



FILED
ALAMEDA COUNTY

MAR 05 2021

CLERK OF THE SUPERIOR COURT

By *[Signature]* Deputy

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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF ALAMEDA

11 GABRIEL F. AYALA, individually and on behalf
12 of similarly situated individuals and the State of
13 California and the workforce in the interest of the
general public,

14 Plaintiff,

15 vs.

16 COLD STORAGE MANUFACTURING, INC., a
California Corporation, COLD STORAGE
17 DESIGN & BUILD, INC., a California
Corporation, and DOES 1 through 20,

18 Defendants.
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Case No. RG14725346

**REVISED [PROPOSED] ORDER
GRANTING PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS
SETTLEMENT**

Date: January 5, 2021
Time: 3:00 p.m.
Dept.: 23

Before the Honorable Brad Seligman

1 **TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 On January 5, 2021 at 3:00 p.m. at the California Superior Court for the County of Alameda
3 at 1221 Oak Street in Oakland, California in Department 23, before the Honorable Winifred Smith,
4 a hearing was held on Plaintiff's Motion for Final Approval of Class Settlement, Award of Class
5 Representative Payment, Award of Class Counsel Fees and Costs, Award of Administration Fees,
6 and Approval of PAGA Payment.

7 The Court, having read and considered the papers of the Motion, the arguments of Counsel,
8 and good cause appearing **HEREBY ORDERS AND MAKES DETERMINATIONS** as follows:

- 9 1. This Order hereby incorporates by reference the definitions of the Settlement Agreement
10 and Release ("Settlement") as though fully set forth herein, and all terms used herein
11 shall have the same meaning as set forth in the Settlement.
- 12 2. The Parties' Settlement (attached as Exhibit 1 to the Declaration of Stan Mallison in
13 Support of Plaintiff's Motion for Final Approval of Class Settlement) is granted final
14 approval as it meets the criteria for final settlement approval. The Settlement falls within
15 the range of possible approval as fair, adequate and reasonable, and appears to be the
16 product of arm's-length and informed negotiations and to treat all Class Members fairly.
17 The Court further finds that the Settlement is consistent with public policy and fully
18 complies with all applicable provisions of law, including the provisions of California
19 Code of Civil Procedure section 382 and California Rules of Court, Rule 3.760.
- 20 3. The Court further finds: The nature of the claims, the strength of Defendant's defenses,
21 the amounts paid under the Settlement, the possible allocation among Class Members
22 and actual allocation of settlement proceeds among the Participating Class Members and
23 the fact that a settlement represents a compromise of the parties' respective positions
24 rather than the possible result of a finding of liability at trial all support the Court's
25 decision granting final approval. The following factors also support the decision granting
26 final approval: the risk, expense, complexity and likely duration of further litigation; the
27 risk of attaining and maintaining class action status throughout the proceedings; and the
28 extent of discovery completed and the stage of the proceedings. The amounts agreed to

1 be paid by Defendant, including the Settlement Shares to be paid to Participating Class
2 Members as provided for by the Settlement, are fair and reasonable under the facts of
3 this case. The reaction of the Class Members to the proposed settlement, including the
4 fact that there were zero objections and opt-outs, further supports the Court's decision
5 granting final approval.

- 6 4. The Court finds that the proposed Class as defined in the Settlement meets all the
7 requirements for class certification, and it is hereby ordered that the Class is finally
8 approved and certified as a class for purposes of settlement in this action. Pursuant to
9 California Rules of Court, Rule 3.769(d), this Court makes final the conditional class
10 certification contained in the preliminary approval order as follows: All non-exempt
11 construction employees, including panel installers, refrigeration installers, electricians,
12 plumbers, welders, and shop employees, excluding Crew Leaders, employed by
13 Defendants at any time from July 8, 2011 to September 10, 2019.
- 14 5. The parties' Class Notice Packet was the best notice practicable under the circumstances;
15 were valid, due and sufficient notice to all Class Members; and complied fully with
16 California Civil Code section 1781(e), California Rule of Court 3.769, due process and
17 all other applicable laws and were sufficient to inform Class Members of the terms of
18 the Settlement; their rights under the Settlement; their rights to object to the settlement;
19 their right to receive a Settlement Share or elect not to participate in the Settlement; the
20 processes for receiving a Settlement Share, electing not to participate in the Settlement
21 or Objecting to the Settlement; and the date and location of the final approval hearing.
22 No notice was received from any parties or Class Members objecting to the Settlement.
23 The Court further finds that a full and fair opportunity has been afforded to Class
24 Members to participate in the proceedings convened to determine whether the proposed
25 Settlement should be given final approval. Therefore, the Court finds and determines
26 that the parties' notice procedures were completed and were constitutionally sound,
27 because individual notices were mailed to all Class Members whose identities are known
28 to the parties, and such notice was the best notice practicable.

