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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF CONTRA COSTA**

13 EFREN GONZALEZ, individually, and on  
14 behalf of other members of the general public  
similarly situated; JASON HARTMAN,  
15 individually, and on behalf of other members  
of the general public similarly situated,  
16  
17 Plaintiffs,

18 vs.

19 TRIMON, INC., a California corporation;  
MONUMENT CAR PARTS SUPERIOR  
20 AUTO PARTS WAREHOUSE, a California  
corporation; and DOES 1 through 100,  
inclusive,  
21  
22 Defendants.

**FILED**  
NOV 01 2022  
CLERK OF THE COURT  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF CONTRA COSTA  
By: *[Signature]*  
A. Stewart, Deputy Clerk

Case No.: MSC20-00023

Honorable Edward Weil  
Department 39

**CLASS ACTION**

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

Preliminary Approval Hearing:  
Date: September 15, 2022  
Time: 9:00 a.m.  
Crtrm: Dept. 39

Complaint Filed: January 8, 2020  
Jury Trial Date: None Set

1           **WHEREAS**, this matter came on for hearing on September 15, 2022, at 9:00 a.m., before  
2 the Honorable Edward G. Weil in Department 39 of the Contra Costa County Superior Court of  
3 California, located at the Wakefield Taylor Courthouse, 725 Court Street, Martinez, California  
4 94553, upon application of Plaintiffs Efen Gonzalez and Jason Hartman (collectively,  
5 “Plaintiffs”) for preliminary approval of the proposed Stipulation of Class Action Settlement  
6 (“Settlement Agreement”), attached as Exhibit “1” to the Declaration of Jennifer L. Connor filed  
7 concurrently with the Motion, along with the Amendment to Stipulation of Class Action  
8 Settlement (“Amendment to Settlement Agreement”), attached at Exhibit “1” to the  
9 Supplemental Declaration of Jennifer L. Connor filed on September 22, 2022, and having  
10 considered Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement,  
11 memorandum of points and authorities in support thereof, and supporting declarations and  
12 exhibits filed therewith;

13           **WHEREAS**, consistent with the Order After Hearing signed by the Court and filed on  
14 October 5, 2022, and good cause appearing, the Court makes the following findings:

15                           **A.     Background and Settlement Terms**

16           The original complaint was filed January 8, 2020. It is a class action complaint  
17 alleging that defendant violated the Labor Code by failing to provide required overtime and  
18 minimum wages, meal and rest periods, proper wage statements, and reimbursement of  
19 employee business expenses. The case does not include a claim under PAGA.

20           The settlement would create a gross settlement fund of \$400,000. The class  
21 representative payment would be \$7,500 each, totaling \$15,000. Counsel’s attorney’s fees  
22 would be \$140,000 (35% of the settlement). Litigation costs would not exceed \$22,000. The  
23 settlement administrator (CPT Group, Inc.) would cap its costs at \$20,000. Thus, the net  
24 settlement amount available to the class would be \$203,000. The fund is non-reversionary.  
25 The gross settlement would be paid in two installments of \$200,000: one within five days of  
26 preliminary approval of the settlement, a second one year later. (Par. 40.) The Settlement  
27 provides procedures and remedies in the event of a default in payment. (Par. 50(a), (d).)

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1 Class members will release all claims that were alleged in the complaint “or that  
2 could have been asserted based on the facts, circumstances, transactions, occurrences, acts,  
3 omissions, or failures to act alleged by Plaintiffs in the operative complaint” (Par. 29, 38.)  
4 The named plaintiffs agree to a broader release.

5 The class would consist of current or formerly hourly-paid employees who worked for  
6 Defendant within California during the Class Period (January 8, 2016 to November 24, 2021).  
7 Funds would be apportioned among the class based on their number of work weeks during the  
8 Class Period. Notice to the class would be provided, which would include the number of work  
9 weeks. The class members will not be required to file a claim. Class members may object or  
10 opt out of the settlement. They may dispute their number of work weeks. Various prescribed  
11 follow-up steps will be taken with respect to mail that is returned as undeliverable.

12 As initially drafted, the settlement required that distributions begin before final  
13 approval. This was inadvertent, and in the supplemental submission, the terms have been  
14 modified accordingly.

15 Uncashed checks would be cancelled and sent to the State Controller’s Unclaimed  
16 Property Fund. Based on the supplemental submission, the settlement provides that if a first  
17 check is not cashed or returned as undeliverable, a skip trace will be run, but if no address can be  
18 located, that share will revert to the net settlement fund.

19 Based on the estimated class size (384), the average net settlement share is about \$528.

20 Substantial formal discovery was undertaken, and the matter settled after a session with  
21 an experienced mediator, followed by substantial further discussions with the mediator over the  
22 course of several months. Plaintiffs’ counsel estimates that the settlement reflects to 26% of the  
23 “maximum-to-realistic” recoverable damages. This estimate is based on a more detailed analysis  
24 of the facts and circumstances concerning each category of alleged violations, *i.e.*, meal and rest  
25 period violations, unreimbursed expenses, waiting time violations, and wage statement  
26 violations.

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**B. Legal Standards**

The primary determination to be made is whether the proposed settlement is “fair, reasonable, and adequate,” under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction...to the proposed settlement.”

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “[t]he court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that Neary does not always apply, because “[w]here the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

Under recent appellate authority, the limitation to those claims with the “same factual predicate” as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 [“A court cannot release claims that are outside the scope of the allegations of the complaint.” “Put another way, a release of claims that go beyond the scope of the allegations in the operative complaint is impermissible.” (*Id.*, quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

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1 C. Attorney Fees

2 Plaintiffs seek 35% of the total settlement amount as fees, relying on the “common  
3 fund” theory. Even a proper common fund-based fee award, however, should be reviewed  
4 through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480,  
5 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine  
6 whether the percentage allocated is reasonable. It stated: “If the multiplier calculated by  
7 means of a lodestar cross-check is extraordinarily high or low, the trial court should consider  
8 whether the percentage used should be adjusted so as to bring the imputed multiplier within  
9 a justifiable range, but the court is not necessarily required to make such an adjustment.”  
10 (*id.*, at 505.) Following typical practice, however, the fee award will not be considered at  
11 this time, but only as part of final approval.

12 Similarly, litigation costs and the requested representative payment of \$7,500 each  
13 would be reviewed at time of final approval. Criteria for evaluation of such requests are  
14 discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-807.

15 D. Discussion

16 Counsel have addressed the Court’s previous concerns, and the settlement meets the  
17 criteria for preliminary approval.

18 E. Conclusion

19 The motion is granted. Except for the hearing date for the motion for final approval  
20 provided by the Department clerk, other dates in the scheduled notice process should track  
21 as appropriate to the hearing date. The ultimate judgment must provide for a compliance  
22 hearing after the settlement has been completely implemented. Plaintiffs’ counsel are to  
23 submit a compliance statement one week before the compliance hearing date. Five percent  
24 (5%) of the attorney’s fees are to be withheld by the claims administrator pending  
25 satisfactory compliance as found by the Court. As a result of the foregoing,

26 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

27 1. The Court preliminarily and conditionally certifies the following Class for  
28 purposes of settlement which is comprised of: “All current and former hourly-paid or non-

1 exempt employees who worked for Defendant Trimon, Inc., doing business as Monument Car  
2 Parts and Superior Auto Parts Warehouse, within the State of California at any time during the  
3 Class Period and who reside in California” (Settlement Agreement ¶ 4). Further, the “Class  
4 Period” is defined as the period beginning on January 08, 2016 and ending on November 24,  
5 2021 (Settlement Agreement ¶ 7.) Settlement Class Members include all those who do not  
6 properly and timely opt out/request exclusion from the Settlement;

7 2. The Court preliminarily approves the Gross Settlement Amount of \$400,000;

8 3. The Court preliminarily approves named Plaintiffs, Efren Gonzalez and Jason  
9 Hartman, as Class Representative for the purposes of settlement;

10 4. The Court preliminarily appoints Lawyers *for* Justice, PC and CounselOne, PC as  
11 Class Counsel for purposes of settlement;

12 5. The Court preliminarily approves the application for payment to Class Counsel of  
13 reasonable attorneys’ fees of up to 35% of the Gross Settlement Amount (*i.e.*, \$140,000) and  
14 reasonable costs in an amount not to exceed \$22,000;

15 6. The Court preliminarily approves the payment to each named Plaintiff/Class  
16 Representative, Efren Gonzalez and Jason Hartman, in the amount of \$7,500 - thus, \$15,000 in  
17 the aggregate - as an enhancement payment; and

18 7. The Court preliminarily approves the settlement administration services to be  
19 provided by CPT Group, Inc., and the costs of distribution of notice and settlement  
20 administration estimated at \$20,000;

21 8. The Court preliminarily approves as to form and content the Notice of Proposed  
22 Class Action Settlement and Hearing Date for Court Approval (“Class Notice”), which is  
23 attached at internal exhibit “1” to the Settlement Agreement, attached to the Declaration of  
24 Jennifer L. Connor, which also includes individualized estimates of settlement payments, to be  
25 sent to Class Members;

26 9. The Court directs Defendant to fund the first installment of the Gross Settlement  
27 Amount to the Settlement Administrator no later than five (5) calendar days after entry of the  
28

1 Order granting preliminary approval, in accord with paragraph 50(a) of the Settlement  
2 Agreement;

3 10. The Court directs Defendant to provide, no later than ten (10) calendar days after  
4 entry of the Order granting preliminary approval, to the Settlement Administrator the following  
5 information about each Class Member ("Class List"): (1) Class Member's full name; (2) last  
6 known mailing address; (3) last known telephone number; (4) social security number; and (5)  
7 start and end dates of employment; and (6) number work weeks worked in an hourly-paid or  
8 non-exempt position in California during the Class Period;

9 11. The Court further directs that within fifteen (15) calendar days after entry of the  
10 Order granting preliminary approval, the Settlement Administrator will mail via regular First-  
11 Class U.S. Mail the Class Notice to all Class Members;

12 12. The Court orders that any and all submissions of Opt-Outs/Requests For  
13 Exclusion, Objections, Workweek disputes, and/or notices of intent to appear at the Final  
14 Approval Hearing be postmarked, and, where applicable, filed with the Court and served on  
15 counsel for the Parties, no later than forty-five (45) days after the date of mailing of the Class  
16 Notice; and

17 13. A Final Approval Hearing on the question of whether the proposed class  
18 settlement should be finally approved as fair, reasonable, and adequate as to the members of the  
19 proposed settlement class is hereby scheduled in this Department 39 for February 23, 2023 at  
20 9:00 a.m.

21 **IT IS SO ORDERED.**

22  
23 Dated: OCT 31 2022

24   
25 HON. EDWARD G. WEIL  
26 Judge of the Superior Court  
27  
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 9301 Wilshire Boulevard, Suite 650, Beverly Hills, California 90210.

On October 28, 2022, I served the document(s) described as **[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the entities and/or individuals listed below.

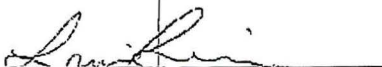
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Oakland, California 94612-3520

(BY MAIL) I am "readily familiar" with the firm's practice for collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Beverly Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY ELECTRONIC SERVICE) Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons listed above through One Legal. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on October 28, 2022, in Los Angeles, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
Lanie Lim