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

MICHAEL THOMAS MENDOZA and ROSA
VALADEZ GARCIA, individually, and on
behalf of all others similarly situated, the State
of California, and other aggrieved persons,

Plaintiffs,

v.

OSI INDUSTRIES, LLC, a Limited Liability
Company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CVRI2203101

**CLASS AND PAGA REPRESENTATIVE
ACTION**

*[Assigned for all purposes to: Hon. Daniel
Ottolia, Dept. 4]*

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed with Notice of Motion and Motion,
Memorandum of Points and Authorities, the
Declaration of Justin F. Marquez, and the
Declaration of Michael Thomas Mendoza,
and the Declaration of Rosa Valadez Garcia]*

PRELIMINARY APPROVAL HEARING

Date: March 6, 2025

Time: 8:30 a.m.

Dept: 4

Complaint filed: July 26, 2022

FAC filed: July 9, 2024

Trial date: Not set

1 The Court has before it Plaintiffs Michael Thomas Mendoza (“Mendoza”) and Rosa
2 Valadez Garcia (“Garcia” and together with Mendoza, “Plaintiffs”) Motion for Preliminary
3 Approval of Class Action Settlement. Having reviewed the Motion for Preliminary Approval
4 of Class Action Settlement, the Declaration of Benjamin H. Haber, the Class Action and PAGA
5 Settlement Agreement and Class Notice (which is referred to here as the “Settlement
6 Agreement”), and good cause appearing, the Court hereby finds and orders as follows:

7 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
9 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
10 the terms set forth in the Settlement Agreement between Plaintiffs Michael Thomas Mendoza
11 and Rosa Valadez Garcia and Defendant OSI Industries, LLC (“Defendant”), attached to the
12 Declaration of Benjamin H. Haber in Support of Plaintiffs’ Motion for Preliminary Approval of
13 Class Action Settlement as Exhibit 1.

14 2. The Settlement falls within the range of reasonableness of a settlement which
15 could ultimately be given final approval by this Court, and appears to be presumptively valid,
16 subject only to any objections that may be raised at the Final Approval Hearing and final
17 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
18 \$575,000.00 to cover (a) settlement payments to class members who do not validly opt out; (b)
19 a \$25,000.00 payment to the State of California, Labor & Workforce Development Agency for
20 its share of the settlement of claims for penalties under the Private Attorneys General Act, with
21 75% of which (\$18,750.00) will be paid to the LWDA and 25% (\$6,250.00) will be paid to
22 eligible Aggrieved Employees; (c) Class Representative service payment of up to \$10,000.00
23 each, \$20,000.00 total for Plaintiffs Michael Thomas Mendoza and Rosa Valadez Garcia; (d)
24 Class Counsel’s attorneys’ fees, not to exceed 33 1/3% of the Gross Settlement Amount
25 (\$191,666.67), and up to \$25,000.00 in costs for actual litigation expenses incurred by Class
26 Counsel; and (e) Settlement Administration Costs of up to \$10,000.00.

27 3. The Court preliminarily finds that the terms of the Settlement appear to be within
28 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and

1 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair
2 and reasonable to the class members when balanced against the probable outcome of further
3 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
4 significant informal discovery, investigation, research, and litigation have been conducted such
5 that counsel for the parties at this time are able to reasonably evaluate their respective positions;
6 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
7 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
8 the result of intensive, serious, and non-collusive negotiations between the Parties with the
9 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
10 that the Settlement Agreement was entered into in good faith.

11 4. A final fairness hearing on the question of whether the proposed settlement,
12 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
13 Workforce Development Agency for its share of the settlement of claims for penalties under the
14 Private Attorneys General Act, and the class representative's enhancement award should be
15 finally approved as fair, reasonable and adequate as to the members of the class is hereby set in
16 accordance with the Implementation Schedule set forth below.

17 5. The Court provisionally certifies for settlement purposes only the following class
18 (the "Settlement Class"): "all persons employed by OSI in California as non-exempt employees
19 during the Class Period."

20 6. "Class Period" means the period from November 2, 2017 to November 21, 2023.

21 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
22 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
23 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
24 of law and fact that are common, or of general interest, to all Settlement Class Members, which
25 predominate over individual issues; (3) Plaintiffs' claims are typical of the claims of the
26 Settlement Class Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect
27 the interests of the Settlement Class Members; and (5) a class action is superior to other
28 available methods for the fair and efficient adjudication of the controversy.

1 8. The Court appoints as Class Representatives, for settlement purposes only,
2 Plaintiffs Michael Thomas Mendoza and Rosa Valadez Garcia. The Court further preliminarily
3 approves Plaintiffs' ability to request an incentive award up to \$10,000.00 each, \$20,000.00
4 total.

5 9. The Court appoints, for settlement purposes only, Benjamin H. Haber, and Daniel
6 J. Kramer of Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily
7 approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total
8 Settlement Amount (\$191,666.67), and costs not to exceed \$25,000.00.

9 10. The Court appoints ILYM Group, Inc. as the Settlement Administrator with
10 reasonable administration costs estimated not to exceed \$10,000.00.

11 11. The Court approves, as to form and content the Class Notice, and finds on a
12 preliminary basis that plan for distribution of the Notice to Settlement Class Members satisfies
13 due process, provides the best notice practicable under the circumstances, and shall constitute
14 due and sufficient notice to all persons entitled thereto.

15 12. The Class Notice, Exclusion Form, and Objection Form are attached to the
16 Proposed Order as Exhibit A.

17 13. The parties are ordered to carry out the Settlement according to the terms of the
18 Settlement Agreement.

19 14. Any class member who does not timely and validly request exclusion from the
20 settlement may object to the Settlement Agreement.

21 15. The Court orders the following Implementation Schedule:

22		
23		
24	Defendant to provide Class List to the	15 days after notice of entry of the Court's
25	Settlement Administrator	order granting Motion for Preliminary
		Approval
26	Settlement Administrator to mail the Notice	14 days after receipt of the Class List from
27	Packets	the Defendant
28		

Response Deadline	45 days after Notice is mailed out by the Settlement Administrator
Deadline to Provide Written Objections, if any	45 days after Notice is mailed out by the Settlement Administrator
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff	16 court days before hearing on Motion for Final Approval, which is _____;
Final Approval Hearing	_____ at _____ a.m./p.m., or first available date thereafter, in Department 4. The hearing may be continued to another date without further notice to the Class Members.

16. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE:

Hon. Daniel Ottolia
Riverside County Superior Court