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6/13/2023
Superior Court of California
County of Stanislaus
Clerk of the Court
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Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF COUNTY OF STANISLAUS

SCOTT KLIMEK, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

KINGSPAN INSULATED PANELS, INC., a
Florida Corporation; and DOES 1 through 20,
inclusive;

Defendant.

Case No.: CV-21-004201
*[Assigned to Hon. John D. Freeland, Dept 23,
for all purposes]*

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

Complaint Filed: August 5, 2021

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 (“Settlement Agreement”) came for a
3 hearing in Department 23 of the above-entitled court. The Final Approval Motion was
4 unopposed by Defendant Kingspan Insulated Panels, Inc.

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, the Class
17 Representative, the Class Members, and Defendant.

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

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

25 5. The Released Class Claims on behalf of the Participating Class Members
26 included:

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1 a. all claims that were or could have been alleged based upon the facts pled in
2 the operative complaint and arising during the Class Period, including without
3 limitation: (a) failure to pay minimum and regular wages, (b) failure to pay
4 overtime and double time wages, (c) failure to provide meal periods, (d)
5 failure to provide rest breaks, (e) failure to pay vested vacation, (f) failure to
6 timely pay wages each period and upon separation of employment, (g) failure
7 to provide accurate itemized wage statements, (h) unfair and unlawful
8 competition, and (i) all other claims for statutory penalties, damages,
9 injunctive relief, declaratory relief, and/or restitution based on the facts or
10 claims alleged in the operative complaint (the “Released Class Claims”). The
11 time period governing the Released Class Claims shall be the same as the
12 Class Period. As to the Temporary Employees, the Released Class Claims
13 shall only release claims relative to work performed at the Kingspan Facility
14 or otherwise for the benefit of Kingspan.

15 6. The Released PAGA Claims on behalf of the Aggrieved Employees included.

16 a. all claims for civil penalties under the California Labor Code Private
17 Attorneys General Act of 2004, Labor Code § 2698 *et seq.*, that Plaintiff
18 alleged against the Released Parties, on behalf of Aggrieved Employees and
19 State of California, based on the facts stated in the Complaint and in
20 Plaintiff’s Notice Letter to the LWDA, including: (a) failure to pay minimum
21 and regular wages, (b) failure to pay overtime and double time wages, (c)
22 failure to provide meal periods, (d) failure to provide rest breaks, (e) failure to
23 pay vested vacation, (f) failure to failure to timely pay wages each period and
24 upon separation of employment, (g) failure to provide accurate itemized wage
25 statements, and (h) all other claims for civil penalties recoverable under the
26 California Labor Code Private Attorneys General Act of 2004, Labor Code §§
27 2698 *et seq.* based on the facts or claims alleged in the operative complaint.
28 These claims include, but are not limited to, California Labor Code sections

1 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510,
2 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199 and all related
3 provisions of the California Code of Regulations, and the California Industrial
4 Wage Orders (the “Released PAGA Claims”).

5 7. There were no Objections and no Requests for Exclusion to the Settlement. Thus,
6 all Class Members are Participating Class Members, who are entitled to an Individual Settlement
7 Payment pursuant to the Settlement and this Judgment. Likewise, all Aggrieved Employees
8 (including the one opt-out) are entitled to an individual PAGA payment, constituting a pro rata
9 share of PAGA Penalties.

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

14 9. The Parties are to bear their own costs, except as otherwise provided in the
15 Settlement Agreement.

16 10. For purposes of effectuating this Order and Judgment, this Court has certified the
17 following class: “all current and former non-exempt employees who worked at a Kingspan
18 Facility in California at any time during the Class Period of August 5, 2017, through October 1,
19 2022, including Direct Hires of Kingspan and Temporary Employees.” The Court deems this
20 definition sufficient for purposes of California Rules of Court, rule 3.765(a).

21 11. With respect to the Class and for purposes of approving this Settlement, this Court
22 finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that
23 joinder of all members is impracticable; (b) there are questions of law or fact common to the
24 Class Members, and there is a well-defined community of interest among the Class Members
25 with respect to the subject matter of the Action; (c) the claims of the Class Representative are
26 typical of the claims of the Class Members; (d) the Class Representative has fairly and
27 adequately protected the interests of the Class Members; (e) a class action is superior to other
28 available methods for an efficient adjudication of this controversy; and (f) the counsel of record

1 for the Class Representative, i.e., Class Counsel, are qualified to serve as counsel for the Plaintiff
2 in his individual and representative capacity and for the Class.

3 12. By this Judgment, the Class Representative shall release, relinquish, and
4 discharge, and each of the Participating Class Members shall be deemed to have, and by
5 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
6 discharged all Released Class Claims, as defined in the Settlement Agreement.

7 13. Neither the Settlement Agreement nor the Settlement contained therein, nor any
8 act performed or document executed pursuant to or in furtherance of the Settlement Agreement
9 or the Settlement (i) is or may be deemed to be or may be used by the Class Representative or
10 Participating Class Members as an admission of, or evidence of, the validity of any of the
11 Released Class Claims, or of any wrongdoing or liability of Defendant or any of the other
12 Released Parties; or (ii) is or may be deemed to be or may be used by any of the Class
13 Representative or Participating Class Members as an admission of, or evidence of, any fault or
14 omission of Defendant or any of the other Released Parties in any civil, criminal, or
15 administrative proceeding in any court, administrative agency, or other tribunal. Defendant or
16 any of the other Released Parties may file the Settlement Agreement and/or the Judgment from
17 this Action in any other action that may be brought against it or them in order to support a
18 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good
19 faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion
20 or similar defense or counterclaim.

