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7 **Joel Zelaya and Demetrio Montes**

FILED
Superior Court of California
County of Los Angeles
09/01/2023

David W. Slayton, Executive Officer / Clerk of Court
By: _____ A. He _____ Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

11 JOEL ZELAYA, an Individual;
12 DEMETRIO MONTES, an Individual;

13 Plaintiffs,

14 vs.

15 COMMERCIAL LUMBER & PALLET
CO., INC., a California Corporation;
16 RAYMOND GUTIERREZ, an Individual;
and DOES 1 through 100, inclusive,

17 Defendants.

CASE NO.: 22PSCV00340

~~Related~~ Case: 22STCV03643

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Reassigned for all purposes to Hon. Stuart M. Rice,
Dept. 1

**~~REVISED [PROPOSED]~~ ORDER GRANTING
PLAINTIFFS' MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

DATE: September 1, 2023

TIME: 10.30 a.m.

DEPT: 1 (Spring Street)

Complaint filed: 04/06/2022

Trial Date: Not yet set

Electronically Received 08/25/2023 03:20 PM

1 Plaintiff Joel Zelaya, Plaintiff Demetrio Montes and Plaintiff Pedro Negrete (hereinafter
2 “Plaintiffs”) motion for an Order Preliminarily Approving a Class Action Settlement and setting a
3 Final Approval Settlement Fairness Hearing was heard by the court on August 18, 2012. The Court
4 has considered the Joint Stipulation of Settlement (hereinafter the “Stipulation”) and all other
5 papers filed in this action.

6 **NOW THEREFORE, IT IS HEREBY ORDERED:**

7 1. All defined terms contained herein shall have the same meanings as set forth in the
8 Stipulation.

9 2. The Class Representatives and Defendants, through their counsel of record in the
10 Litigation, have reached an agreement to settle all claims in the Litigation on behalf of the Class
11 as a whole.

12 3. The Court hereby conditionally certifies the following Class for settlement
13 purposes only: Plaintiffs and all current and former hourly non-exempt employees of Defendants
14 within California at any time during the period from January 17, 2018 through the date that a
15 preliminary approval order is entered.

16 4. Should for whatever reason the Stipulation and Judgment not become Final, the
17 fact that the parties were willing to stipulate to certification of a class as part of the Stipulation
18 shall have no bearing on or be admissible in connection with the issue of whether a class should
19 be certified in a non-settlement context.

20 5. The Court appoints and designates: (a) Plaintiff Joel Zelaya, Plaintiff Demetrio
21 Montes and Plaintiff Pedro Negrete as the Class Representatives and (b) Gregory P. Wong and
22 Heather K. Cox of the Barkhordarian Law Firm PLC, and Justin F. Marquez, Esq., Christina M.
23 Le, Esq. and Zachary D. Greenberg, Esq. of Wilshire Law Firm as Class Counsel for the Class.
24 Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents required
25 by, or which may be given, pursuant to the Stipulation, and such other acts reasonably necessary
26 to finalize the Stipulation and its terms. Any Class Member may enter an appearance through his
27 or her own counsel at such Class Member’s own expense. Any Class Member who does not enter
28 an appearance or appear on his or her own behalf will be represented by Class Counsel.

1 6. The Court hereby approves the terms and conditions provided for in the Stipulation.

2 7. The Court hereby preliminarily approves the Stipulation and the Gross Settlement
3 Sum in the amount of \$756,465.00, which is to be distributed as follows: Out of the Gross
4 Settlement Sum: (a) although each Class Representative has requested \$10,000.00 for their
5 services to the Class (\$30,000.00 total), the Court is inclined to award a maximum of \$7,500.00
6 for each Class Representative (\$22,500.00 total) at the time of final approval; (b) while Plaintiffs’
7 counsel seek as award of a total of \$267,912.75 or up to 35% of the Maximum Settlement Amount
8 to be paid to Class Counsel for attorneys’ fees, the Court has indicated an award of one third of
9 the Gross Settlement Sum or \$252,155.00 will be awarded and reasonable costs shall be paid to
10 Class Counsel as reimbursement of actual costs incurred, not to exceed \$40,000.00; (c) the Claims
11 Administrator shall be paid for its fees and costs relating to the claims administration process
12 which is expected to not exceed \$15,000.00; and (d) a Private Attorney General Action (“PAGA”)
13 payment in the amount of \$50,000.00, from which 75% will be paid to the Labor Workforce
14 Development Agency (with the remaining 25% to “aggrieved employees”). The Court further
15 hereby preliminarily approves the formulas provided in the Stipulation regarding Individual
16 Settlement Amounts.

