

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 20 2023

BY 
JESSICA MORALES, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

RICARDO AGUILAR, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

PRECISION HERMETIC TECHNOLOGY,
INC., a California corporation; and DOES 1
through 100, inclusive;

Defendants.

Case No.: CIVSB2128517
[Consolidated With Case No. CIVSB2203535]

Assigned for All Purposes to:
Honorable David Cohn
Department S-26

CLASS ACTION

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

Hearing Date: June 20, 2023
Hearing Time: 10:00 a.m.
Hearing Place: Department S-26

Complaint Filed: October 7, 2021
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiffs Ricardo Aguilar and Adrian
2 De La Torre's ("Plaintiffs") Motion for Final Approval of Class Action Settlement, and
3 considering the papers submitted in support of the motion, including the Joint Stipulation and
4 Settlement Agreement ("Settlement Agreement," "Settlement," or "Agreement"), hereby **FINDS**
5 **AND ORDERS:**

6 Plaintiffs and Defendant Precision Hermetic Technology, Inc. ("Defendant") entered the
7 Settlement Agreement on or about August 24, 2022 to settle this lawsuit.

8 The Court entered an order dated December 6, 2022 preliminarily approving the
9 settlement of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
10 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
11 Members, providing Class Members with an opportunity to object to the Settlement or exclude
12 themselves from the Class, and scheduling a Final Approval Hearing.

13 The Court held a Final Approval Hearing on June 20, 2023 to determine whether to give
14 final approval to the Settlement of this lawsuit.

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

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

23 3. Final Class Certification. The Court finds the Class satisfies all applicable
24 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
25 process. The Court certifies the Class consisting of all individuals currently or formerly
26 employed by Defendant, either directly or through any subsidiary, staffing agency, or
27 professional employer organization as a non-exempt hourly-paid employee within the State of
28 California during the time period from April 9, 2017, through July 17, 2022 ("Class," "Class

Members,” and “Class Period”). There are one hundred ninety-five (195) Class Members who did not submit valid and timely requests to exclude themselves from the Settlement (“Participating Class Members”).¹

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

5. Notice Packet. The Court finds the Notice of Class Action Settlement (“Class Notice”) and the Election Not To Participate in the Settlement or Opt-out Form (“Exclusion Form”) (collectively, known as the “Notice Packet”) and its distribution to Class Members were implemented pursuant to the Settlement and this Court’s Preliminary Approval Order. The Court also finds the Notice Packet:

a. constitutes notice reasonably calculated to apprise Class Members of: (i) pendency of this lawsuit; (ii) material terms and provisions of the Settlement Agreement and their rights; (iii) their right to object to any aspect of the Settlement Agreement; (iv) their right to exclude themselves from the Settlement Agreement; (v) their right to receive Individual Settlement Shares; (vi) their right to appear at the Final Approval Hearing; and (vii) binding effect of the orders and judgment in this lawsuit on all Participating Class Members;

b. constitutes notice that fully satisfied the requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due process;

c. constitutes the best practicable notice to Class Members under the circumstances of this lawsuit; and

d. constitutes notice reasonable, adequate, and sufficient to Class Members.

6. Final Settlement Approval. The terms and provisions of the Settlement Agreement have been entered in good faith and are the product of arm’s-length negotiations by experienced counsel who have done a meaningful investigation of the claims. The Settlement Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,

¹ The Settlement Administrator mailed Notice Packets to one hundred ninety-seven (197) Class Members and received two (2) requests for exclusion. So, there are one hundred

adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the Settlement Agreement according to its terms and provisions.

7. Binding Effect. The terms and provisions of the Settlement Agreement and this Order and Judgment are binding on Plaintiffs, Participating Class Members, Eligible Aggrieved Employees, and their spouses, heirs, registered domestic partners, executors, administrators, successors, and assigns. In addition, those terms shall have res judicata and other preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf of any such persons to the extent those claims, lawsuits, or other proceedings involve matters that were or could have been raised in this lawsuit and are encompassed by the Released Claims. The Settlement Agreement will have no binding effect upon, and provide no res judicata preclusion to, those Class Members who have submitted timely requests for exclusion.

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

9. Release of Claims. Upon the Effective Final Settlement Date and Defendant's fulfillment of its payment obligations, Class Members, who do not submit a timely and valid request for exclusion, waive, release, promise never to assert in any forum, remise, and forever discharge the Released Parties from the Released Claims for the time frame from April 9, 2017, through July 17, 2022.

a. Effect of PAGA Settlement. As of the Effective Final Settlement Date, this settlement forever bars Plaintiffs, California Labor and Workforce Development Agency ("LWDA"), and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees during the Private Attorneys General Act of 2004 ("PAGA") Timeframe, from pursuing any action for civil penalties under Labor Code section 2698, *et seq.* (PAGA), or any of the PAGA Release Claims, against the Released Parties based on or arising out of alleged violations of Labor Code sections alleged in Plaintiffs' letter to the LWDA and this matter.

ninety-five (95) Participating Class Members.

b. Plaintiffs' Release of Claims and General Release. As of the Effective Final Settlement Date, and in exchange for the Class Representative Enhancement Payments to Plaintiffs, in recognition of their work and efforts in obtaining the benefits for the Class and undertaking the risk for the payment of costs in the event this matter had not successfully resolved, Plaintiffs for themselves, their spouses, heirs, and assigns, in exchange for the consideration provided for by the Agreement, provide a Comprehensive Release of claims as defined in section I(FF) of the Agreement. This Comprehensive Release include expressly waiving and relinquishing, to the fullest extent permitted by law, the provisions, rights, and benefits of section 1542 of the Civil Code, or any other similar provision under federal or state law.

c. Released Parties. The Released Parties include Defendant, and its past, present, and future subsidiaries, dba's affiliates, PEOs, staffing agencies, parents, predecessors, successors, divisions, joint ventures, investors, and assigns and their respective past or present officers, directors, shareholders, partners, servants, employees, attorneys, personal or legal representatives, agents, assigns, members, investors, principals, independent contractors, heirs, representatives, accountants, auditors, consultants, insurers, co-insurers, and reinsurers.

10. Class Representative Enhancement Payments. The Court finds the Class Representative Enhancement Payments of \$10,000, to be paid by Defendant to each Plaintiff (totaling \$20,000) out of the Gross Settlement Amount, to be reasonable and appropriate. The Class Representative Enhancement Payments is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

a. The rationale for making enhancement payments is class representatives should be compensated for the expense and risk they incurred in conferring a benefit on the Class. Criteria courts consider include: (1) risk to the class representatives in commencing suit; (2) notoriety and personal difficulties; (3) amount of time and

effort spent by the class representatives; (4) duration of the litigation; and (5) personal benefit (or lack thereof) enjoyed by class representatives.

- b. The Court reviewed Plaintiffs' declarations outlining their involvement. Given the risks inherent in the services as the class representatives, duration of the case and time involved, and benefits created for the Class, the Court approves the payment of the Class Representative Enhancement Payments of \$10,000 to each Plaintiff.

11. Attorney Fee Award and Cost Award. The Court finds the Attorney Fee Award of \$101,628, to be paid out of the Gross Settlement Amount by Defendant to Class Counsel, to be reasonable and appropriate. In addition, the Court finds the Cost Award as reimbursement for actual litigation costs incurred of \$11,698.75, to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and provisions set forth in the Settlement Agreement. Defendant shall not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiffs or Class Members. Defendant shall also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiffs or Class Members in connection with or related in any manner to this lawsuit, Settlement Agreement, settlement administration, and Released Claims.

- a. The Court has an independent right and responsibility to review the Attorney Fee Award and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The Attorney Fee Award of \$101,628 is one-third (1/3) of the common fund created for the benefit of the Class and is supported by use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the results achieved, financial risk undertaken, difficult nature of this litigation, skills required, percentage fees award in previous and other cases, and contingent fees charged in the marketplace, the Court finds the Attorney Fee Award is consistent with the marketplace, is reasonable, and is approved.

///

b. The Court reviewed the declaration of Douglas Han regarding the costs expended in prosecuting this case. Under the terms of the Settlement, Class Counsel may seek reimbursement of up to \$15,000 in litigation costs. The Court finds Class Counsel expended \$11,698.75 in litigation costs, and such costs were reasonable. Thus, the Court approves the payment of the Cost Award of \$11,698.75 from the common fund for the reimbursement of Class Counsel's litigation costs.

12. Administration Costs. The Court finds Administration Costs of \$7,500, to be paid by Defendant to the Settlement Administrator out of the Gross Settlement Amount, to be reasonable and appropriate. The Administration Costs are to be paid pursuant to terms and provisions set forth in the Settlement Agreement.

a. The Court reviewed the declaration of Taylor Mitzner from Phoenix Class Action Administration Solutions, the Settlement Administrator. The Court finds notice was provided to the Class pursuant to the Preliminary Approval Order, constitutes the best practicable notice to the Class, and satisfied due process. Thus, the Court approves the payment of the Administration Costs of \$7,500 for the Settlement Administrator's services in administering the Settlement.

13. PAGA Payment. The Court finds the PAGA Payment of \$20,000, seventy-five percent (75%) of which (\$15,000) will be paid to the LWDA out of the Gross Settlement Amount and twenty-five percent (25%) of which (\$5,000) shall be part of the Net Settlement Amount distributed to Eligible Aggrieved Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Payment is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

14. Funding the Settlement. No later than twenty-one (21) days of the Effective Final Settlement Date, Defendant or its designee shall deposit the Gross Settlement Amount and any employer's share of payroll taxes needed to complete payment of the entire Gross Settlement Amount by wiring the funds into a Qualified Settlement Fund set up and controlled by the Settlement Administrator. Defendant shall also at this time provide any tax information that the Settlement Administrator may need to calculate Individual Settlement Shares. Within fourteen

1 (14) calendar days after the funding of the settlement, the Settlement Administrator shall
2 calculate and pay all payments due under the Settlement Agreement.

3 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
4 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiffs contend the
5 Settlement was the product of arm's-length negotiations following extensive litigation,
6 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
7 Marc J. Feder, Esq., an experienced and well-respected mediator.

8 a. The fairness of the Settlement is demonstrated by there being no objections to and
9 only two (2) requests for exclusion from the Settlement.

10 b. The fairness of the Settlement is further illustrated by the gross *average*
11 Individual Settlement Share being approximately \$710.04, and the gross *highest*
12 Individual Settlement Share being about \$2,124.88.

13 16. Uncashed Checks. Participating Class Members and Eligible Aggrieved
14 Employees must cash or deposit their Individual Settlement Share checks within one hundred
15 eighty (180) calendar days after the checks are mailed to them. Uncashed settlement checks will
16 be canceled and paid to the California State Controller's Office in the name of the Class
17 Member/Eligible Aggrieved Employee.

18 17. Modification of Settlement Agreement. The Participating Class Members are
19 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
20 modifications of the Settlement Agreement by an express written instrument signed by counsel
21 for all Parties or their successors-in-interest. Such amendments or modifications shall be
22 consistent with this Order and Judgment and cannot limit the rights of Participating Class
23 Members under the Settlement Agreement.

24 18. Final Accounting and Compliance. The Court sets a nonappearance case review
25 for February ²⁰~~16~~, 2024 in Department S-26. Within five (5) court days before this hearing,
26 Plaintiffs shall file a compliance status report. Pursuant to Code of Civil Procedure section 384,
27 the compliance status report shall specify the total amount paid to Participating Class Members
28

1 and the residual of the unclaimed settlement funds that will be paid to the entity identified as the
2 recipient of such funds in the Settlement Agreement.

3 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
4 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
5 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
6 and for any other necessary purpose, including, without limitation:

- 7 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
8 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
9 arise out of the Settlement or this Order and Judgment;
- 10 b. entering such additional orders as may be necessary or appropriate to protect or
11 effectuate this Order and Judgment approving the Settlement, and permanently
12 enjoining Plaintiffs from initiating or pursuing related proceedings, or to ensure
13 the fair and orderly administration of the Settlement; and
- 14 c. entering any other necessary or appropriate orders to protect and effectuate this
15 Court's retention of continuing jurisdiction.

16 ///

17 ///

18 ///

1 The Motion for Final Approval of Class Action Settlement, Attorney Fee Award, Cost
2 Award, and Class Representative Enhancement Payments is GRANTED. The Settlement
3 Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

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

11 IT IS SO ORDERED.

12
13 DATED: JUN 20 2023

14 
HONORABLE DAVID COHN
SUPERIOR COURT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**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 Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On June 21, 2023, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Aguilar, et al. v. Precision Hermetic Technology, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-857061-21**
Court Case No.: CIVSB2128517
San Bernardino 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 June 21, 2023, at Pasadena, California.



Mariah Anderson