

1 Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com
2 Benjamin H. Haber (SBN 315664)
benjamin@wilshirelawfirm.com
3 Arrash T. Fattahi (SBN 333676)
afattahi@wilshirelawfirm.com
4

5 **WILSHIRE LAW FIRM**
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
6 Telephone (213) 381-9988
7 Facsimile: (213) 381-9989

8 Attorneys for Plaintiff

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Superior Court of California,
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FILED
San Diego Superior Court

MAY 30 2023

Clerk of the Superior Court
By: H. Chavarin, Deputy

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

12 MARTIN ORTIZ, individually, and on behalf of
13 all others similarly situated,

14 *Plaintiff,*

15 v.

16 TARA MATERIALS, INC., a Georgia
17 corporation, and DOES 1 through 10, inclusive,

18 *Defendants.*

Case No.: 37-2021-0001473-CU-OE-CTL

CLASS ACTION

[Assigned to: Hon. Eddie Sturgeon, Dept. C-67]

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

FINAL APPROVAL HEARING

Date: May 26, 2023
Time: 9:00 a.m.
Dept: C-67

1 This matter coming before the Court on Plaintiff Martin Ortiz's ("Plaintiff") