

VIRGINIA VILLEGAS (SBN 179062)
 FELICIA GOLDSTEIN (SBN 163600)
 PAUL GRANT-VILLEGAS (SBN 337865)
THE VILLEGAS LAW FIRM, APC
 3330 Geary Blvd., 2nd Floor West
 San Francisco, California 94118
 Telephone: (415) 989-8000
 Facsimile: (415) 989-8028
 Email: virginia@e-licenciados.com

IKE M. KALUDI, JR. (SBN 289576)
CALIFORNIA TRIAL LAW GROUP, PC
 828 San Pablo Ave. Suite 109
 Albany, CA 94706
 Telephone: (415) 967-4900
 Facsimile: (415) 967-4901
 Email: ike@courtlawyerca.com

Attorneys for Plaintiffs and the putative class

FILED
ALAMEDA COUNTY

OCT 24 2023

CLERK OF THE SUPERIOR COURT

By

Nicole [Signature]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA
(UNLIMITED JURISDICTION)

ALFREDO GARCIA; individually and on
 behalf of others similarly situated,
 APOLONIO PICENO PEREZ; individually
 and on behalf of others similarly situated,
 ROSALIA ARCE; individually and on behalf
 of others similarly situated,

Plaintiffs,

vs.

UNIVERSAL BUILDING SERVICES AND
 SUPPLY CO., a California corporation,
 GRACE BRUSSEAU, an individual,
 LEONARD BRUSSEAU, an individual, and
 DOES 1 to 20, Inclusive,

Defendants

CASE NO. RG17887036

RESERVATION NO. 996064437259

CLASS ACTION

**~~PROPOSED~~ ORDER AND JUDGMENT OF
 FINAL APPROVAL OF SECOND AMENDED
 JOINT STIPULATION AND SETTLEMENT
 AGREEMENT OF CLASS ACTION AND
 PAGA CLAIMS, ATTORNEYS' FEES AND
 COSTS, AND SERVICE AWARD**

Date: October 20, 2023

Time: 9:00 A.M.

Dept: 21

Judge: Honorable Evelio Grillo

Filed: December 22, 2017

On October 20, 2023, a hearing was held on Plaintiffs Alfredo Garcia, Maria Guadalupe Piceno (Apolonio Piceno Perez's successor-in-interest), and Rosalia Arce's ("Plaintiffs"), unopposed motion for final approval of the parties' proposed class action settlement. Virginia Villegas of The Villegas Law Firm, APC and Ike M. Kaludi, California Trial Law Group, PC, appeared for Plaintiffs, and Alan S. Levins, Luis E. Lorenzana and William A. Cosmopulos of Littler Mendelson, P.C. appeared on behalf Universal Building Services and Supply Co. ("UBS"), Grace Brusseau, and Leonard Brusseau (hereafter, "Defendants").

The parties have previously filed with this Court their Second Amended Joint Stipulation And Settlement of Class Action and PAGA Claims (the "Settlement" or "Settlement Agreement"). On June 16, 2023, this Court preliminarily approved the Settlement in its Order Granting Preliminary Approval of Settlement ("Preliminary Approval Order"). In accordance with the Court's Preliminary Approval Order, the Settlement Administrator has provided notice of the terms of the Settlement to Class Members, who have had the opportunity to object to the Settlement, to exclude themselves from its provisions, or challenge their underlying employment data. There were no requests for exclusions or objections to the Settlement.

The Court has received and considered the proposed Settlement, the supporting papers filed by the parties, including the Declarations of Virginia Villegas, Ike Kaludi, Alfredo Garcia, Maria Guadalupe Piceno (Apolonio Piceno Perez's successor-in-interest), Rosalia Arce, and Desirae Burton in Support of the Unopposed Motion for Final Approval of Second Amended Joint Stipulation And Settlement Agreement Of Class Action And PAGA Claims, the evidence previously received by the Court pursuant to the Unopposed Motion And Motion For Order (1) Conditionally Certifying Settlement Class; (2) Preliminarily Approving Class Action Settlement; (3) Directing Distribution Of Class Notice; and (4) Setting Hearing For Final Approval Of Settlement filed on September 27, 2023, and the final approval hearing on October 20, 2023. ~~The Court's Tentative Ruling Issued on _____ is attached hereto as Exhibit A. Pursuant to California Rules of Court 3.1312, Plaintiffs' counsel served a copy of the Proposed Order on Defendants' counsel on _____, 2023. Plaintiffs' counsel did not receive any objections or response to the proposed Order.~~ The matter having been submitted and good cause appearing therefore, the Court at the hearing granted final approval of the class action Settlement and the

1 Court hereby finds and orders as follows: The Court GRANTS FINAL APPROVAL to the Settlement
2 and HEREBY ORDERS and MAKES the following DETERMINATIONS:

3 1. Except as otherwise specified, for the purposes of this Order and Judgment, the Court
4 adopts and incorporates by reference all defined terms set forth in the Settlement and Motion for
5 Preliminary Approval.

6 2. The Court has jurisdiction over the subject matter of this litigation, Plaintiffs, the
7 Settlement Class, and Defendants.

8 3. Pursuant to this Court's Preliminary Approval Order, a Notice of Class Action Settlement
9 was sent to 1,950 individuals identified as Class Members by first-class mail, after first processing such
10 addresses against the National Change of Address ("NCOA") database, maintained by the United States
11 Postal Service ("USPS"), for purposes of updating and confirming the mailing addresses of the Class
12 Members. To the extent that an updated address was found in the NCOA database, the updated address
13 was utilized for the mailing of the Notice. To the extent that no updated address was found in the NCOA
14 database, the original address provided by Defendants was utilized for the mailing of the Notice. The
15 Notice informed Class Members of the terms of the Settlement, their right to opt out of the Class and
16 pursue their own remedies, their opportunity to file written objections, their right to challenge the
17 underlying employment data, and their right to appear in person or by counsel at the final approval
18 hearing and be heard regarding approval of the settlement. Adequate periods of time were provided by
19 each of these procedures. The Notice given to the Class met requirements of California law and due
20 process. The Notice to the Class was adequate.

21 4. Out of the identified Class Members, none have objected to any aspect of the proposed
22 Settlement, and none have opted out of the proposed Settlement. The reaction of the Settlement Class to
23 the proposed Settlement supports the conclusion that the proposed Settlement is fair, reasonable and
24 adequate.

25 5. For settlement purposes only, the following Settlement Class is certified:
26 All current and former non-exempt employees of Defendants who worked in California at
any time from December 22, 2013, through May 31, 2023.

27 6. Alfredo Garcia, Apolonio Piceno Garcia, (by and through his successor-in-interest, Maria
28 Guadalupe Piceno) and Rosalia Arce are confirmed as Class Representatives.

7. Virginia Villegas of The Villegas Law Firm, APC and Ike M. Kaludi, California Trial Law Group, PC, are confirmed as Class Counsel.

8. For settlement purposes only, the proposed Settlement Class meets the requirements for certification under California Code of Civil Procedure § 382. Specifically, for settlement purposes: (1) the proposed Settlement Class is numerous and ascertainable; (2) there are predominant common questions of law or fact; (3) the Class Representatives' claims are typical of the claims of the members of the proposed Settlement Class; (4) the Class Representatives have fairly and adequately protected the interests of the Settlement Class Members; (5) Class Counsel is qualified to serve as counsel for the Class Representatives and the Settlement Class; and (6) a class action is superior to other methods to efficiently adjudicate this controversy through settlement.

9. The Court finds that no Class Member has objected to the terms of the Settlement. The Court further finds and determines that the terms of the Settlement are fair, reasonable and adequate to the Class and to each Class Member and that the Class Members who have not opted out will be bound by the Settlement, that the Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be and hereby are ordered to be consummated.

10. The Court finds and determines that the payments to be made to the Settlement Class Members as provided for in the Settlement are fair and reasonable. The Court gives final approval to and orders the payment of those amounts in accordance with the terms of the Settlement.

11. The Settlement provides for an award of up to One Million One Hundred Eighty-Two Thousand and One Hundred Fifty Dollars and Zero Cents (\$1,182,150.00) to Class Counsel as attorneys' fees in this action, representing thirty-three and a third percent (33.3%) of the Maximum Gross Settlement Amount, subject to the Court's approval. The Stipulation also provides for an award of up to Seventy-Five Thousand Dollars and Zero Cents (\$75,000) for litigation costs. Class Counsel requests an award of up to \$75,000 as reimbursement for litigation costs, and \$1,182,150.00 for attorneys' fees. ~~An award~~

The Court awards **73,499.55**
~~\$1,182,150.00 for attorneys' fees and \$75,000 for litigation costs is reasonable, in light of the~~
~~contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved~~
~~by Class Counsel.~~ The requested attorneys' fee award represents a thirty-three and third percent (33.3%)
portion of the Maximum Gross Settlement Amount and ~~is substantially lower than Class Counsel's~~

1 ~~overall lodestar based on Counsel's reasonable hourly rates, and is therefore reasonable.~~

2 12. The Court finds and determines that the payment of ~~Fifteen Thousand Dollars and Zero~~
3 ~~Cents (\$15,000.00)~~ ^{\$7,500} to each Class Representative ~~for a total of \$45,000~~, as Class Representative service
4 awards and for executing a Complete Release of All Claims is fair and reasonable. The Court gives final
5 approval to and orders that the payment of that amount be paid to each Class Representative out of the
6 Maximum Gross Settlement Amount in accordance with the terms of the Settlement, on the condition
7 that Alfredo Garcia, Apolonio Piceno Garcia, (by and through his successor-in-interest, Maria Guadalupe
8 Piceno) and Rosalia Arce shall have executed the Complete Release of All Claims as set forth in the
9 Settlement.

10 13. The Court approves payment to the State of California Labor and Workforce Development
11 Agency ("LWDA") of 75% of \$50,000 in the amount of Thirty-Seven Thousand Five Hundred Dollars
12 and Zero Cents (\$37,500.00) as its share of civil penalties under the Private Attorney General Act, and
13 25% of \$50,000 in the amount of Twelve-Thousand Five Hundred Dollars and Zero Cents (\$12,500.00)
14 of which will be paid to the PAGA Employees, as defined in the Settlement Agreement.

15 14. The Court approves the payment of Twenty-Three Thousand One Hundred Twenty-five
16 Dollars and Zero Cents (\$23,125), to the Claims Administrator for the fees and expenses of claims
17 administration.

18 15. Pursuant to the Settlement Agreement, any checks issued to Settlement Class Members
19 shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance.
20 If any Class Member's Individual Settlement Payment check is not cashed within 120 days of its initial
21 issuance to the Class Member, the Settlement Administrator will send the Class Member a letter, dated
22 120 days from the initial mailing, informing them that, unless the check is cashed within 60 days of the
23 date of the letter, the check will expire and become non-negotiable, and offer to replace the check if it
24 was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the 60-day
25 period after this interim notice, the Settlement Administrator will keep an accounting of such funds,
26 including the identification of the Class Member. The Settlement Administrator will then deposit the
27 sum of any un-cashed/un-deposited checks and the funds shall revert to the net Settlement Amount. If
28 the Claim Administrator determines that there are sufficient funds to make it economically feasible to do

1 another distribution, the uncashed/un-deposited checks shall be distributed to those Class Members who
2 cashed their checks ("Second Distribution") using the same workweek calculations as used in the original
3 settlement fund distribution. If the Claim Administrator determines that it is not economically feasible to
4 do a Second Distribution, or if there are any remaining funds after the Second Distribution, those funds
5 shall be distributed to Centro Legal De La Raza. Neither the parties nor their counsel have any current
6 affiliation with Centro Legal De La Raza. The parties believe that there are unlikely to be significant, if
7 any, funds remaining after the Second Distribution, and that distributing those funds in their entirety to a
8 nonprofit providing civil legal services to low-wage and immigrant workers, like the Class Members in
9 this case, would therefore better serve the interest of the Class than the distribution apportionment
10 contemplated under California Code of Civil Procedure § 384. Pursuant to § 384(b), the parties will report
11 to the Court the total amount that was actually paid to the Class Members. Based on the foregoing,
12 Plaintiffs respectfully request the Court fully and finally approve that any unclaimed funds be tendered
13 to Centro Legal de La Raza as *cy pres*.

14 16. Nothing in this order will preclude any action to enforce the parties' obligations under the
15 Settlement or under this Order. On or before October 31, 2024, Plaintiffs shall file a Final Report stating
16 the total amount actually paid to Class Members, and the amount remaining to be tendered by the
17 Settlement Administrator to Centro Legal de La Raza. Upon the Effective Date, in exchange for the
18 promises provided under the Settlement Agreement and under this Order, all Class Members who did not
19 opt out, are permanently barred from prosecuting against Defendants and any of their past, present and
20 future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of
21 its past, present and future officers, directors, employees, partners, members, shareholders and agents,
22 attorneys, insurers, reinsurers, and any individual, including but not limited to Grace Brusseau, and
23 Leonard Brusseau, or entity which could be jointly liable with Defendants (the "Released Parties"), all
24 claims pled in the Operative Complaint and which could have been alleged under state or federal law
25 under the same or similar facts, allegations and/or claims pled in the Action or in any letter by Plaintiffs
26 to the LWDA, against the Released Parties (as defined above), for work performed during the Class
27 Period, including: 1) failure to provide meal periods or pay premiums in lieu thereof at the regular rate
28 (Violation of Labor Code §§ 512, 226.7, and the applicable Wage Order [IWC Wage Order 5-2001]); (2)

failure to provide rest periods or pay premiums in lieu thereof at the regular rate (Violation of Labor Code § 226.7, and the applicable Wage Order[IWC Wage Order 5-2001]); (3) failure to furnish timely wages (Violation of Labor Code § 204); (4) failure to pay minimum wage and wages for all hours worked; (Violations of Labor Code §§ 200; 218.5, 218.6, 1194, 1194.2; 1197, and 1197.1); (5) failure to pay and/or accurately calculate wages, overtime wages, and double time wages (Violations of Labor Code §§ 218.5, 218.6, 510, 1194; and the applicable Wage Order [IWC Wage Order 5-2001]); (6) failure to reimburse for business expenses (Violation of Labor Code §§ 221, 2800 and 2802 and the applicable Wage Order [IWC Wage Order 5-2001]); (7) failure to timely pay wages during and upon termination of employment (*i.e.* waiting time penalties) (Violation of Labor Code §§ 201, 202, 203, 204, 218.5 and 218.6); (8) failure to furnish accurate wage statements, and keep payroll records (Violation of Labor Code § 226); (9) failure to keep accurate time and payroll records (Violation of Labor Code §§ 1174, 1174.5 and the applicable Wage Order [IWC Wage Order 5-2001]); (10) any and all individual liability against any employer or other person acting on behalf of an employer (Violation of Labor Code §§ 558.1); and (11) violation of California's Unfair Competition Law based upon the alleged Labor Code violations (Violation of Business & Professions Code § 17200 *et seq.*; Labor Code § 90.5) predicated on the same or similar facts and/or claims alleged in this above-captioned action (the "Action") and/or any PAGA letter sent to the LWDA by Plaintiffs in or prior to the Action, as well as any claims that could have been pled under the California Labor Code and California Industrial Welfare Commission Wage; Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint in the Action; Any and all other claims under California common law, the federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action and based on the alleged Labor Code violations ("Released Claims").

17. Upon the funding of the Gross Settlement Amount, Plaintiffs, the LWDA, and the State of California, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Defendants and Released Parties of and from any and all claims for civil penalties for violation of the California Private Attorneys General Act

of 2004 (Labor Code § 2698, et seq.), (“PAGA Claims”) that could have been sought by the Labor Commissioner identified in the PAGA Letter, as defined in the Settlement Agreement, and those predicated on the facts and/or claims alleged in the PAGA Letter sent to the LWDA by Plaintiffs that arose at any time during the PAGA Period, as defined in the Settlement Agreement. ~~The PAGA Employees, as defined in the Settlement Agreement, are collaterally estopped from recovering for the PAGA claims released and compromised by the LWDA. No PAGA Employee may recover for the same PAGA claims in a representative capacity that are released here in another action.~~ After the Court grants final approval of the settlement, Plaintiff will provide the LWDA with a copy of the Judgment which will include a list of the PAGA Employees during the PAGA Period. Plaintiff does not release any PAGA Employees’ claim for wages and damages. This does not preclude the release of wages and damages by the Class Members as set forth in Paragraph 62 of the Settlement Agreement. The PAGA Employees will be issued a check for their share of the PAGA Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims. ~~The PAGA Employees are bound by the release of the PAGA Claims regardless of whether they cash or deposit their PAGA Employee Payment or opt out of being a Settlement Class Member.~~

18. The Released Claims also include all claims Plaintiffs and Settlement Class Members may have against the Released Parties relating to (i) the payment and allocation of attorneys’ fees and costs to Class Counsel pursuant to the Agreement and (ii) the payment to Plaintiffs and Class Representatives for any service awards. The release is intended to cover any such claims that arose during the Class Period.

19. Pursuant to the terms of the Settlement Agreement, Plaintiffs fully release Defendants and the Released Parties from any and all Class Released Claims and also generally release and discharge the Released Parties from any and all known and unknow claims for wages, bonuses, severance pay, vacation pay, penalties, employment benefits, stock options, violation of any personnel policy, any and all claims arising from the Plaintiffs’ employment or as a result of Plaintiffs’ termination from employment including claims based on discrimination, harassment, unlawful retaliation, violation of public policy, or damages of any kind whatsoever, arising out of any common law torts, contracts, express or implied, any covenant of good faith and fair dealing, any theory of wrongful discharge, any theory of negligence, any

theory of retaliation, any legal restriction on any Defendants' right to terminate the employment relationship, or any federal, state, or other governmental statute, executive order, regulation or ordinance, or common law, or any other basis whatsoever, to the fullest extent provided by law. Per the Settlement Agreement and after having read Section 1542 of the California Civil Code, Plaintiffs shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived and relinquished to the fullest extent permitted by law the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law that purports to limit the scope of a general release.

20. Within twenty-one (21) days after the Effective Date, as defined in the Settlement Agreement, Plaintiffs and Class Counsel shall return to Defendants' counsel all documents produced and used in this Action, and copies thereof, related to:

- a. any third-party employee's contact information, personnel records, payroll records, timecards, time punches, work schedules and wage statements, including but not limited to those Bates numbered UBS-002215 through UBS-019187; and
- b. any Universal Building Services and Supply Co. proprietary business information including, UBS-00001; UBS-001897 through UBS-002012; UBS-002047 through UBS-002214; UBS-019187 through UBS-019572.

After returning the above documents, and the copies thereof, Class Counsel will certify that all of these documents have been permanently deleted from each of Plaintiffs' and Class Counsel's systems, including but not limited to their computers, servers and databases, and that all paper copies of these documents have been destroyed. Plaintiffs and Class Counsel agree not to use any of the above documents, or related testimony, in any future proceeding even if any of the above documents were included in a deposition in this Action. In continuing compliance with the terms of the Parties' Memorandum of Understanding, the Parties' January 23, 2020 Joint Case Management Statement filed in this Action, the Court's August 24, 2022 Order granting Defendants' Motion for Protective Order and the Parties' corresponding agreement related to the mediation documents at issue, as well as any other agreement the Parties entered into regarding the use of Defendants' and its third-party employees' and customers' confidential, proprietary information produced in connection with this Action, Class Counsel may maintain in its files, all work product, and one copy of each pleading filed with the Court

1 and one copy of each deposition together with the Bates-numbered exhibits marked at the deposition.

2 21. Pursuant to Rule of Court 3.769(h), the Court retains exclusive and continuing jurisdiction
3 over the litigation, Plaintiffs the Class Members and Defendants for purposes of supervising the
4 interpretation, administration, implementation, construction, effectuation and enforcement of this Order
5 and the Settlement.

6 22. Notice of final judgment must be provided to the Settlement Class by posting this Order
7 and the final judgment on the settlement website for a period of not less than 60 days from the date
8 judgment is entered.

9 The parties are hereby ordered to comply with the terms of the Settlement.

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11 **IT IS SO ORDERED.**

12 Dated: 10/27/23

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15 Hon. Evelio Grillo
16 Judge of the Superior Court
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