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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF GLENN

15 FABIAN MARTINEZ, PAUL ADAMS,  
16 MICHAEL RUSH, and RICHARD L.  
17 YOUNG, individually on behalf of themselves  
18 and on behalf of all persons similarly situated,

19 Plaintiffs,

20 vs.

21 JOHNS MANVILLE, a Corporation; and  
22 DOES 1 through 50, inclusive,

23 Defendants.

**CASE NO.: 23CV03097**

**CLASS ACTION**

**[PROPOSED] FINAL APPROVAL  
ORDER AND JUDGMENT**

Hearing Date: April 16, 2025

Hearing Time: 2:30 p.m.

Judge: Hon. Alicia Ekland

Dept: 2

Date Filed: March 15, 2023

Trial Date: Not set

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FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs Fabian Martinez, Paul Adams, Michael Rush, and  
2 Richard L. Young (“Plaintiffs”) for an order finally approving the Class Action and PAGA  
3 Settlement Agreement (“Agreement”) with Defendant Johns Manville (“Defendant”), attorneys’  
4 fees and costs, service payments, and the expenses of the Administrator duly came on for hearing  
5 on April 16, 2025 before the Honorable Alicia Ekland.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the  
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before  
12 the Superior Court for the State of California, in and for the County of Glenn, and over all Parties  
13 to this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiff and a review of the  
15 applicable law, the Court finds that the Gross Settlement Amount of Seven Hundred Fifty  
16 Thousand United States Dollars (\$750,000) and the terms set forth in the Agreement are fair,  
17 reasonable, and adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length  
19 negotiations conducted after Class Counsel had adequately investigated the claims and became  
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the  
21 Settlement, and the assistance of an experienced mediator in the settlement process, among other  
22 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

23 **Preliminary Approval of the Settlement**

- 24 5. On November 25, 2024, the Court granted preliminary approval of the Settlement.  
25 At this same time, the Court approved conditional certification of the Class for settlement  
26 purposes only.

1           **Notice to the Class**

2           6.       In compliance with the Preliminary Approval Order, the Court-approved Class  
3 Notice was mailed by first class mail to members of the Class at their last-known addresses on or  
4 about December 23, 2024. Mailing of the Class Notice to their last-known addresses was the best  
5 notice practicable under the circumstances and was reasonably calculated to communicate actual  
6 notice of the litigation and the proposed settlement to the Class. The Class Notice given to the  
7 Class Members fully and accurately informed the Class Members of all material elements of the  
8 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion  
9 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied  
10 fully with the laws of the State of California, the United States Constitution, due process and other  
11 applicable law. The Class Notice fairly and adequately described the Settlement and provided  
12 Class Members adequate instructions and a variety of means to obtain additional information.

13           7.       The Response Deadline for opting out or submitting written objections to the  
14 Settlement was February 6, 2025, which for re-mailings was extended by fourteen (14) days.  
15 There was an adequate interval between notice and the deadline to permit Class Members to  
16 choose what to do and to act on their decision. A full and fair opportunity has been afforded to the  
17 Class Members to participate in this hearing, and all Class Members and other persons wishing to  
18 be heard have had a full and fair opportunity to be heard. Class Members also have had a full and  
19 fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the  
20 Court determines that all Class Members who did not timely and properly submit a request for  
21 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

22           **Fairness of the Settlement**

23           8.       The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*  
24 48 Cal.App.4th 1794, 1801 (1996).

25           a.       The settlement was reached through arm's-length bargaining between the  
26 Parties during a mediation before David A. Rotman, a respected and experienced mediator of  
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1 wage and hour class actions. There has been no collusion between the Parties in reaching the  
2 Settlement.

3           b.       Plaintiffs and Class Counsel's investigation and discovery have been  
4 sufficient to allow the Court and counsel to act intelligently.

5           c.       Counsel for all Parties are experienced in similar employment class action  
6 litigation. Class Counsel recommended approval of the Agreement.

7           d.       The percentage of objectors and requests for exclusion is small. No  
8 objections were received. No requests for exclusion were received.

9           9.       The consideration to be given to the Class Members under the terms of the  
10 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims  
11 asserted in this action and is fair, reasonable and adequate compensation for the release of Class  
12 Members' claims, given the uncertainties and significant risks of the litigation and the delays  
13 which would ensue from continued prosecution of the action.

14           10.     The Agreement is approved as fair, adequate and reasonable and in the best  
15 interests of the Class Members.

16           **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

17           11.     An award of \$250,000 for attorneys' fees, representing one-third of the Gross  
18 Settlement Amount, and \$37,688.85 for litigation costs and expenses, is reasonable, in light of the  
19 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results  
20 achieved by Class Counsel. The requested awards have been supported by Class Counsel's  
21 lodestar and billing statement.

22           **Class Representative Service Payments**

23           12.     The Agreement provides for Class Representative Service Payments of not more  
24 than \$10,000 to Plaintiff Martinez and not more than \$5,000 each to Plaintiffs Young, Adam, and  
25 Rush, subject to the Court's approval. The Court finds that Class Representative Service  
26 Payments in the amount of \$10,000 to Plaintiff Martinez and not more than \$5,000 each to  
27 Plaintiffs Young, Adam, and Rush are reasonable in light of the risks and burdens undertaken by  
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1 the Plaintiffs in this litigation and for their time and effort in bringing and prosecuting this matter  
2 on behalf of the Class.

3 **Administration Expenses Payment**

4 13. The Administrator shall calculate and administer the payment to be made to the  
5 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the  
6 Class Representative Service Payments to the Plaintiffs, issue all required tax reporting forms,  
7 calculate withholdings and perform the other remaining duties set forth in the Agreement. The  
8 Administrator has documented \$11,500 in fees and expenses, and this amount is reasonable in  
9 light of the work performed by the Administrator.

10 **PAGA Penalties**

11 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement  
12 Amount of \$20,000, which shall be allocated \$15,000 to the Labor & Workforce Development  
13 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this  
14 Agreement pursuant to the PAGA and \$5,000 to be distributed to the Aggrieved Employees and  
15 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties  
16 (\$5,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during  
17 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay  
18 Periods. "Aggrieved Employees" are all individuals who were employed by Defendant in  
19 California and classified as non-exempt employees at any time during the PAGA Period. The  
20 PAGA Period is February 10, 2022, to November 20, 2024. Pursuant to Labor Code section 2699,  
21 subdivision (l)(2), the LWDA was provided notice of the Agreement and these settlement terms  
22 and has not indicated any objection thereto. The Court finds the PAGA Penalties to be reasonable.

23 **II.**

24 **ORDERS**

25 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

26 15. The Class is certified for the purposes of settlement only. The Class is defined as  
27 follows:

1 All individuals who were employed by Defendant in California and classified as  
2 non-exempt employees at any time during the Class Period.

3 The Class Period is from August 20, 2020, to November 20, 2024.

4 2. All persons who meet the foregoing definition are members of the Class, except for  
5 those individuals who filed a valid request for exclusion (“opt out”) from the Class. There were  
6 no individuals who requested exclusion from the Class.

7 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the  
8 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund  
9 the amounts necessary to fully pay Defendant’s share of payroll taxes in accordance with the  
10 Agreement, by transmitting the funds to the Administrator no later than thirty (30) days after the  
11 Effective Date.

12 4. Class Counsel are awarded attorneys’ fees in the amount of \$250,000 and costs in  
13 the amount of \$37,688.85. Class Counsel shall not seek or obtain any other compensation or  
14 reimbursement from Defendant, Plaintiffs, or members of the Class.

15 5. The payments of Class Representative Service Payments in the amount of \$10,000  
16 to Plaintiff Martinez and \$5,000 each to Plaintiffs Young, Adam, and Rush are approved.

17 6. The payment of \$11,500 to the Administrator for its fees and expenses is approved.

18 7. The PAGA Penalties of \$20,000 is approved and is to be distributed in accordance  
19 with the Agreement.

20 8. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall  
21 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its  
22 entry.

23 9. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this  
24 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any  
25 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment  
26 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the  
27 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement  
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1 is, may be construed as, or may be used as an admission by or against Defendant of any fault,  
2 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any  
3 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be  
4 evidence of, an admission or concession with regard to the denials or defenses by Defendant.  
5 Nothing in this judgment shall be used against Defendant to establish *res judicata*, collateral  
6 estoppel, release, or other theory of claim or issue preclusion to find liability or wrongdoing or the  
7 validity of any claims against it. Notwithstanding these restrictions, Defendant may file in the  
8 Action or in any other proceeding this Final Approval Order and Judgment, the Agreement, or any  
9 other papers and records on file in the Action as evidence of the Settlement to support a defense of  
10 *res judicata*, collateral estoppel, release, or other theory of claim or issue preclusion or similar  
11 defense as to the Released Class Claims and/or Released PAGA Claims.

12       10. Notice of entry of this Final Approval Order and Judgment shall be given to all  
13 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order  
14 and Judgment shall be posted on the Administrator's website as set forth in the Class Notice to the  
15 Class, and this website shall remain active until the Effective Date. It shall not be necessary to  
16 send notice of entry of this Final Approval Order and Judgment to individual Class Members.

17       11. If the Agreement does not become final and effective in accordance with the terms  
18 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in  
19 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall  
20 revert to their respective positions as of before entering into the Agreement, and expressly reserve  
21 their respective rights regarding the prosecution and defense of this Action, including all available  
22 defenses and affirmative defenses, and arguments that any claim in the Action could not be  
23 certified as a class action and/or managed as a representative action.

24 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

25       1. Except as set forth in the Agreement and this Final Approval Order and Judgment,  
26 Plaintiff, and all members of the Class, shall take nothing in the Action.

1           2.       All Parties shall bear their own attorneys' fees and costs, except as otherwise  
2 provided in the Agreement, and in this Final Approval Order and Judgment.

3           3.       Effective on the date when Defendant fully funds the entire Gross Settlement  
4 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class  
5 Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will  
6 release claims against Defendant, and all Released Parties as follows:

7                   (a)     All Participating Class Members, on behalf of themselves and their  
8 respective former and present representatives, agents, attorneys, heirs, administrators, successors,  
9 and assigns, release Released Parties from the Released Class Claims. The "Released Class  
10 Claims" are all claims that were alleged, or reasonably could have been alleged, based on the facts  
11 stated in the Operative Complaint, known or unknown, for any type of relief against Defendant,  
12 including all claims for (i) meal and rest break violations or premium payments in lieu thereof; (ii)  
13 failure to pay wages of any kind, including but not limited to regular or premium wages and/or  
14 failure to apply the proper regular rate; (iii) failure to pay wages timely during employment and  
15 upon termination; (iv) failure to pay sick time; (v) failure to reimburse employees for required  
16 expenses; (vi) failure to furnish accurate wage statements; (vii) unfair business practices relating  
17 to or arising out of any of the foregoing; and (viii) to the extent not covered above, any and all  
18 claims reasonably based on the facts alleged in the Operative Complaint, which occurred during  
19 the Class Period. Except as expressly set forth in the Agreement, Participating Class Members do  
20 not release any other claims, including claims for vested benefits, wrongful termination, violation  
21 of the Fair Employment and Housing Act, unemployment insurance, disability, social security,  
22 workers' compensation, or claims based on facts occurring outside the Class Period.

23                   (b)     All Aggrieved Employees and the LWDA are deemed to release, on behalf  
24 of themselves and their respective former and present representatives, agents, attorneys, heirs,  
25 administrators, successors, assigns, and the State of California, the Released Parties from the  
26 Released PAGA Claims. The "Released PAGA Claims" are all claims for PAGA penalties that  
27 were alleged, or could have been alleged, based on the facts alleged in the Operative Complaint  
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1 and/or the PAGA Notice which occurred during the PAGA Period. The Released PAGA Claims  
2 do not include claims for wrongful termination, discrimination, unemployment insurance,  
3 disability and worker's compensation, and claims outside of the PAGA Period.

4 4. For any Class Member or Aggrieved Employee whose Individual Class Payment  
5 check or Individual PAGA Payment check is uncashed and canceled after the void date, the  
6 Administrator shall transmit the funds represented by such checks to the California Controller's  
7 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"  
8 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

9 5. The Court hereby enters judgment in the entire Action as of the filing date of this  
10 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the  
11 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction  
12 over the interpretation, implementation, and enforcement of the Settlement and all orders entered  
13 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

14 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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16 Dated: \_\_\_\_\_

17 \_\_\_\_\_  
18 HON. ALICIA EKLAND  
19 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA  
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