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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

KENNETH NGUYEN, on behalf of the
State of California, as a private attorney
general, and as an individual, on behalf of
himself and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

PORT PLASTICS, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **22CV394401**

[Consolidated with Case No. 22CV394403]

NOTICE OF ENTRY OF JUDGMENT

Hearing Date: September 25, 2024

Hearing Time: 1:30 p.m.

*[Hearing scheduled by Order dated June 11,
2024]*

Judge: Hon. Theodore C. Zayner

Dept.: 19

Action Filed: February 15, 2022

Trial Date: Not set

1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 YOU ARE HEREBY NOTIFIED THAT on October 8, 2024, the Court entered the
3 Judgment in the above entitled action. A true and correct copy of the Judgment is attached hereto
4 as Exhibit #1.

5 Respectfully submitted,

6 Dated: October 8, 2024

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

8 By: /s/ Kyle Nordrehaug
9 Kyle R. Nordrehaug
Attorneys for Plaintiffs

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I, Kyle Nordrehaug, am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 2255 Calle Clara, La Jolla, California 92037. On October 8, 2024, I served the document(s) described as:

1. Notice of Entry of Judgment

X (BY ELECTRONIC SERVICE): I caused the above entitled documents to be served on the following parties to this action via electronic service through e-mail:

THOMAS M. MCINERNEY
tmm@ogletree.com
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111
Telephone: 415-442-4810
Facsimile: 415-442-4870

PAUL M. SMITH
paul.smith@ogletree.com
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
500 Capitol Mall, Suite 2500
Sacramento, CA 95814
Telephone: 916-840-3150
Facsimile: 916-840-3159
CC: pamela.leonard@ogletree.com; noreen.witt@ogletree.com

Attorneys for Defendant

X (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the Labor Workforce Development Agency via online process at the PAGA Filing website in accordance with the procedure imposed by the LWDA.

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 October 8, 2024, at La Jolla, California.

By: /s/ Kyle Nordrehaug
Kyle R. Nordrehaug, Esq.

EXHIBIT #1

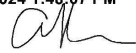
Filed
October 8, 2024
Clerk of the Court
Superior Court of CA
County of Santa Clara
22CV394401
By: afloresca

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10/8/2024 1:48:07 PM



**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

KENNETH NGUYEN, on behalf of the State
of California, as a private attorney general, and
as an individual, on behalf of himself and on
behalf of all persons similarly situated,

Plaintiff,

v.

PORT PLASTICS, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: 22CV394401
[Consolidated with Case No. 22CV394403]

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

Hearing Date: September 25, 2024
Hearing Time: 1:30 p.m.

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: February 15, 2022
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Kenneth Nguyen (“Plaintiff”) for an order finally approving the
2 class action settlement of this action between Plaintiff and Defendant Port Plastics, Inc.
3 (“Defendant”) came on for hearing on September 25, 2024 before the Honorable Thoedore C.
4 Zayner.

5 The Court confirms the tentative ruling as the final ruling and the motion is GRANTED, as
6 set forth below.

7 **I.**

8 **FINDINGS**

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

11 1. All terms used herein shall have the same meaning as defined in the Class Action
12 and PAGA Settlement Agreement (the “Agreement”).

13 2. This Court has jurisdiction over the subject matter of this litigation pending before
14 the California Superior Court for the County of Santa Clara, and over all Parties to this litigation,
15 including the Class.

16 3. Based on a review of the papers submitted by Plaintiff and a review of the
17 applicable law, the Court finds that the Gross Settlement Amount of Three Hundred Fifty
18 Thousand Dollars (\$350,000), which was increased by \$22,826.75 due to the escalator to the final
19 amount of \$372,826.75, and the terms set forth in the Agreement are fair, reasonable, and
20 adequate.

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

27 **Preliminary Approval of the Settlement**

1 5. On June 11, 2024, the Court granted preliminary approval of the Agreement. At
2 this same time, the Court approved conditional certification of the Class for settlement purposes
3 only. The Court also approved the form and method of the Class Notice, appointed Plaintiff as the
4 Class Representative, appointed Norman B. Blumenthal, Kyle R. Nordrehaug and Aparajit
5 Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class,
6 and appointed ILYM Group as the Administrator.

7 **Notice to the Class**

8 6. In compliance with the Preliminary Approval Order, the Class Notice Packet was
9 mailed by first class mail to members of the Class at their last known addresses on or about July
10 10, 2024. Mailing of the Class Notice to their last known addresses was the best notice practicable
11 under the circumstances and was reasonably calculated to communicate actual notice of the
12 litigation and the proposed settlement to the Class. The Class Notice given to the Class Members
13 fully and accurately informed the Class Members of all material elements of the proposed
14 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
15 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
16 laws of the State of California, the United States Constitution, due process and other applicable
17 law. The Class Notice fairly and adequately described the Settlement and provided Class
18 Members adequate instructions and a variety of means to obtain additional information.

19 7. The Response Deadline for opting out of the Class or submitting written objections
20 to the Settlement was September 9, 2024, which Response Deadline was extended by 14 days in
21 the event of a re-mailing. There was an adequate interval between notice and the deadline to
22 permit Class Members to choose what to do and act on their decision. A full opportunity has been
23 afforded to the Class Members to participate in this hearing, and all Class Members and other
24 persons wishing to be heard have been heard. Class Members also have had a full and fair
25 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
26 Court determines that all Class Members who did not timely and properly submit a request for
27

1 exclusion in accordance with the Agreement are bound by the Settlement and this Final Approval
2 Order and Judgment.

3 **Fairness Of Settlement**

4 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
5 48 Cal.App.4th 1794, 1801 (1996).

6 a. The settlement was reached through arm's-length bargaining between the
7 parties during an all-day mediation before Louis Marlin, a respected and experienced mediator of
8 wage and hour class actions. There has been no collusion between the parties in reaching the
9 proposed settlement.

10 b. Plaintiff's investigation and discovery have been sufficient to allow the
11 Court and counsel to act intelligently.

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

14 d. No objections were received. No requests for exclusion were received.

15 9. The consideration to be given to the Class Members under the terms of the
16 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
17 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
18 Members' claims, given the uncertainties and significant risks of the litigation and the delays
19 which would ensue from continued prosecution of the action.

20 10. The Agreement is approved as fair, adequate and reasonable and in the best
21 interests of the Class Members.

22 **Attorneys' Fees and Costs**

23 11. A Class Counsel Fees Payment award of \$124,275, and Class Counsel Litigation
24 Expenses Payment award of \$12,638.21 are reasonable, in light of the contingent nature of Class
25 Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel.
26 The requested award has been supported by Class Counsel's lodestar and billing statement.

27 **Class Representative Service Payment**

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FINAL APPROVAL ORDER AND JUDGMENT

1 12. The Agreement provides for a Class Representative Service Payment of not more
2 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that the Class
3 Representative Service Payment in the reduced amount of \$5,000 to the Plaintiff is reasonable in
4 light of the risks and burdens undertaken by the Plaintiff in the litigation, for the time and effort in
5 bringing and prosecuting this matter on behalf of the Class, and for the execution of the release.

6 **Administration Expenses Payment**

7 13. The Administrator shall calculate and administer the payment to be made to the
8 Participating Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
9 transmit the Class Representative Service Payment to the Plaintiff, distribute the PAGA Penalties,
10 issue any required tax reporting forms, calculate withholdings and perform the other remaining
11 duties set forth in the Agreement. The Administrator has documented \$5,500 for the
12 Administration Expenses Payment, and this amount is reasonable in light of the work performed
13 by the Administrator.

14 **PAGA Penalties**

15 14. The PAGA Penalties amount of \$15,000 is approved and shall be paid out of the
16 Gross Settlement Amount, 75% of which shall be allocated and paid to the LWDA and 25% of
17 which shall be distributed to the Aggrieved Employees as Individual PAGA Payments. The
18 Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the
19 Aggrieved Employees' 25% share of PAGA Penalties (\$3,750) by the total number of PAGA Pay
20 Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the
21 result by each Aggrieved Employee's PAGA Pay Periods. The Aggrieved Employees are all
22 individuals who worked for Defendant Port Plastics, Inc. in California who were classified as non-
23 exempt and/or hourly paid employees and who worked at any time during the PAGA Period,
24 which is December 9, 2020 through August 1, 2023. All Aggrieved Employees will be sent their
25 share of the PAGA Penalties and will be subject to the release of the Released PAGA Claims as
26 set forth below, whether or not they opt out of the Class Settlement.

27 **II.**

1 **ORDERS**

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

3 15. The certification of the Class for the purposes of settlement is confirmed. The Class
4 is defined as follows:

5 All individuals who are employed by or previously were employed by Defendant
6 Port Plastics, Inc. in California who were classified as non-exempt and/or hourly
7 paid employees and who worked at any time during the Class Period (February 15,
8 2018 through June 30, 2022).

9 16. All persons who meet the foregoing definition are members of the Class, except
10 for those individuals who timely submitted a valid request for exclusion (“opt out”) from the
11 Class. There were no individuals who requested exclusion.

12 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
13 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund
14 the amounts necessary to fully pay Defendant’s share of payroll taxes in accordance with the
15 Agreement, by transmitting the funds to the Administrator no later than 15 days after the Effective
16 Date.

17 18. Class Counsel are awarded Class Counsel Fees Payment in the amount of \$124,275
18 and Class Counsel Litigation Expenses Payment in the amount of \$12,638.21. Class Counsel shall
19 not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff or
20 members of the Class.

21 19. The payment of the Class Representative Service Payment in the amount of \$5,000
22 to the Plaintiff is approved.

23 20. The payment of \$5,500 to the Administrator as the Administration Expenses
24 Payment is approved.

25 21. The PAGA Penalties are approved and shall be allocated as set forth in the
26 Agreement.

27 22. A Participating Class Member must cash his or her Individual Class Payment check
28 within 180 days after the issuance of the checks. An Aggrieved Employee must cash his or her

FINAL APPROVAL ORDER AND JUDGMENT

1 Individual PAGA Payment check within 180 days after the issuance of the checks. If such checks
2 are not cashed within 120 days after the initial mailing of the checks, the Administrator will also
3 send the affected Participating Class Member and/or Aggrieved Employee a reminder notice
4 informing him or her that unless the check is cashed in the next 60 days, it will expire and become
5 non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the
6 check remains uncashed by the expiration of the 180 day period, the funds from such uncashed
7 checks shall be paid to the California Controller's Unclaimed Property Fund in the name of the
8 individual who failed to cash their check.

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

23 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
24 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
25 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
26 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
27 to individual Class Members.

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

8 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

9 26. The Court hereby enters final judgment in this case in accordance with the terms of
10 the Settlement, the Preliminary Approval Order, and this Final Approval Order and Judgment.

11 27. Except as set forth in the Agreement and this Final Approval Order and Judgment,
12 Plaintiff, and all members of the Class, shall take nothing in the Action.

13 28. Pursuant to California Code of Civil Procedure section 664.6, and without affecting
14 the finality of this Judgment in any way, the Court shall retain jurisdiction to construe, interpret,
15 implement and enforce the Agreement, to hear and resolve any contested challenge to a claim for
16 settlement benefits, and to supervise and adjudicate any dispute arising from or in connection with
17 the distribution of settlement benefits.

18 29. The Parties are authorized to agree to and to adopt such amendments, modifications
19 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
20 Final Approval Order and Judgment and do not limit the rights of the Parties or Class Members
21 under the Agreement, subject to Court approval.

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

24 31. As of the Effective Date and upon full funding of the Gross Settlement Amount and
25 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by
26 Defendant, all Participating Class Members, on behalf of themselves and their respective former
27 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,

1 release Released Parties from the Released Class Claims. The “Released Class Claims” are all
2 class claims pled or which reasonably could have been pled based on the factual allegations
3 contained in the Operative Complaint which occurred during the Class Period, expressly excluding
4 Plaintiff’s individual claims alleged in the Operative Complaint (e.g., Discrimination and
5 Retaliation in Violation of the Fair Employment and Housing Act; Wrongful Termination in
6 Violation of Public Policy). Except as expressly set forth in this Agreement, Participating Class
7 Members do not release any other claims, including claims for vested benefits, wrongful
8 termination, violations of the Fair Employment and Housing Act (“FEHA”), unemployment
9 insurance, disability, social security, workers’ compensation, or claims based on facts occurring
10 outside the Class Period. The “Released Parties” are Defendant and each of its former and present
11 directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and
12 subsidiaries.

13 32. As of the Effective Date and upon full funding of the Gross Settlement Amount and
14 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by
15 Defendant, all Aggrieved Employees and the LWDA are deemed to release, on behalf of
16 themselves and their respective former and present representatives, agents, attorneys, heirs,
17 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
18 The “Released PAGA Claims” are all PAGA claims pled or which reasonably could have been
19 pled based on the factual allegations contained in the Operative Complaint and Plaintiff’s
20 December 9, 2021 Letter to the Labor and Workforce Development Agency which occurred
21 during the PAGA Period. The Released PAGA Claims do not include other PAGA claims,
22 underlying wage and hour claims (except as to Released Class Claims), claims for wrongful
23 termination, discrimination, unemployment insurance, disability and worker’s compensation, and
24 claims outside of the PAGA Period.

25 33. The Court sets a compliance hearing for March 26, 2025 at 2:30 p.m. in
26 Department 19. At least ten court days before the hearing, class counsel and the settlement
27 administrator shall submit a summary accounting of the net settlement fund identifying
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1 distributions made as ordered herein; the number and value of any uncashed checks; amounts
2 remitted to the cy pres recipient; the status of any unresolved issues; and any other matters
3 appropriate to bring to the court's attention. Counsel shall also submit an amended judgment as
4 described in Code of Civil Procedure section 384, subdivision (b).

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

6
7 Dated: October 8, 2024



8
9 HON. THEODORE C. ZAYNER
JUDGE, SUPERIOR COURT OF CALIFORNIA