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

DEC 16 2024

BY Valerie Urueña
VALERIE URUENA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

CLARENCE PHILLIPS, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

HARDY WINDOW COMPANY, a
California Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CIVSB2312048
*[Assigned to the Hon. Christian Towns, Dept.
S26, for all purposes]*

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

Plaintiff Clarence Phillips' Motion for Final Approval of the Settlement (the "Final Approval Motion"), as set forth in the Class Action and PAGA Settlement Agreement ("Settlement Agreement"), came for a hearing in Department S26 of the above-entitled court. The Final Approval Motion was unopposed by Defendant Hardy Window Company ("Defendant").

Having considered the Final Approval Motion, the Settlement Agreement, the Declarations, and all other materials properly before the Court and having conducted an inquiry

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1 pursuant to California Rules of Court, rule 3.769(g), the Court finds that the Settlement
2 Agreement was entered by all parties in good faith, and the Settlement Agreement is approved.
3 Due and adequate notice having been given to the Class, and the Court having considered the
4 Settlement Agreement, all papers filed and proceedings had herein and all oral and written
5 comments received regarding the proposed settlement, and having reviewed the record in this
6 Action, and good cause appearing,

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

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

10 2. The Court has jurisdiction over the subject matter over this Action, the
11 Plaintiff/Class Representative Clarence Phillips, the Class Members, Aggrieved Employees, and
12 Defendant. The Court finally appoints Plaintiff as Class Representative, and further appoints
13 Brian Mankin and Peter Carlson of Lauby Mankin Lauby LLP as Class Counsel.

14 3. For purposes of effectuating this Order and Judgment, this Court has certified the
15 following class: “All current and former nonexempt employees who were employed by Hardy
16 Window Company in California at any time during the Class Period of December 10, 2019,
17 through August 1, 2024.” The Court deems this definition sufficient for purposes of California
18 Rules of Court, rule 3.765(a).

19 4. As set forth in the Settlement Agreement, Aggrieved Employees includes: “All
20 current and former nonexempt employees who were employed by Hardy Window Company in
21 California at any time during the PAGA Period of May 4, 2022, through August 1, 2024.”

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

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

1 7. The Released Class Claims on behalf of the Participating Class Members
2 includes:

3 All claims that were alleged in the Complaint, or that reasonably
4 could have been alleged based upon the facts stated in the
5 Complaint, including, but not limited to,: (1) failure to pay
6 minimum wages, (2) failure to pay overtime wages, (3) failure to
7 provide meal periods, (4) failure to provide rest breaks, (5) failure
8 to reimburse business expenses, (6) failure to timely pay final
9 wages, (7) failure to provide accurate itemized wage statements,
10 and (8) unfair and unlawful competition. The time period
11 governing the Released Class Claims shall be the Class Period.

12 8. The Released PAGA Claims on behalf of the Aggrieved Employees includes:

13 All claims for civil penalties under the Private Attorneys General
14 Act, Labor Code § 2698 et seq., that Plaintiff alleged against the
15 Released Parties, on behalf of Aggrieved Employees and State of
16 California, based on the facts stated in the Complaint and in
17 Plaintiff's PAGA Notice to the LWDA, including all PAGA claims
18 seeking civil penalties premised upon: (1) failure to pay minimum
19 wages, (2) failure to pay overtime wages, (3) failure to provide
20 meal periods, (4) failure to provide rest breaks, (5) failure to
21 reimburse business expenses, (6) failure to timely pay wages each
22 period, (7) failure to timely pay wages upon separation of
23 employment, (8) failure to provide accurate itemized wage
24 statements, and (9) all other claims for civil penalties recoverable
25 under the Private Attorneys General Act, Labor Code §§ 2698 et
26 seq. based on the facts or claims alleged in the LWDA notice letter
27 and Complaint. The time period governing the Released PAGA
28 Claims shall be any time during the PAGA Period.

1 9. There were no Objections to the Settlement, and one Request for Exclusion.

