

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV 04 2024

BY Valerie Urueña
VALERIE URUENA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

VICTOR MEDINA and FRANCISCO
CRUZ, individually, on a representative basis,
and on behalf of all others similarly situated;

Plaintiffs,

vs.

HOWARD ROOFING COMPANY, INC., a
California Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CIVSB2312233
[Assigned to the Hon. Christian Towns, Dept.
S26, for all purposes]

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT;
AND ENTRY OF JUDGMENT**

Complaint Filed: May 30, 2023

[PROPOSED] ORDER GRANTING FINAL APPROVAL OF SETTLEMENT; ENTRY OF JUDGMENT

1 The Motion for Final Approval of the Settlement (the “Final Approval Motion”) as set
2 forth in the Class Action and PAGA Settlement Agreement and Release of Claims (“Settlement
3 Agreement”) came for a hearing in the above-entitled court. The Final Approval Motion was
4 unopposed by Defendant Howard Roofing Company, Inc. (“Defendant”).

5 Having considered the Final Approval Motion, the Settlement Agreement, the
6 Declarations, and all other materials properly before the Court and having conducted an inquiry
7 pursuant to California Rules of Court, rule 3.769(g), the Court finds that the Settlement
8 Agreement was entered by all parties in good faith, and the Settlement Agreement is approved.
9 Due and adequate notice having been given to the Class, and the Court having considered the
10 Settlement Agreement, all papers filed and proceedings had herein and all oral and written
11 comments received regarding the proposed settlement, and having reviewed the record in this
12 Action, and good cause appearing,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

14 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all
15 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

16 2. The Court has jurisdiction over the subject matter over this Action, Class
17 Representatives Victor Medina and Francisco Cruz the Class Members and Defendant. The
18 Court finally appoints Plaintiffs as Class Representatives, and further appoints Brian Mankin and
19 Peter Carlson of Lauby Mankin Lauby LLP, and Daniel Hyun and David Alami of Torus LLP as
20 Class Counsel.

21 3. For purposes of effectuating this Order and Judgment, this Court has certified the
22 following class: “all current and former non-exempt employees of Defendant, who worked in
23 California at any time during the Class Period of May 30, 2019 to May 4, 2024.” The Court
24 deems this definition sufficient for purposes of California Rules of Court, rule 3.765(a).

25 4. As set forth in the Settlement Agreement, Aggrieved Employees includes: “all
26 current and former non-exempt employees of Defendant, who worked in California at any time
27 during the PAGA Period of May 30, 2022, through May 4, 2024.”
28

1 5. The Court finds that the distribution of the Class Notice, as provided for in the
2 Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable
3 under the circumstances to all Class Members and fully met the requirements of California law
4 and due process under the California and United States Constitution. Based on evidence and
5 other material submitted, the actual notice to the class was adequate.

6 6. The Court finds that the instant Action presented a good faith dispute of the
7 claims alleged, and the Court finds in favor of settlement approval.

8 7. The Released Class Claims on behalf of the Participating Class Members
9 included:

- 10 a. all causes of action and claims that were alleged in the Actions or reasonably
11 could have been alleged based on the facts and legal theories contained in the
12 complaints filed, including the operative Complaint, including all of the
13 following claims for relief: (i) failure to pay all regular rate wages, minimum
14 wages, straight time wages, and overtime wages due; (ii) failure to provide
15 compliant meal periods; (iii) failure to provide compliant rest breaks and
16 recovery/cool down periods; (iv) failure to timely pay wages during
17 employment; (v) failure to provide complete, accurate wage statements; (vi)
18 failure to pay wages timely at time of termination or resignation; (vii) failure
19 to reimburse or indemnify necessary business expenses; (viii) failure to pay
20 sick leave and/or vacation pay; (ix) failure to pay reporting time pay; (x)
21 failure to provide fresh drinking water and (xi) unfair business practices that
22 could have been premised on the claims, causes of action or legal theories of
23 relief described above or any of the claims, causes of action or legal theories
24 of relief pleaded in the operative complaint. The Class Members who cash
25 their Settlement Checks further acknowledge they are releasing any claims
26 under the Fair Labor Standards Act ("FLSA") directly based on or arising out
27 of the Released Class Claims. Additionally, this definition of "Released Class
28 Claims" expressly excludes all claims for vested benefits, wrongful

1 termination, unemployment insurance, disability, social security, workers'
2 compensation, claims while classified as exempt, and claims outside of the
3 Class Period.

