collective Members, those Collective
21 Members will not release FLSA claims, and the Settlement Administrator, after one hundred
22 eighty (180) days, will direct the associated funds to the California State Controller: Unpaid
23 Wage Fund.

24 18. Future Actions. Any Settlement Class Member who further asserts any of the
25 claims covered by the releases set forth in the Settlement Agreement against any of the Released
26 Parties shall pay the reasonable attorneys' fees and costs incurred by the Released Parties if such
27 action is not withdrawn after the Settlement Class Member receives notice of the settlement.

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1 19. Modification of Agreement. No waiver, modification, or amendment of the
2 Agreement shall be valid unless it appears in a writing signed by or on behalf of all Parties, and
3 then shall be valid subject to any required Court approval. Such amendments or modifications
4 shall be consistent with this Order and Judgment and cannot limit the rights of the Settlement
5 Class Members under the Agreement.

6 20. Final Accounting and Compliance. The Court sets a non-appearance compliance
7 hearing on March 17, 2025 in Department 1. Within five (5) court days before this hearing,
8 Plaintiffs shall file a compliance status report. Pursuant to Code of Civil Procedure section 384,
9 the compliance status report shall specify the total amount paid to the Class Members and the
10 residual of the unclaimed settlement funds that will be paid to the entity identified as the
11 recipient of such funds in the Settlement Agreement.

12 21. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
13 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
14 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
15 and for any other necessary purpose, including, without limitation:

- 16 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
17 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
18 arise out of the Settlement or this Order and Judgment;
- 19 b. entering such additional orders as may be necessary or appropriate to protect or
20 effectuate this Order and Judgment approving the Settlement, and permanently
21 enjoining Plaintiffs from initiating or pursuing related proceedings, or to ensure
22 the fair and orderly administration of the Settlement; and
- 23 c. entering any other necessary or appropriate orders to protect and effectuate this
24 Court's retention of continuing jurisdiction.

25 The Motion for Final Approval of Class Action Settlement, Class Counsel Award, and
26 Service Awards is GRANTED. The Settlement Administrator is directed to carry out the terms
27 of the Settlement forthwith.

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1 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
2 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
3 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
4 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
5 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
6 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
7 THE JUDGMENT THEREON.

8 IT IS SO ORDERED.

9
10 DATED: March 15, 2024



A handwritten signature in black ink, appearing to read "Stuart M. Rice", is written over the printed name.

Stuart M. Rice / Judge
HONORABLE STUART M. RICE
SUPERIOR COURT JUDGE

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On March 18, 2024, I served the foregoing document described as

FURTHER AMENDED ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Aguirre, et al. v. Ormco Corporation**
LWDA/Court Case No.: **LWDA-CM-855085-21**
 Case No. 22STCV12358 (Consolidated with 21STCV36034
 and 22PSCV00363)
 Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on March 18, 2024, at Pasadena, California.



Mariah Anderson