

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

MAY 03 2024

BY:   
Ashley Cassel, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

FRANCISCO RAMIREZ ORDAZ,  
individually, and on behalf of all others  
similarly situated,

Plaintiff,

v.

BURLINGAME INDUSTRIES, INC., a  
California corporation, d/b/a Eagle Roofing  
Products; and DOES 1 through 10,  
inclusive.

Defendants.

CASE NO. CIVSB2303162

[Hon. Jessica Morgan, Dept. S26]

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

1 Plaintiff Francisco Ramirez Ordaz's ("Plaintiff") Motion for Preliminary Approval of  
2 Class Action and PAGA Settlement ("Motion") came on for hearing on April 19, 2024 at 8:30  
3 a.m. in Department S26 of the above-captioned Court. Having fully reviewed the Motion, as  
4 well as the papers filed in support of the Motion, arguments of counsel, and all other matters on  
5 file in this action and presented to the Court, and in recognition of the Court's duty to make a  
6 preliminary determination as to reasonableness of any proposed class action settlement, and if  
7 preliminarily determined reasonable, to ensure proper notice is provided to the Settlement Class  
8 in accordance with Due Process requirements, and to set a Final Approval Hearing to consider  
9 the good faith, fairness, adequacy and reasonableness of the proposed Settlement, the Court  
10 makes the following determinations and hereby ORDERS:

11 1. Except as otherwise specified herein, for purposes of this Preliminary Approval  
12 Order the Court adopts all defined terms set forth in the Class Settlement Agreement  
13 ("Settlement"). *See* Declaration of Scott E. Wheeler, Ex. A.

14 2. The Court finds on a preliminary basis that the settlement memorialized in the  
15 Settlement Agreement appears to be fair and adequate, and falls within the range of  
16 reasonableness, and therefore meets the requirement for preliminary approval.

17 3. The Court conditionally certifies for settlement purposes the following class (the  
18 "Class" or "Settlement Class"):

19 All nonexempt hourly employees who worked at any time for Defendant  
20 Burlingame Industries, Inc. in the state of California and worked in Defendant's  
21 manufacturing facilities from January 23, 2019, through January 31, 2024.

22 The Class Period is January 23, 2019, through January 31, 2024.

23 4. The court conditionally approves for settlement purposes the Private Attorneys  
24 General Act portion of this Settlement covering the subset of Settlement Class members who  
25 worked during the PAGA Period ("PAGA Covered Employees"):

26 All hourly, non-exempt employees employed by Defendant in California at any time  
27 during the PAGA Period.

28 The PAGA Period means the time from September 23, 2021 to January 31, 2024.

1           5.       The Court finds, for settlement purposes, that the Class meets the requirements for  
2 certification under California Code of Civil Procedure § 382 in that: (1) the Class is so numerous  
3 that joinder is impractical; (2) there are questions of law and fact that are common, or of general  
4 interest, to the Class, which predominate over any individual issues; (3) Plaintiff's claims are typical  
5 of the claims of the Class; (4) Plaintiff and Plaintiff's counsel will fairly and adequately protect the  
6 interests of the Class; and (5) a class action is superior to other available methods for the fair and  
7 efficient adjudication of the controversy.  
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9           6.       The Court finds on a preliminary basis that the Settlement appears to be within the  
10 range of reasonableness of a settlement which could ultimately be given final approval by this  
11 Court.

12           7.       It appears to the Court on a preliminary basis that: (a) the non-reversionary  
13 compensation provided by the Settlement is fair and reasonable to the Settlement Class when  
14 balanced against the probable outcome of further litigation relating to class certification, liability  
15 and damages issues, and potential appeals; (b) significant investigation, research, and informal  
16 discovery have been conducted such that counsel for the Parties are able to reasonably evaluate  
17 their respective positions; (c) settlement at this time will avoid substantial cost, delay, and risks  
18 presented by further prosecution of the litigation; and (d) the proposed Settlement was reached  
19 through intensive, non-collusive negotiations facilitated by an experienced mediator.

20           8.       The Court finds the proposed Class Notice fairly and adequately advises the  
21 Settlement Class of (a) the nature of this class and PAGA action; (b) the Settlement's principal  
22 terms; (c) the Settlement Class and PAGA Covered Employee definitions; (d) the number of  
23 Compensable Pay Periods and PAGA Compensable Pay Periods credited to each Settlement  
24 Class member and PAGA Covered Employee, as applicable; (e) each Settlement Class member's  
25 estimated Participating Class Member Allocation Amount; (f) each PAGA Covered Employee's  
26 PAGA Allocation Amount; (g) the dates of the Class Period; (h) how to submit objections and  
27 requests to opt out of the Settlement and the deadlines for doing so; (i) the Settled Claims  
28 released in the Settlement; and (j) the date, time, and place of the Final Approval Hearing.

1           9.       The Court find the proposed Class Notice provides the best practicable notice to  
2 the Settlement Class and comports with all constitutional requirements, including those of Due  
3 Process. Accordingly, good cause appearing, the Court APPROVES the Class Notice.

4           10.      The Court further finds that mailing of the Class Notice to the last known address  
5 of all Settlement Class members after updating addresses through the National Change of  
6 Address database, and posting the Class Notice to the Settlement Website, as specifically  
7 described in the Settlement is an effective and Due Process compliant method of notifying  
8 Settlement Class members of their rights in this action and the Settlement. Accordingly, it is  
9 ORDERED:

10           a.       Phoenix Settlement Administrators be appointed the Claims Administrator  
11 to administer this matter as more specifically stated in the Settlement.

12           b.       Scott E. Wheeler and Justin Wheeler of The Law Office of Scott Wheeler,  
13 and Aubry Wand of The Wand Law Firm be appointed Settlement Class Counsel.

14           c.       Plaintiff be appointed Settlement Class Representative.

15           d.       No later than fifteen (15) calendar days after the Court grants preliminary  
16 approval of the Settlement, Defendant will deliver to the Claims Administrator a list of all  
17 Settlement Class members, including whether the Settlement Class member is also a PAGA  
18 Covered Employee. The list shall include all of the information required by Section 6.1 of the  
19 Settlement Agreement.

20           e.       No later than fifteen (15) calendar days after receiving the list described in  
21 subsection (d) above, the Claims Administrator will mail the Class Notice to all Settlement Class  
22 members identified in such list, as set forth in the Settlement.

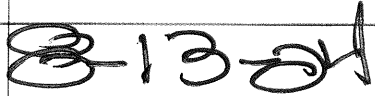
23           f.       Settlement Class members who wish to exclude themselves from the  
24 Settlement must send the Claims Administrator a request to opt out during the Opt Out Period, as  
25 set forth in the Settlement.

26           g.       Only Participating Class Members may object to the class action  
27 components of the Settlement by sending a written objection to the Claims Administrator no later  
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1 than forty-five (45) days after the Claims Administrator's mailing of the Class Notice, as set  
2 forth in the Settlement.

3 h. Each Settlement Class member or PAGA Covered Employee shall have  
4 forty-five (45) days after the Claims Administrator mails Class Notice to challenge the number  
5 of Compensable Pay Periods or PAGA Compensable Pay Periods (if any) credited to them in the  
6 Class Notice.

7 11. The Parties are ordered to carry out the Settlement according to the following  
8 implementation schedule:

| Event                                                                                                                             | Date                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Last day for Defendant to provide the Settlement Administrator with the Settlement Class information                              | Fifteen (15) calendar days after entry of the Preliminary Approval Order                                |
| Last day for Settlement Administrator to mail Class Notice                                                                        | Fifteen (15) calendar days after the Settlement Administrator receives the Settlement Class information |
| Last day for Class Members to submit a dispute regarding Workweeks, Request for Exclusion, or written Objection                   | Forty-five (45) calendar days after mailing of the Class Notice                                         |
| Last Day for Plaintiff to file Motion for Final Approval and for Attorneys' Fees and Costs and Class Representative Service Award | Thirty (30) calendar days after the expiration of the Opt Out Period                                    |
| Final Approval Hearing                                                                                                            |                    |

23 12. At the Final Approval Hearing, the Court will consider whether the Settlement  
24 should be finally approved as fair, reasonable and adequate, whether a final judgment should be  
25 entered, and whether the payments provided for under the Settlement, including attorneys' fees and  
26 costs and class representative service awards, should be finally approved and granted.

27 13. IT IS FURTHER ORDERED that if for any reason the Court does not enter an  
28 Order Granting Final Approval, or if the Final Effective Date does not occur, the Settlement shall

1 have no effect, and the Parties shall be restored without prejudice to the status quo ante as stated  
2 in the Settlement.

3 14. IT IS FURTHER ORDERED that pending further order of this Court, all  
4 proceedings in this matter, except those contemplated by this Order and the Settlement are  
5 stayed.

6 15. The Court expressly reserves the right to adjourn or continue the Final Approval  
7 Hearing from time to time without further notice to Settlement Class members. However, if  
8 written objections are submitted, the Settlement Administrator shall notify objecting Settlement  
9 Class members of the new date and time set for the Final Approval Hearing.

10 IT IS SO ORDERED.

11 MAY 03 2024

Jessica L. Morgan

12 DATED: \_\_\_\_\_

13 HONORABLE JESSICA L. MORGAN  
14 JUDGE OF THE SUPERIOR COURT  
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