

FILED
Superior Court of California
County of Alameda

12/29/2025

Clad Flake, Exec. Officer / Clerk of the Court

By: D. Kinney Deputy

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

AGUSTIN UMANA VILLATORO,
individually, and BRYAN HERNANDEZ,
individually and on behalf of all others similarly
situated,

Plaintiffs,

vs.

AMERICAN ASPHALT REPAIR AND
RESURFACING COMPANY, INC.; and DOES
1 through 10, inclusive,

Defendants.

Case No.: 22CV024706

*[Assigned for all purposes to the Hon. Somnath
Raj Chatterjee, Dept 21]*

CLASS ACTION

**~~REVISED~~ [PROPOSED] ORDER
GRANTING FINAL APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT**

Action Filed: December 27, 2022

Trial Date: Not Set

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

This matter came on for hearing on, upon plaintiff AGUSTIN UMANA VILLATORO and BRYAN HERNANDEZ's ("Plaintiffs") Motion for Final Approval of the proposed settlement of this action on the terms set forth in the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE (the "Agreement;" the effectuated terms of the settlement reflected in the Agreement, as implemented by this Final Approval Order and Judgment, are referred to as the "Settlement"). (See Declaration of H. Scott Leviant in Support of Plaintiff's Motion for Final Approval of Class and Representative Action Settlement ["Leviant Decl.," at Exh. 1.)

Case No.: 22CV024706

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*Villatoro, et al., v. American Asphalt Repair and
Resurfacing Company, Inc.*

**~~REVISED~~ [PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

After reviewing the Agreement, the Notice process as discussed in the Motion for Final Approval of Class and Representative Action Settlement, the supporting Declarations, the record in this action, having heard the argument of Counsel for the Parties, and good cause appearing, the Court Orders:

1. To the extent defined in the Agreement, the terms in this Order shall have the meanings set forth therein.

2. The Court finds that the Settlement has been reached as a result of intensive, serious and non-collusive arms-length negotiations. The Court further finds that the Parties have conducted thorough investigation and research, and the attorneys for the Parties are able to reasonably evaluate their respective positions. The Court also finds that settlement at this time will avoid additional substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution of the action. The Court finds that the risks of further prosecution are substantial.

3. Under the terms of the Agreement, the proposed monetary terms are as follows:

GSA AND ESTIMATED DEDUCTIONS	AMOUNT
Gross Settlement Amount ("GSA")	\$790,000.00 (employer-side taxes separate)
Settlement Administration (actual)	\$8,250.00
Requested Attorney's Fees (one-third of GSA)	\$237,000.00
Requested Costs (actual)	\$27,297.99
PAGA Penalty Allocation	\$80,000.00
Requested Enhancements (combined total)	\$15,000.00
Estimated Net Settlement Amount	\$422,452.01

The amounts awarded by the Court are set forth below.

4. The Parties' Settlement is granted final approval as it meets the criteria for final settlement approval. In granting final approval of the class and representative action settlement, the Court has considered the factors identified in *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006). For purposes of the Settlement and final approval of the Settlement of the Action, the Court finds that the terms of the proposed class and representative action Settlement are fair,

1 reasonable, and adequate, pursuant to California Code of Civil Procedure § 382. For this purpose, the
2 Settlement falls within the range of possible approval as fair, adequate and reasonable; appears to be the
3 product of arm's-length and informed negotiations; and treats all Class Members fairly. The Settlement
4 Class meets the requirements for conditional certification for settlement purposes only under Code of
5 Civil Procedure § 382.

6 5. The Class Notice provided to the Settlement Class conforms with the requirements of
7 Code of Civil Procedure § 382, Rules of Court 3.766 and 3.769, the California and United States
8 Constitutions, and any other applicable law, and constitutes the best notice practicable under the
9 circumstances, by providing individual notice to all Class Members who could be identified through
10 reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set
11 forth therein to the other Class Members. The Class Notice fully satisfied the requirements of Due
12 Process.

13 6. The following persons are certified as Class Members solely for the purpose of
14 effectuating the proposed Settlement in this matter:

15 All persons currently or formerly employed by Defendant as a non-exempt employee in
16 California during the Class Period (the "Class Period" is the period from August 1,
17 2019, through April 24, 2025). "Participating Class Member" means a Class Member
who does not submit a valid and timely Request for Exclusion from the Class portion of
the Settlement.

18 (Agreement, ¶¶ 1.5, 1.9, 1.12, 1.34). No Class Members requested exclusion from the Class. All Class
19 Members are Participating Class Members and are bound by the Final Approval Order and Judgment in
20 the Action.

21 7. Plaintiffs AGUSTIN UMANA VILLATORO and BRYAN HERNANDEZ are
22 appointed as the Class Representatives.

23 8. The Court finds counsel for Plaintiffs are adequate, as they are experienced in wage and
24 hour class action litigation and have no conflicts of interest with absent Class Members, and that they
25 adequately represented the interests of absent class members in the Litigation. Kane Moon, H. Scott
26 Leviant, and Sandy Pham, of Moon Law Group, PC, are appointed Class Counsel.

27 9. All persons currently or formerly employed by Defendant AMERICAN ASPHALT
28 REPAIR AND RESURFACING COMPANY, INC. ("Defendant") as hourly-paid or non-exempt

1 employees in the State of California during the PAGA Period (August 1, 2022, through April 24, 2025)
2 are “Aggrieved Employees” for purposes of distributing the \$20,000.00 allocated from the PAGA
3 Penalties to Individual PAGA Payments.

4 10. The Court appoints Phoenix Class Action Administration Solutions to act as the
5 Administrator, pursuant to the terms set forth in the Agreement.

6 11. Upon entry of this Final Approval Order and the Judgment, funding of the Settlement and
7 compensation to the Participating Class Members and PAGA Members shall be implemented pursuant to
8 the terms of the Settlement and this Final Approval Order.

9 12. In addition to any recovery that Plaintiffs may receive under the Settlement as a Class
10 Member and/or PAGA Aggrieved Employee, and in recognition of the Plaintiffs’ efforts on behalf of
11 the Class, the Court approves the payment of Class Representatives Service Payment to Plaintiff
12 HERNANDEZ in the amount of \$7,500.00 and to Plaintiff VILLATORO in the amount of \$7,500.00.

13 13. The Court approves the payment of attorneys’ fees to Class Counsel (“Class Counsel
14 Fees Payment”) in the total amount of \$237,000.00. From the total amount of the Class Counsel Fees
15 Payment awarded by the Court, ten percent shall be held in the Settlement Administrator’s trust fund and
16 not released to Class Counsel until the completion of the distribution process and Court approval of a
17 final accounting. Litigation expenses in the total amount of \$27,297.99 to Class Counsel (“Class
18 Counsel Litigation Expenses Payment”) are approved.

19 14. The Court approves and orders payment in the amount of \$8,250.00 to Phoenix Class
20 Action Administration Solutions (“Administration Expenses Payment”), for performance of its services
21 as the Administrator.

22 15. Upon completion of administration of the Settlement, Class Counsel shall cause to be
23 filed a declaration stating that all amounts payable under the Agreement and this Order have been paid
24 and that the terms of the Settlement have been completed.

25 16. The Court sets a compliance review and final accounting hearing to determine whether
26 all fund distribution requirements under the Settlement have been satisfied on **May 11, 2026, at 2:30**
27 **p.m.**, in Dept. 21 of the above-entitled Court. A Final Report, including any declaration from the
28 Administrator regarding compliance, shall be filed with the Court no later than May 4, 2026.

1 17. The Court ORDERS that funds from uncashed checks not be distributed to the *cy pres*
2 beneficiary (the California State Bar's Greg E. Knoll Justice Gap Fund) until after Court approval of a
3 final accounting.

4 18. The Court approves and orders payment in the amount of \$60,000.00 ("LWDA PAGA
5 Payment") to the Labor and Workforce Development Agency ("LWDA") in compromise of claims
6 under PAGA.

7 19. Effective on the date when Defendant fully funds the entire Gross Settlement Amount
8 and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
9 Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties¹ as
10 follows:

11 All Participating Class Members, on behalf of themselves and their respective former
12 and present representatives, agents, attorneys, heirs, administrators, successors, and
13 assigns, release Released Parties from all claims that arose during the Class Period and
14 that were alleged, or reasonably could have been alleged, based on the facts stated in the
15 Operative Complaint including, but not limited to, claims for: (1) failure to pay
16 minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal
17 periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify
18 necessary business expenses; (6) failure to timely pay final wages at termination; and
19 (8) related violation of California Business and Professions Code § 17200, et. seq.
20 Excluded from this portion of the release are claims for PAGA penalties that arose
21 during the PAGA Period and were alleged, or reasonably could have been alleged,
22 based on the facts stated in the PAGA Notices. Except as set forth in Section 5.3 of
23 [the] Agreement, Participating Class Members do not release any other claims,
24 including claims for vested benefits, wrongful termination, violation of the Fair
25 Employment and Housing Act, unemployment insurance, disability, social security,
26 workers' compensation, or claims that arose outside of the Class Period.

20 20. Effective on the date when Defendant fully funds the entire Gross Settlement Amount
21 and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
22 Plaintiffs, on their own behalf and on behalf of the State of California, and all Class Members who are
23 Aggrieved Employees, will release claims against all Released Parties as follows:

24 Plaintiff Umana Villatoro, on his own behalf, and on behalf of the State of California,
25 releases the Released Parties from all claims for civil penalties under PAGA, based on

26 ¹ "Released Parties" means (i) Defendant; (ii) Defendant's past and present parents, subsidiaries and
27 affiliates including without limitation any corporation, limited liability company, partnership, trust,
28 foundation and non-profit entity which controls, is controlled by, or is under common control with
Defendant; (iii) the past and present shareholders, directors, officers, agents, employees, members,
consultants, benefit plans, successor and assigns of any of the foregoing; and (iv) any individual or entity
that could be jointly liable with the foregoing.

1 the facts and Labor Code sections that arose during the PAGA Period and were alleged
2 in the PAGA Notice letters, including but not limited to claims for civil penalties arising
3 from the alleged violation of California Labor Code sections 201, 202, 203, 204, 218.5,
218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
1198, and 2802.

4 21. Class Counsel are ordered to give notice of this final Order and Judgment to the LWDA,
5 pursuant to Labor Code § 2699(1)(3).

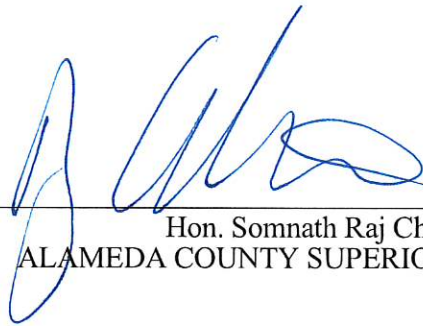
6 22. The Court hereby directs the Parties to effectuate the terms of the Settlement as set forth
7 in the Agreement.

8 23. Pursuant to California Rules of Court, Rule 3.771(b), the Administrator shall give notice
9 to the Class of the entry of this Order, and any final judgment entered in this Action, by posting it on its
10 website.

11 24. The Court retains jurisdiction to consider all further applications arising out of or in
12 connection with the Settlement.

13 **IT IS SO ORDERED.**

14
15 Dated: 12/29/2025



Hon. Somnath Raj Chatterjee
ALAMEDA COUNTY SUPERIOR COURT JUDGE

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612		FILED Superior Court of California County of Alameda 12/29/2025 Chad Finke, Executive Officer / Clerk of the Court By: <u>D. Kinney</u> Deputy D. Kinney
PLAINTIFF/PETITIONER: Agustin Umana Villatoro et al		
DEFENDANT/RESPONDENT: AMERICAN ASPHALT REPAIR AND RESURFACING COMPANY, INC.;		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: 22CV024706

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order REVISED [PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Kane Moon
MOON LAW GROUP, PC
Kso@moonlawgroup.com

Marlene Stephanie Muraco
Littler Mendelson
mmuraco@littler.com

Dated: 12/29/2025

Chad Finke, Executive Officer / Clerk of the Court

By:

D. Kinney

D. Kinney, Deputy Clerk