4 8. The Released PAGA Claims included:

- 5 a. all causes of action and claims for civil penalties under the California Labor
6 Code Private Attorneys General Act of 2004 that were alleged in the operative
7 complaint in the Actions or reasonably could have been alleged based on the
8 facts contained in the operative complaint in the Actions, including claims for
9 civil penalties based on the following: (i) failure to pay all regular rate wages,
10 minimum wages, straight time wages, and overtime wages due; (ii) failure to
11 provide compliant meal periods; (iii) failure to provide compliant rest breaks;
12 (iv) failure to timely pay wages during employment; (v) failure to provide
13 complete, accurate wage statements; (vi) failure to pay wages timely at time
14 of termination or resignation; (vii) failure to reimburse or indemnify necessary
15 business expenses; (viii) failure to pay sick leave and/or vacation pay; (ix)
16 failure to pay reporting time pay (x) failure to provide fresh drinking water
17 (xi) failure to maintain records in accordance with Labor Code Section 1174;
18 and/or (xi) claims, causes of action or legal theories of relief seeking civil
19 penalties under the California Labor Code Private Attorneys General Act of
20 2004 plead in the operative Complaint and underlying LWDA exhaustion
21 letters.

22 9. There were no Objections to the Settlement, and no Requests for Exclusion.
23 Thus, all Class Members are Participating Class Members, who are entitled to an Individual
24 Class Payment pursuant to the Settlement and this Judgment. Likewise, all Aggrieved
25 Employees are entitled to an Individual PAGA Payment, constituting a pro rata share of PAGA
26 Penalties.

27 10. The Court approves the Settlement, as set forth in the Settlement Agreement and
28 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Settling

1 Parties. The Parties are directed to perform in accordance with the terms set forth in the
2 Settlement Agreement.

3 11. The Parties are to bear their own attorneys' fees and costs, except as otherwise
4 provided in the Settlement Agreement.

5 12. With respect to the Class and for purposes of approving this Settlement, this Court
6 finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that
7 joinder of all members is impracticable; (b) there are questions of law or fact common to the
8 Class Members, and there is a well-defined community of interest among the Class Members
9 with respect to the subject matter of the Action; (c) the claims of the Class Representatives are
10 typical of the claims of the Class Members; (d) the Class Representatives have fairly and
11 adequately protected the interests of the Class Members; (e) a class action is superior to other
12 available methods for an efficient adjudication of this controversy; and (f) the counsel of record
13 for the Class Representatives, i.e., Class Counsel, are qualified to serve as counsel for the
14 Plaintiffs in their individual and representative capacity and for the Class.

15 13. By this Judgment, the Class Representatives shall release, relinquish, and
16 discharge, and each of the Participating Class Members shall be deemed to have, and by
17 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
18 discharged all Released Class Claims, as defined in the Settlement Agreement.

19 14. Neither the Settlement Agreement nor the Settlement contained therein, nor any
20 act performed or document executed pursuant to or in furtherance of the Settlement Agreement
21 or the Settlement (i) is or may be deemed to be or may be used by the Class Representatives or
22 Participating Class Members as an admission of, or evidence of, the validity of any of the
23 Released Class Claims, or of any wrongdoing or liability of Defendant or any of the other
24 Released Parties; or (ii) is or may be deemed to be or may be used by any of the Class
25 Representatives or Participating Class Members as an admission of, or evidence of, any fault or
26 omission of Defendant or any of the other Released Parties in any civil, criminal, or
27 administrative proceeding in any court, administrative agency, or other tribunal. Defendant or
28 any of the other Released Parties may file the Settlement Agreement and/or the Judgment from

1 this Action in any other action that may be brought against it or them in order to support a
2 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good
3 faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion
4 or similar defense or counterclaim.

5 15. The Gross Settlement Amount to be paid under the Settlement Agreement is
6 \$970,000. From this amount, Class Counsel sought a Class Counsel Fee Payment of
7 \$323,333.33, Class Counsel's litigation expenses of \$21,272.07, a Service Award to Class
8 Representatives Victor Medina and Francisco Cruz of \$10,000 each, an Administrator Expenses
9 of \$9,500 to Phoenix Settlement Administrators, and \$37,500 to the LWDA for PAGA penalties
10 and \$12,500 to the Aggrieved Employees for PAGA Penalties. Defendant does not oppose these
11 requests. In addition, and concurrently with paying the Settlement Amount, Defendant shall
12 separately pay all employer payroll taxes owed on the Wage Portion of the Individual Class
13 Payments, which shall be reported through the Settlement Administrator. The Court finds that
14 the Settlement Amount is fair, reasonable and adequate, and awards the payments set forth below
15 from the Settlement Amount:

16 A) \$323,333.33 to Class Counsel for Class Counsel Fee Payment in light of
17 the benefit obtained on behalf of the Class, which shall be divided 85% to Lauby Mankin
18 Lauby LLP and 15% to Torus LLP;

19 B) \$21,272.07 to Class Counsels' litigation costs, which shall be allocated as
20 \$19,203.71 to Lauby Mankin Lauby LLP and \$2,068.36 to Torus LLP;

21 C) \$10,000 each to Class Representatives Victor Medina and Francisco Cruz
22 as a Service Award;

23 D) \$9,500 to the Settlement Administrator, Phoenix Settlement
24 Administrators;

25 E) \$37,500 to the LWDA;

26 F) \$12,500 to the Aggrieved Employees on a pro rata basis;

27 G) After deducting the foregoing payments from the Gross Settlement
28 Amount, the remainder shall form the Net Settlement Amount payable to the

Participating Class Members as set forth in the Settlement Agreement and as calculated by the Settlement Administrator.

16. The Settlement Administrator is directed to calculate the Participating Class Member's Individual Class Payments and the Aggrieved Employees' Individual PAGA Payments and issue all payments within in accordance with the Settlement Agreement and this Order/Judgment.

17. Concurrently with mailing the settlement checks to the Participating Class Members and Aggrieved Employees, the Settlement Administrator shall include a Notice of Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the check for the Participating Class Members, noting the following: "Please be advised that on [insert date], 2024, the Superior Court of California for the County of San Bernardino entered Judgment in the case entitled *Medina et al. v. Howard Roofing Company, Inc., et al.*, pending in Superior Court of the State of California, County of San Bernardino, Case No. CIVSB2312233, on behalf of all current and former non-exempt employees of Defendant Howard Roofing Company, Inc., who worked in California at any time during the Class Period of May 30, 2019 to May 4, 2024."

18. The Class Members shall have 180 days to negotiate the settlement check from the date of issuance by the Settlement Administrator. In the event that a Participating Class Member or Aggrieved Employee does not negotiate his/her check within this time period, the check will be canceled. The value of the unclaimed funds in the Settlement Administrator's account as a result of a failure to timely cash a settlement check shall be issued to the State Controller's Office for the State of California in the name of the person.

19. The following dates shall govern for purposes of this implementing this Order/Judgment:

November 4, 2024	The Final Order and Judgment is entered.
60 days after Final Order is entered (approximately January 3, 2025)	The Effective Date occurs.
20 days after Effective Date (approximately January 23, 2025)	Defendant shall issue the payment to the Settlement Administrator.

1 2 3 4 5 6 7	Within 10 days after receipt of Payment (approximately February 3, 2025)	Settlement Administrator to issue all Individual Class Payments to the Participating Class Members, Individual PAGA Payments to the Aggrieved Employees, payment to Class Counsel for the Class Counsel Fee Payment and Litigation Expenses, the Service Payment to the Class Representative, the payment to the LWDA for PAGA Penalties, and pay itself the Administrator Expenses Payment.
8 9	180 days after payment is issued (approximately August 2, 2025)	Deadline for Participating Class Members and Aggrieved Employees to cash checks.
10 11 12 13 14	September 12, 2025	Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including any uncashed checks and status of process of forwarding unclaimed funds to the State Controller.
15 16 17	Date: <u>11/4</u> , 2025 Time: 8:30 a.m.	Hearing re: status of disbursements.

20. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the Class Representatives, the Class Members, and Defendant for the purposes of supervising the implementation, enforcement, construction, administration, and interpretation of the Settlement Agreement and this Judgment.

IT IS SO ORDERED.

NOV 04 2024

Dated: _____

C. Towns
HON. CHRISTIAN TOWNS