- 1 6. The Court hereby finally and unconditionally approves the Settlement, and specifically
- 2 approves the Gross Settlement Amount of \$300,000.
- 3 7. Simpluris is awarded \$5,999 for their services as Settlement Administrator, pursuant to
- 4 the terms set forth in the Settlement and pursuant to the Declaration of Norman Alcantara
- 5 filed herewith. The Settlement Administrator is ordered to carry out its remaining
- 6 obligations under the Settlement for the award set forth above.
- 7 8. The Court confirms that, for settlement purposes only, proposed Class Representative
- 8 Gabriel Ayala meets the adequacy of representation requirement for the settlement class
- 9 as he has the same interest as the remaining members of the Settlement Class, and there
- 10 is no conflict between Mr. Ayala's claims and those of the other Class Members.
- 11 Therefore, for final approval of settlement purposes, the Court confirms the appointment
- 12 of Gabriel Ayala as Class Representative. Plaintiff Gabriel Ayala is awarded \$7,500
- 13 pursuant to the terms set forth in the Settlement for their services as Class
- 14 Representative.
- 15 9. Class Counsel Mallison & Martinez is awarded \$99,990 in attorneys' fees and
- 16 \$26,480.91 in costs for their work and costs incurred in prosecuting this case. Each party
- 17 shall bear their own costs and attorneys' fees beyond those provided by the Settlement.
- 18 10. The Court approves \$25,000 of the Gross Settlement Amount to resolve PAGA claims
- 19 with 75% of that portion (\$18,750) to be paid to the Labor and Workforce Development
- 20 Agency as their share of the settlement for the civil penalties alleged and 25% (\$6,250)
- 21 to be distributed to aggrieved class claimants as their statutory share of the PAGA
- 22 penalties pursuant to California Labor Code section 2699(i).
- 23 11. The Court approves Legal Aid at Work as cy pres recipients pursuant to California Code
- 24 of Civil Procedure section 384.
- 25 12. Plaintiff is deemed to have released all claims against Defendant as detailed in the
- 26 Settlement Agreement and Release.
- 27 13. Participating Class Members are deemed to have released Defendant as detailed in the
- 28 Settlement Agreement and Release.

- 1 14. Defendant is deemed to have released all claims, or potential claims, against Plaintiff as
2 detailed in the Settlement Agreement and Release.
- 3 15. By means of this Order, this Court hereby enters final judgment in this action, as defined
4 in section 577 of the California Code of Civil Procedure, binding each Participating
5 Class Member and operating as a full release and discharge of Settled Claims. All rights
6 to appeal this Order or the Judgment have been waived except as specifically permitted
7 in the Settlement.
- 8 16. This action is dismissed with prejudice, each side to bear their own costs and attorneys'
9 fees except as provided by the Settlement and this Order.
- 10 17. The Parties are hereby ordered to implement and comply with the terms of the
11 Settlement. Notice of entry of this Judgment and Order shall be given to Mallison &
12 Martinez on behalf of Plaintiff and all Participating Class Members. It shall not be
13 necessary to send notice of entry of this Judgment and Order to Class Members.
- 14 18. The Court hereby sets a Compliance Hearing on August 24 at 3:00 p.m. in
15 Department 23 of this Court. Five days before the Compliance Hearing, the Parties must
16 submit a compliance report and amended judgment pursuant to California Code of Civil
17 Procedure section 384. Ten-percent of Class Counsel's awarded fees should be retained
18 by the Settlement Administrator until compliance. The amended judgment should be
19 served on the California Judicial Council per Section 384.5.

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21 **IT IS SO ORDERED.**

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23 Dated: November 5, 2021

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25 SUPERIOR COURT JUDGE
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

Case Number: RG14 725346

Case Name: AYALA v. COLD STORAGE MANUFACTURING, INC., ET AL.

DECLARATION OF SERVICE BY EMAIL

I certify that I am not a party to this cause and that a true and correct copy of the **Revised Order Granting Plaintiff's Motion for Final Approval of Class Settlement** was emailed to the individuals shown at the bottom of this document.

Executed on March 4, 2021

Executive Officer/Clerk of the Superior Court

By Aquetta Scoggins
Deputy Clerk

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enotices@themmlawfirm.com ; carlosmartinez@gbgllp.com ; lisabrown@gbgllp.com

Cc: