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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

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

ANA VARGAS, individually, and on behalf  
of other members of the general public  
similarly situated;

Plaintiff,

v.

SPATES FABRICATORS, INC., a California  
corporation; and DOES 1 through 100,  
inclusive;

Defendants.

Case No.: CVRI2100462

Assigned for All Purposes to:  
Honorable Harold W. Hopp  
Department 10

CLASS ACTION

~~PROPOSED~~ ORDER OF FINAL  
APPROVAL AND JUDGMENT

Hearing Date: April 4, 2023  
Hearing Time: 8:30 a.m.  
Hearing Place: Department 10

Complaint Filed: February 1, 2021  
FAC Filed: July 25, 2022  
Trial Date: None Set

1 On April 4, 2023 at 8:30 a.m., Plaintiffs Ana Vargas, Felipe Vega Gomez, and Yessica  
2 Alvarado's ("Plaintiffs") Motion for Final Approval of Class Action Settlement, Attorneys'  
3 Fees and Costs, and Class Representative Enhancement Payments came before the Court in  
4 Department 10 for a hearing pursuant to the Order Granting Preliminary Approval of the Class  
5 Action Settlement dated November 14, 2022 ("Preliminary Approval Order"). Plaintiffs'  
6 Motion for Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and Class  
7 Representative Enhancement Payments is based on the Parties' Joint Stipulation of Class Action  
8 Settlement ("Settlement Agreement," "Settlement," or "Agreement") attached as **Exhibit 1** to  
9 the Declaration of Douglas Han in Support of Plaintiffs' Motion for Preliminary Approval of  
10 Class Action Settlement that was filed on October 19, 2022. Since full and adequate notice was  
11 given to the Class as required in the Court's Preliminary Approval Order, and the Court  
12 considered all the papers filed and proceedings held herein, it is ORDERED, ADJUDGED  
13 AND DECREED THAT:

14 1. This Court has jurisdiction over the subject matter of this lawsuit and over all  
15 Parties to this lawsuit, including all Class Members.

16 2. The Court preliminarily certified this case as a class action under Code of Civil  
17 Procedure section 382 pursuant to Plaintiffs' motion for preliminary approval of the class action  
18 settlement. The Class is defined as all current and former hourly-paid or non-exempt employees  
19 employed by Defendant Spates Fabricators, Inc. ("Defendant") within the State of California at  
20 any time between February 1, 2017 through June 9, 2022 ("Class," "Class Members," and  
21 "Class Period"). The "Class Members" shall not include any person who submits a timely and  
22 valid Request for Exclusion.

23 3. The certified Class continues to meet all the requirements of Code of Civil  
24 Procedure section 382 and for the reasons set forth in the Court's Preliminary Approval Order.

25 4. Plaintiffs are the Court-appointed class representatives.

26 5. Justice Law Corporation is the Court-appointed Class Counsel.

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1           6.       Plaintiffs sued Defendant for a variety of Labor Code violations. The operative  
2 complaints allege Defendant: (a) failed to pay overtime wages; (b) failed to pay meal period  
3 premiums; (c) failed to pay rest period premiums; (d) failed to pay minimum wages; (e) failed  
4 to pay final wages in a timely manner; (f) failed to provide compliant wage statements; (g)  
5 failed to reimburse business expenses; (h) violated Labor Code section 2698, *et seq.* (Private  
6 Attorneys General Act of 2004 (“PAGA”)); and (i) violated Business & Professions Code  
7 section 17200, *et seq.*

8           7.       The Motion for final approval is granted. The Court approves the settlement as  
9 fair, reasonable, and adequate. Pursuant to this, the Court makes the following awards and  
10 approves the following payments:

- 11                   a. \$350,000 to Class Counsel as the attorneys’ fees;  
12                   b. \$16,280.47 to Class Counsel as the attorneys’ costs;  
13                   c. \$10,000 to each Plaintiff as the Class Representative Enhancement  
14                   Payments (totaling \$30,000);  
15                   d. \$16,000 to Phoenix Class Action Administration Solutions, the  
16                   Settlement Administrator, as the Settlement Administration Costs; and  
17                   e. \$50,000 as the PAGA Payment, seventy-five percent (75%) of which  
18                   (\$37,500) will be paid to the California Labor and Workforce  
19                   Development Agency (“LWDA”) and twenty-five percent (25%) of  
20                   which (\$12,500) will be paid to the Eligible Aggrieved Employees, on a  
21                   pro rata basis.

22           8.       Except for the payment due under the Agreement, the Parties are each to bear  
23 their own costs and attorneys’ fees.

24           9.       The Court approves the Agreement. By extension, the Released Parties are  
25 discharged from all Released Claims in accordance with the terms of the Agreement.

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1           10.       The Settlement Administrator is providing settlement administration services  
2 for this settlement. On November 14, 2022, the Settlement Administrator received the Court-  
3 approved Notice Packet. On December 5, 2022, Defendant delivered to the Settlement  
4 Administrator the Class List that contained information for one thousand three hundred six  
5 (1,306) Class Members. On December 15, 2022, the Settlement Administrator mailed Notice  
6 Packets to one thousand three hundred six (1,306) Class Members via regular First-Class U.S.  
7 Mail and indicated the Response Deadline was January 30, 2023. The Settlement Administrator  
8 remailed returned Notice Packets using forwarding addresses affixed thereto or using an  
9 Accurint search/skip-trace to locate updated addresses. There were forty-five (45) undelivered  
10 Notice Packets. The Settlement Administrator received no disputes, no objections, and only one  
11 (1) timely request for exclusion. The Class reacted positively with participation rate of ninety-  
12 nine percent (99.92%). Thus, the Court finds the notice provided to Class Members conforms to  
13 due process requirements. The Class Member who requested exclusion is Arturo Avelar  
14 Gallegos. The distribution of any payment to Arturo Avelar Gallegos under PAGA shall be  
15 accompanied by the following statement: "The settlement check enclosed in this envelope is for  
16 the PAGA portion of the settlement, not for the class portion of the settlement. Cashing this  
17 settlement check will not bar you from commencing a lawsuit for any alleged violations of the  
18 Labor Code against Defendant or for any other claims you may have against Defendant."

19           11.       If the case had not settled, there would have been additional risks and expenses  
20 associated with continuing to litigate. Procedural hurdles (*i.e.*, motion practice, appeals) are also  
21 likely to prolong the litigation as well as any recovery by the Class Members.

22           12.       Defendant agreed to settle for the non-reversionary sum of \$1,000,000.  
23 Defendant will have no obligation to pay any amount in connection with the Settlement apart  
24 from the Maximum Settlement Amount and the employer's share of payroll taxes due on the  
25 portion of Individual Settlement Payments allocated to wages. Also, none of the Maximum  
26 Settlement Amount will revert to Defendant. According to the Settlement Administrator's  
27 calculations, the gross *average* Individual Settlement Payment will be approximately \$412.05,  
28 the gross *highest* Individual Settlement Payment will be about \$2,411.98, and the gross *lowest*

1 Individual Settlement Payment will be around \$1.21.

2 13. Class Counsel's investigation included discovery, reviewing personnel records,  
3 policy records, and sampling of time and pay records, and forming a damage model based on all  
4 of these. The Parties mediated this case with Lynn S. Frank, Esq., a respected and highly  
5 experienced mediator in wage-and-hour class actions. In connection with mediation and through  
6 discussions with Defendant's counsel, Class Counsel also discussed all aspects of the case,  
7 including the risks of litigation and the risks to both Parties of proceeding with a motion for  
8 class certification as well as the law relating to meal and rest breaks.

9 14. Class Counsel have extensive experience with wage-and-hour class litigation.  
10 Class Counsel are of the opinion the Settlement is in the best interest of the Class and provides  
11 substantial benefit to Class Members.

12 15. On balance, this is a fair settlement that satisfies the *Dunk v. Ford Motor Co.*  
13 (1996) 48 Cal.App.4th 1794, 1801 factors such that final approval is warranted.

14 16. Fees are sought pursuant to the percentage method. The determination of what  
15 constitutes an appropriate percentage "is somewhat elastic and depends largely on the facts of a  
16 given case, but certain factors are commonly considered. Specifically, the court may address the  
17 percentage likely to have been negotiated between private parties in a similar case, percentages  
18 applied in other class actions, the quality of class counsel, and the size of the award." (*In re Ikon*  
19 *Office Solutions, Inc., Securities Litigation* (E.D. Pa. 2000) 194 F.R.D. 166, 193.)

20 17. These factors favor awarding the attorneys' fees. As for the first factor, private  
21 contingency fee agreements are routinely thirty percent (30%) to forty percent (40%) of the  
22 recovery. (*In re Ikon Office Solutions, Inc., Securities Litigation, supra*, 194 F.R.D. at p. 194.)  
23 As for the second factor, although the median percentage of attorney fees in class action is  
24 twenty-five percent (25%), "most fees appear to fall in the range of nineteen to forty-five  
25 percent." (*Ibid.*) As for the third factor, Class Counsel have experience in class actions,  
26 including wage-and-hour cases. Most importantly, Class Counsel achieved excellent results for  
27 the Class as evidenced by the Class Members' reaction to the Settlement. As for the fourth  
28 factor, Class Counsel negotiated a \$1,000,000 Maximum Settlement Amount. Applying the

1 lodestar cross-check, Class Counsel indicate they invested 610 hours on this matter.  
2 Consequently, the base lodestar fees calculation for Class Counsel is \$456,510, resulting in a  
3 negative multiplier of 0.77. Moreover, Class Counsel's hourly rates appear to be reasonable for  
4 attorneys with their years of experience, and the hours spent are reasonable for this case. It  
5 appears Class Counsel utilized skill in litigating this case and have good reputations in the legal  
6 community. It also appears Class Counsel spent an appreciable time on the case, which could  
7 have been spent on other meritorious cases. Because the attorneys' fees is based on a reasonable  
8 percentage of the settlement fund, is supported by the lodestar calculation, and did not receive  
9 objections from the Class, the Court grants final approval of the attorneys' fees of \$350,000.

10 18. Class Counsel seek attorneys' costs of up to \$20,000. Class Counsel's actual  
11 costs and expenses incurred total \$16,280.47, which appear reasonable and necessary to the  
12 successful litigation of this matter. Furthermore, the maximum attorneys' costs sought was  
13 disclosed to Class Members, and no objection were received. For these reasons, the Court grants  
14 final approval of the attorneys' costs of \$16,280.47.

15 19. Class Counsel seek Class Representative Enhancement Payments of \$10,000 to  
16 each Plaintiff. The Court considers the following factors in determining whether to pay an  
17 incentive or enhancement payment to a class representative: (a) whether an incentive was  
18 necessary to induce participation; (b) actions taken by the class representative to protect the  
19 interests of the class; (c) degree to which the class benefited from the class representative's  
20 actions; (d) amount of time and effort the class representative expended; (e) risk to the class  
21 representative in commencing the lawsuit; (f) notoriety and personal difficulties encountered by  
22 the class representative; (g) duration of the litigation; and (h) personal benefit (or lack thereof)  
23 enjoyed by the class representative. (California Practice Guide, Civil Procedure Before Trial, ¶  
24 14:146.10 (The Rutter Group 2012) (citing *Clark v American Residential Services, LLC* (2009)  
25 175 Cal.App.4th 785, 804; *Bell v. Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715, 726; *In re*  
26 *Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1394; *Munoz v. BCI Coca-*  
27 *Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412.) Plaintiffs devoted several  
28 hours to this litigation, which played an integral role in allowing this matter to eventually settle.

1 Specifically, Plaintiffs assisted Class Counsel by participating in multiple conferences with  
2 Class Counsel, gathering and reviewing documents produced by Defendant and other sources  
3 with Class Counsel, providing the names and contact information of putative class members,  
4 and providing pertinent documents and information to Class Counsel. Plaintiffs also helped  
5 Class Counsel prepare for mediation and made themselves available via Zoom and telephone  
6 during mediation. Furthermore, Plaintiffs took the time to review and approve the Settlement  
7 Agreement (and exhibits) before signing it. Plaintiffs freely chose to champion the rights of the  
8 Class, accepted the risks and sacrifices associated with being the class representatives, and do  
9 not have interests averse to the Class. Finally, none of the Class Members objected to the Class  
10 Representative Enhancement Payments. Thus, the Court grants final approval of the Class  
11 Representative Enhancement Payments of \$10,000 to each Plaintiff.

12 20. The Settlement Administrator requests Settlement Administration Costs of  
13 \$16,000. Based upon the work performed and yet to be performed, including the fact the Class  
14 was provided notice of the Settlement Administration Costs and none objected, the Court grants  
15 final approval of the Settlement Administration Costs of \$16,000.

16 21. Finally, the Court grants final approval of the PAGA Payment of \$50,000,  
17 seventy-five percent (75%) of which (\$37,500) will be paid to the LWDA and twenty-five  
18 percent (25%) of which (\$12,500) will be paid to the Eligible Aggrieved Employees.

19 22. The Settlement Administrator is directed to mail the Individual Settlement  
20 Payments in envelopes bearing the notation, "YOUR CLASS ACTION SETTLEMENT  
21 CHECK IS ENCLOSED" and take all actions in furtherance of the settlement administration.

22 23. Class Members will receive checks for their Individual Settlement Payments  
23 and Individual PAGA Payments. Checks will remain negotiable for one hundred twenty (120)  
24 calendar days. Any check not cashed within one hundred twenty (120) calendar days will be  
25 void. The funds from the uncashed checks shall be distributed by the Settlement Administrator  
26 to the State Controller's Unclaimed Property Fund.

27 24. The Settlement Administrator will mail reminder postcards to Class Members  
28 whose settlement checks have not been negotiated within sixty (60) days after their mailing.

1           25.     If any of the Class Members are current employees of Defendant, the  
2 distribution mailed to those employees is returned to the Settlement Administrator as being  
3 undeliverable, and the Settlement Administrator is unable to locate a valid mailing address, the  
4 Settlement Administrator shall arrange with Defendant to have those distributions delivered to  
5 the employees at their place of employment.

6           26.     Once the Court grants this Order of Final Approval and Judgment, the  
7 Settlement Administrator will mail a notice of entry of judgment to Class Members alongside  
8 their settlement checks via regular First-Class U.S. Mail. The notice of entry of judgment will  
9 state, "The Superior Court of California, County of Riverside, granted final approval of the *Ana*  
10 *Vargas v. Spates Fabricators, Inc.* matter, Case Number CVRI2100462, on April 4, 2023. As a  
11 result, the Settlement Administrator has enclosed your settlement check alongside this notice of  
12 entry of judgment."

13           27.     All Parties, including each and all Class Members, are bound by this Order of  
14 Final Approval and Judgment and by the Settlement Agreement. All Class Members shall be  
15 deemed to have entered the Settlement Agreement.

16           28.     Without affecting the finality of this Order of Final Approval and Judgment in  
17 any way, this Court retains continuing jurisdiction over: (a) implementation of the Agreement  
18 and any award or distribution of the Maximum Settlement Amount, including interest earned  
19 thereon; (b) disposition of the Maximum Settlement Amount; (c) hearing and determining  
20 applications for the Attorneys' Fees and Costs; and (d) all Parties hereto for the purpose of  
21 construing, enforcing, and administering the Agreement.

22           29.     Without affecting the finality of this Order of Final Approval and Judgment, the  
23 Court shall retain continuing jurisdiction over this lawsuit and the Parties, including all Class  
24 Members and all matters pertaining to the implementation and enforcement of the terms of the  
25 Settlement. Except as provided to the contrary herein, any disputes or controversies arising with  
26 respect to interpretation, enforcement, or implementation of the Settlement shall be presented by  
27 motion to the Court for resolution.

28     ///

30. A Final Report (Nonappearance) Hearing is scheduled on November 3, 2023 before this same court and department. Within five (5) court days before this hearing, Plaintiffs shall file a report (declaration) concerning the amount of money distributed along with a proposed amended judgment.

31. This Order of Final Approval and Judgment is intended to be a final disposition of the above-captioned action in its entirety and is intended to be immediately appealable. Subject to the Court's continuing jurisdiction as set forth above, the Court directs the Clerk of the Court to enter Order of Final Approval and Judgment.

32. There is no just reason for any delay in the entry of this Order of Final Approval and Judgment approving the Settlement. Pursuant to this, immediate entry by the Clerk of the Court is expressly directed.

**IT IS SO ORDERED.**

DATED:

4/4/23

  
HONORABLE HAROLD W. HOPE  
SUPERIOR COURT JUDGE

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On April 5, 2023, I served the foregoing document described as

## ORDER OF FINAL APPROVAL AND JUDGMENT

|                         |                                                   |
|-------------------------|---------------------------------------------------|
| for the following case: | <b>Vargas, et al. v. Spates Fabricators, Inc.</b> |
| LWDA/Court Case No.:    | <b>LWDA Case No.: CM-888665-22</b>                |
|                         | <b>Court Case No.: CVRI2100462</b>                |
|                         | <b>Riverside County Superior Court</b>            |

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

Executed on April 5, 2023, at Pasadena, California.

Madison Luna