

FILED
Superior Court of California,
County of Madera
07/24/2024
Adrienne Calip / Clerk of Court
By: Rocio Bueno, Deputy Clerk

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

LORENZO ARROYO, individually, and on
behalf of aggrieved employees pursuant to the
Private Attorneys General Act ("PAGA");

Plaintiff,

v.

BALTIMORE AIRCOIL COMPANY, INC., a
Delaware corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: MCV089043

Assigned for All Purposes to:
Honorable Brian W. Enos
Department 45

CLASS ACTION

**~~PROPOSED~~ ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: July 24, 2024
Hearing Time: 8:30 a.m.
Hearing Place: Department 45

Complaint Filed: March 24, 2023
FAC Filed: December 28, 2023
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Lorenzo Arroyo's ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Class Action and PAGA Settlement Agreement ("Settlement
4 Agreement," "Settlement," or "Agreement"), hereby **FINDS AND ORDERS**:

5 Plaintiff and Defendant Baltimore Aircoil Company, Inc. ("Defendant") entered the
6 Settlement Agreement on or about January 31, 2024 to settle this lawsuit.

7 The Court entered an order dated March 20, 2024 preliminarily approving the settlement
8 of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil Procedure
9 section 382 and California Rule of Court 3.769, ordering notice to be sent to the Class Members,
10 providing the Class Members with an opportunity to object to the Settlement or exclude
11 themselves from the Class, and scheduling a Final Approval Hearing.

12 The Court held a Final Approval Hearing on July 24, 2024 to determine whether to give
13 final approval to the Settlement of this lawsuit.

14 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
15 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
16 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
17 in the Settlement Agreement.

18 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
19 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
20 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
21 including jurisdiction to approve the Settlement and grants final certification of the Class.

22 3. Final Class Certification. The Court finds the Class satisfies all applicable
23 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
24 process. The Court certifies the Class consisting of all individuals who worked for Defendant as
25 non-exempt employees in California at any time during the period from March 22, 2019 to
26 December 29, 2023 ("Class," "Class Members," and "Class Period"). There are three hundred
27 sixty-four (364) Class Members who did not submit valid and timely Requests for Exclusion
28 from the Settlement ("Participating Class Members").

1 4. Adequacy of Representation. Class Counsel fully and adequately represented the
2 Class for the purposes of entering and implementing the Settlement and satisfied the
3 requirements of Code of Civil Procedure section 382.

4 5. Class Notice. The Court finds the Court Approved Notice of Class Action
5 Settlement and Hearing Date for Final Court Approval ("Class Notice") and its distribution to the
6 Class Members were implemented pursuant to the Settlement and this Court's Preliminary
7 Approval Order. The Court also finds the Class Notice:

- 8 a. constitutes notice reasonably calculated to apprise the Class Members of: (i)
9 pendency of this lawsuit; (ii) material terms and provisions of the Settlement
10 Agreement and their rights; (iii) their right to object to any aspect of the
11 Settlement Agreement; (iv) their right to exclude themselves from the Settlement
12 Agreement; (v) their right to receive settlement payments; (vi) their right to
13 appear at the Final Approval Hearing; and (vii) binding effect of the orders and
14 judgment in this lawsuit on all the Participating Class Members;
15 b. constitutes notice that fully satisfied the requirements of Code of Civil Procedure
16 section 382, California Rule of Court 3.769, and due process;
17 c. constitutes the best practicable notice to the Class Members under the
18 circumstances of this lawsuit; and
19 d. constitutes notice reasonable, adequate, and sufficient to the Class Members.

20 6. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
21 any action to enforce the terms and provisions of the Settlement Agreement.

22 7. Final Settlement Approval. The terms and provisions of the Settlement
23 Agreement have been entered into in good faith and are the product of arm's-length negotiations
24 by experienced counsel who have carried out a meaningful investigation of the claims. The
25 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,
26 reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to
27 implement the Settlement Agreement according to its terms and provisions.

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1 8. Binding Effect. The terms and provisions of the Settlement Agreement and this
2 Order and Judgment are binding on Plaintiff, Participating Class Members, Aggrieved
3 Employees, and their spouses, heirs, registered domestic partners, executors, administrators,
4 successors, and assigns. In addition, those terms shall have res judicata and other preclusive
5 effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf
6 of any such persons to the extent those claims, lawsuits, or other proceedings involve matters
7 that were or could have been raised in this lawsuit and are encompassed by the Released Class
8 Claims and Released Private Attorneys General Act of 2004 ("PAGA") Claims. The Settlement
9 Agreement will have no binding effect upon, and provide no res judicata preclusion to, those
10 Class Members who have submitted timely requests for exclusion.

11 9. Release by Participating Class Members. Effective on the date when Defendant
12 fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the
13 Wage Portion of the Individual Class Payments, all Participating Class Members, on behalf of
14 themselves and their former and present representatives, agents, attorneys, heirs, administrators,
15 successors, and assigns, release the Released Parties from the Released Class Claims.

16 a. Release by Aggrieved Employee. Effective on the date when Defendant fully
17 funds the entire Gross Settlement Amount and funds all employer payroll taxes
18 owed on the Wage Portion of the Individual Class Payments, all Participating and
19 Non-Participating Class Members, who are Aggrieved Employees, are deemed to
20 release, on behalf of themselves and their former and present representatives,
21 agents, attorneys, heirs, administrators, successors, and assigns, the Released
22 Parties from the Released PAGA Claims.

23 b. Plaintiff's Release. Effective on the date when Defendant fully funds the entire
24 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage
25 Portion of the Individual Class Payments, Plaintiff and his former and present
26 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
27 assigns generally release and discharge the Released Parties from the Plaintiff's
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1 Release. Plaintiff also expressly waives and relinquishes the provisions, rights,
2 and benefits, if any, of section 1542 of the Civil Code.

- 3 c. Released Parties. The Released Parties include Defendant, Amsted Rail Company,
4 Inc., and each of their current and former parents, owners, subsidiaries, divisions,
5 and affiliated or related persons or entities, and each of their respective officers,
6 directors, employees, partners, shareholders, attorneys, agents, executors, and
7 assigns.

8 10. Class Representative Service Payment. The Court finds the Class Representative
9 Service Payment of \$10,000, to be paid by Defendant to Plaintiff out of the Gross Settlement
10 Amount, to be reasonable and appropriate. The Class Representative Service Payment is to be
11 paid pursuant to the terms and provisions set forth in the Agreement.

- 12 a. The rationale for making enhancement payments is class representatives should
13 be compensated for the expense and risk they incurred in conferring a benefit on
14 the Class. Criteria courts consider include: (i) risk to the class representatives in
15 commencing suit; (ii) notoriety and personal difficulties; (iii) amount of time and
16 effort spent by the class representatives; (iv) duration of the litigation; and (v)
17 personal benefit (or lack thereof) enjoyed by class representatives.

- 18 b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the
19 risks inherent in the services as the class representative, duration of the case and
20 time involved, and benefits created for the Class, the Court approves the payment
21 of the Class Representative Service Payment of \$10,000 to Plaintiff.

22 11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.
23 The Court finds the Class Counsel Fees Payment of \$1,007,000, to be paid by Defendant to Class
24 Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Additionally, the
25 Court finds the Class Counsel Litigation Expenses Payment as reimbursement for actual
26 litigation costs incurred of \$22,140.17, to be paid by Defendant to Class Counsel out of the
27 Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid
28 pursuant to the terms and provisions set forth in the Settlement Agreement. Defendant shall not

1 be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
2 Class Counsel or any other counsel representing Plaintiff or Class Members. Defendant shall also
3 not be required to pay for any other attorneys' fees and expenses, costs, or disbursements
4 incurred by Plaintiff or Class Members in connection with or related in any manner to this
5 lawsuit, Settlement Agreement, settlement administration, and/or Released Class Claims and
6 Released PAGA Claims.

7 a. The Court has an independent right and responsibility to review the Class Counsel
8 Fees Payment and only award so much as it determines reasonable. (See
9 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123,
10 127-128.) The Class Counsel Fees Payment of \$1,007,000 is thirty-eight percent
11 (38%) of the common fund created for the benefit of the Class and is supported by
12 use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.*
13 (2016) 1 Cal.5th 480, 504.) Considering the results achieved, financial risk
14 undertaken, difficult nature of this litigation, skills required, percentage fees
15 award in previous and other cases, and contingent fees charged in the
16 marketplace, the Court finds the Class Counsel Fees Payment is consistent with
17 the marketplace, is reasonable, and is approved.

18 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
19 in prosecuting this case. Under the terms of the Settlement, Class Counsel may
20 seek reimbursement of up to \$20,000 in litigation costs. The Court finds Class
21 Counsel expended \$22,140.17 in litigation costs, which slightly exceeds the
22 maximum reimbursement permitted, and that such costs were reasonable. Thus,
23 the Court approves the payment of the Class Counsel Litigation Expenses
24 Payment of \$22,140.17 from the common fund for the reimbursement of Class
25 Counsel's litigation costs.

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1 12. Administration Expenses Payment. The Court finds Administration Expenses
2 Payment of \$9,350, to be paid by Defendant to the Administrator out of the Gross Settlement
3 Amount, to be reasonable and appropriate. The Administration Expenses Payment are to be paid
4 pursuant to terms and provisions set forth in the Settlement Agreement.

- 5 a. The Court reviewed the declaration of Nick Castro from ILYM Group, Inc., the
6 Court-approved Administrator. The Court finds notice was provided to the Class
7 pursuant to the Preliminary Approval Order, constitutes the best practicable notice
8 to the Class, and satisfied due process. Thus, the Court approves the payment of
9 the Administration Expenses Payment of \$9,350 for the Administrator's services
10 in administering the Settlement.

11 13. PAGA Penalties. The Court finds the PAGA Penalties of \$150,000, seventy-five
12 percent (75%) of which (\$112,500) will be paid to the California Labor and Workforce
13 Development Agency out of the Gross Settlement Amount and twenty-five percent (25%) of
14 which (\$37,500) shall be distributed to the Aggrieved Employees, on a pro rata basis, to be
15 reasonable and appropriate. The PAGA Penalties is to be paid pursuant to the terms and
16 provisions set forth in the Settlement Agreement.

17 14. Funding the Gross Settlement Amount. Defendant shall fund the Gross Settlement
18 Amount by transmitting the funds to the Administrator no later than the Effective Date. Within
19 fourteen (14) calendar days after Defendant fully funds the Gross Settlement Amount, the
20 Administrator will mail settlement checks to the appropriate entities and persons.

21 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
22 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
23 Settlement was the product of arm's-length negotiations following extensive litigation,
24 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
25 Deborah Saxe, an experienced and well-respected mediator.

- 26 a. The fairness of the Settlement is demonstrated by there being no objections to and
27 no requests for exclusion from the Settlement.

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1 b. The fairness of the Settlement is further illustrated by the gross *average*
2 Individual Class Payment being approximately \$3,987.66, and the gross *highest*
3 Individual Class Payment being about \$6,674.66.

4 16. Uncashed Checks. The Class Members must cash or deposit their settlement
5 checks within one hundred eighty (180) calendar days after the checks are mailed to them.
6 Uncashed settlement checks will be canceled and transmitted to the California Controller's
7 Unclaimed Property Fund in the name of the Class Member.

8 17. Modification of Agreement. The Participating Class Members are hereby
9 authorized to agree to and adopt amendments to or modifications of the Agreement by an express
10 written instrument signed by all Parties or their representatives and approved by the Court. Such
11 amendments or modifications shall be consistent with this Order and Judgment and cannot limit
12 the rights of the Participating Class Members under the Agreement.

13 18. Final Accounting and Compliance. The Court sets a compliance hearing on March
14 14, 2025 in Department 45. Within five (5) court days before this hearing, Plaintiff shall file a
15 compliance status report. Pursuant to Code of Civil Procedure section 384, the compliance status
16 report shall specify the total amount paid to the Class Members and the residual of the unclaimed
17 settlement funds that will be paid to the entity identified as the recipient of such funds in the
18 Settlement Agreement.

19 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
20 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
21 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
22 and for any other necessary purpose, including, without limitation:

- 23 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
24 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
25 arise out of the Settlement or this Order and Judgment;

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- 1 b. entering such additional orders as may be necessary or appropriate to protect or
2 effectuate this Order and Judgment approving the Settlement, and permanently
3 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the
4 fair and orderly administration of the Settlement; and
5 c. entering any other necessary or appropriate orders to protect and effectuate this
6 Court's retention of continuing jurisdiction.

7 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
8 Class Counsel Litigation Expenses Payment, and Class Representative Service Payment is
9 GRANTED. The Administrator is directed to carry out the terms of the Settlement forthwith.

10 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
11 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
12 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
13 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
14 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
15 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
16 THE JUDGMENT THEREON.

17 IT IS SO ORDERED.

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19 DATED: June 24, 2024

Brian W. Enos
HONORABLE BRIAN W. ENOS
SUPERIOR COURT JUDGE

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, California 91103 and my electronic service address is dmather@justicelawcorp.com.

On August 7, 2024, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Arroyo v. Baltimore Aircoil Company, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-929693-23**
Court Case No.: MCV089043
Madera County Superior Court

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

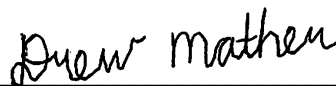
[X] BY ELECTRONIC SUBMISSION

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

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

Executed on August 7, 2024, at Pasadena, California.



Drew Mather