21 14. The Gross Settlement Amount to be paid under the Settlement Agreement is
22 \$876,036. From this amount, Class Counsel sought a Class Counsel Fee Payment of \$292,012,
23 Class Counsel Litigation Expenses of \$14,245.99, a Service Payment for Class Representative
24 Scott Klimek of \$10,000, Settlement Administration Costs of \$18,250 to CPT Group, and
25 \$37,750 to the LWDA for PAGA penalties and \$12,250 to the Aggrieved Employees for PAGA
26 Penalties. Defendant does not oppose these requests. In addition, and concurrently with paying
27 the Settlement Amount, Defendant shall separately pay all employer payroll taxes owed on the
28 wage portion of the Individual Settlement Payments, which shall be reported through the

1 Settlement Administrator. The Court finds that the Settlement Amount is fair, reasonable and
2 adequate, and awards the payments set forth below from the Settlement Amount:

3 A) \$292,012 to Class Counsel for Class Counsel Fee Payment in light of the
4 benefit obtained on behalf of the Class, which shall be divided equally between Lauby
5 Mankin Lauby LLP and Bokhour Law Group;

6 B) \$14,245.99 to Class Counsel for the Class Counsel Litigation Expenses,
7 which shall be allocated as \$8,112.69 to Lauby Mankin Lauby LLP and \$6,133.30 to
8 Bokhour Law Group;

9 C) \$10,000 to Class Representative Scott Klimek as a Service Payment;

10 D) \$18,250 to the Settlement Administrator, CPT Group;

11 E) \$37,750 to the LWDA;

12 F) \$12,250 to the Aggrieved Employees on a pro rata basis;

13 G) After deducting the foregoing payments from the Gross Settlement
14 Amount, the remainder shall form the Net Settlement Amount payable to the
15 Participating Class Members as set forth in the Settlement Agreement and as calculated
16 by the Settlement Administrator.

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

21 16. Concurrently with mailing the settlement checks to the Participating Class
22 Members and Aggrieved Employees, the Settlement Administrator shall include a Notice of
23 Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the
24 check for the Participating Class Members, noting the following: "Please be advised that on
25 [*insert date*], 2023, the Superior Court of California for the County of Stanislaus entered
26 Judgment in the case entitled *Klimek v. Kingspan Insulated Panels, Inc.*, pending in Superior
27 Court of the State of California, County of Stanislaus, Case No. CV-21-004201, on behalf of all
28 current and former non-exempt employees who worked at a Kingspan Facility in California at

any time during the Class Period of August 5, 2017, through October 1, 2022, including Direct Hires of Kingspan and Temporary Employees.” In addition, the Court orders that notice of the Court’s order granting final approval and judgment shall be posted on the Settlement Administrator’s website for a period of at least 90 days.

17. 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 Class Member and/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 Class Member.

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

Date this Order is entered	The Effective Date occurs.
Within 30 days of the Effective Date	Defendant shall issue the payment to the Settlement Administrator.
Within 10 days after receipt of Payment	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.
180 days after payment is issued	Deadline for Class Members to cash checks.
March 7, 2024	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.
March 14, 2024	Compliance hearing to confirm full administration of settlement

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

6 IT IS SO ORDERED.

7 Dated: 6/13/2023



HON. JOHN D. FREELAND
JUDGE OF THE SUPERIOR COURT

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1 **PROOF OF SERVICE**
2 **(Pursuant to CCP §§ 1013(a)(1) and 2015.5)**

3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF RIVERSIDE)

6 I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, California 92504.

7 On June 9, 2023, I caused to be served the foregoing document(s) described as follows:

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

10 I declare that I am "readily familiar" with the firm's practice of collection and processing
11 correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary
12 course of business. I am aware that on motion of 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.

13 **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was
14 mailed with postage thereon fully prepaid.

15 **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

16 **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United
17 Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses
prepaid, addressed to the person to be served.

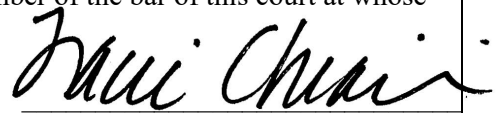
18 **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties
19 to accept service by email or electronic transmission, I caused the document(s) to be sent from
20 email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the
service list. I did not receive, within a reasonable time after the transmission, any electronic
message or other indication that the transmission was not successful.

21 **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully
22 prepaid thereon, to be placed in the United States mail at Riverside, California

23 **By Personal Service** I caused said document(s) to be personally served by hand on the parties
24 listed on the attached service list.

25 **State** I declare under penalty of perjury under the laws of the State of California that the above
is true and correct. Executed on June 9, 2023, Riverside, California.

26 **Federal** I declare that I am employed in the office of a member of the bar of this court at whose
27 direction the service was made.

28 

Tracie Chiarito, Declarant

SERVICE LIST

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