17 8. The Court finds that on a preliminary basis the Stipulation appears to be within the
18 range of reasonableness of a settlement, including the Class Representatives service awards, the
19 PAGA payment; Class Counsel fees and costs, the claims administration fees and the allocation of
20 individual settlement payments, that could ultimately be given final approval by this Court. It
21 appears to the Court on a preliminary basis that the settlement is fair, adequate, and reasonable as
22 to all potential Class Members when balanced against the probable outcome of further litigation
23 relating to liability and damages issues. It also appears that extensive and costly investigation,
24 research, and court proceedings have been conducted so that counsel for the Settling Parties are
25 able to reasonably evaluate their respective positions. It appears to the Court that settlement at this
26 time will avoid substantial additional costs by all Settling Parties, as well as avoid the delay and
27 risks that would be presented by the further prosecution of the Litigation. It also appears that
28 settlement has been reached as a result of intensive, serious, and non-collusive, arms-length

1 negotiations.

2 9. A hearing (the “Settlement Fairness Hearing”) shall be held before this Court on
3 ~~at 10:00 AM~~ at ~~10:00 AM~~ in Department 1 of the above listed Superior Court of the State of
4 California, County of Los Angeles to determine all necessary matters concerning the Stipulation,
5 including whether the proposed settlement of the action on the terms and conditions provided for
6 in the Stipulation is fair, adequate, and reasonable and should be finally approved by the Court and
7 whether a Judgment, as provided in the Stipulation, should be entered herein. At this same time,
8 a hearing on Class Counsel’s motion for attorneys’ fees and reimbursement of litigation costs and
9 the Class Representative’s service award shall also be held.

10 10. The Court hereby approves, as to form and content, the Notice of Proposed Class
11 Action Settlement to be sent to Class Members, which is attached as an exhibit to the Stipulation.
12 The Court finds that distribution of the Class Notice to Class Members substantially in the manner
13 and form set forth in the Stipulation and this Order meet the requirements of due process and shall
14 constitute due and sufficient notice to all parties entitled thereto.

15 11. The Court appoints and designates CPT Group, Inc. as the Claims Administrator.
16 The Court hereby directs the Claims Administrator to provide the approved Notice of Proposed
17 Class Action Settlement to Class Members using the procedures set forth in the Stipulation.

18 12. Any Class Member may choose to opt out of and be excluded from the settlement
19 (except as to the PAGA payment) as provided in the Stipulation and Class Notice and by following
20 the instructions for requesting exclusion. Any person who timely and properly opts out of the
21 settlement will not be bound by the Stipulation except as to the PAGA settlement or have any right
22 to object, appeal, or comment thereon. Any Opt-Out request must be signed by each such Class
23 Member opting out and must otherwise comply with the requirements delineated in the Class
24 Notice. Class Members who have not requested exclusion by submitting a valid and timely Opt-
25 Out request, by the Opt-Out Deadline, shall be bound by all determinations of the Court, the
26 Stipulation, and Judgment.

27 13. Any Class Member may object to the Stipulation or express his or her views
28 regarding the Stipulation and may present evidence and file briefs or other papers that may be

1 proper and relevant to the issues to be heard and determined by the Court as provided in the Class
2 Notice. No Class Member, however, shall be heard or entitled to object, and no papers or briefs
3 submitted by any such person shall be received or considered by the Court, unless on or before the
4 Objection Deadline the Class Member or Person or his or her counsel properly filed their
5 objections with the Court and served their objections on Class Counsel and Defense Counsel as
6 provided in the Stipulation and Class Notice. Any Class Member who does not make his or her
7 objection in the manner provided for in the Stipulation and Class Notice, including by the
8 Objection Deadline, shall be deemed to have waived such objection and shall forever be foreclosed
9 from making any objection to the Stipulation.

10 14. The Motion for Final Approval shall be filed by the Class Representatives no later
11 than sixteen (16) court days before the Settlement Fairness Hearing.

12 15. In the event that the Effective Date occurs, all Settlement Class Members and Class
13 Representative will be deemed to have forever released and discharged the Released Claims
14 applicable to them.

15 16. The Court reserves the right to adjourn or continue the date of the Settlement
16 Fairness Hearing and all dates provided for in the Stipulation without further notice to the Class
17 and retains jurisdiction to consider all further applications arising out of or connected with the
18 Stipulation.

19 **IT IS SO ORDERED.**



20 *Stuart M. Rice*

21 DATED: 07/14/2014

22 Stuart M. Rice / Judge

23 The Honorable Stuart M. Rice
24 Judge of the Superior Court