2 Except for this individual, all Class Members are Participating Class Members, who are entitled
3 to an Individual Class Payment pursuant to the Settlement and this Judgment. Likewise, all
4 Aggrieved Employees are entitled to an Individual PAGA Payment, constituting a pro rata share
5 of PAGA Penalties.

6 10. The Court approves the Settlement, as set forth in the Settlement Agreement and
7 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Settling
8 Parties. The Parties are directed to perform in accordance with the terms set forth in the

1 Settlement Agreement.

2 11. The Parties are to bear their own costs, except as otherwise provided in the
3 Settlement Agreement.

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

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

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 Representative 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 Representative 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 Settlement Amount to be paid under the Settlement Agreement is \$662,500.
6 From this amount, Class Counsel sought a Class Counsel Fee Payment of \$220,833.33, Class
7 Counsel's litigation expenses of \$20,350.16, a Service Payment to Class Representative Plaintiff
8 Clarence Phillips of \$10,000, an Administrator Expenses Payment of \$9,500.00 to Phoenix
9 Settlement Administrators, and \$30,000 to the LWDA for PAGA penalties and \$10,000 to the
10 Aggrieved Employees for PAGA Penalties. Defendant does not oppose these requests. In
11 addition, and concurrently with paying the Settlement Amount, Defendant shall separately pay
12 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, which
13 shall be reported through the Settlement Administrator. The Court finds that the Settlement
14 Amount is fair, reasonable and adequate, and awards the payments set forth below from the
15 Settlement Amount:

16 A) \$220,833.33 to Class Counsel for attorneys fees in light of the benefit
17 obtained on behalf of the Class;

18 B) \$20,350.16 to Class Counsel for litigation costs;

19 C) \$10,000 to Class Representative Clarence Phillips as a Service Award;

20 D) \$9,500.00 to the Settlement Administrator, Phoenix Settlement
21 Administrators;

22 E) \$30,000 to the LWDA;

23 F) \$10,000 to the Aggrieved Employees on a pro rata basis;

24 G) After deducting the foregoing payments from the Settlement Amount, the
25 remainder shall form the Net Settlement Amount payable to the Participating Class
26 Members as set forth in the Settlement Agreement and as calculated by the Settlement
27 Administrator.
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1 16. The Settlement Administrator is directed to calculate the Participating Class
2 Member's Individual Class Payments and the Aggrieved Employees' Individual PAGA
3 Payments and issue all payments in accordance with the Settlement Agreement and this
4 Order/Judgment.

5 17. Concurrently with mailing the settlement checks to the Participating Class
6 Members and Aggrieved Employees, the Settlement Administrator shall include a Notice of
7 Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the
8 check for the Participating Class Members, noting the following: "Please be advised that on
9 [insert date], the Superior Court of California for the County of San Bernardino entered
10 Judgment in the case entitled *Phillips v. Hardy Window Company*, pending in Superior Court of
11 the State of California, County of San Bernardino, Case No. CIVSB2312048, on behalf of all
12 current and former nonexempt employees who were employed by Hardy Window Company in
13 California at any time during the Class Period of December 10, 2019, through August 1, 2024."

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

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

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December 16, 2024	The Final Order is entered and the Effective Date occurs.
January 15, 2025	Defendant shall wire the Settlement Amount, plus their share of payroll taxes, to the Settlement Administrator.
January 27, 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 Costs.
180 days after payment is issued (approximately July 26, 2025)	Deadline for Participating Class Members and Aggrieved Employees to cash checks.
15 days before Hearing re Disbursement	Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including any uncashed checks and status of the process of forwarding unclaimed funds to the State Controller.
Date: <u>10/8/</u> , 2025 Time: <u>8:30 am</u>	Hearing re: status of disbursements. <u>5:26</u>

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 Representative, the Class Members, Aggrieved Employees, 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.

Dated: 12/16/2024

C. Towns
HON. CHRISTIAN TOWNS

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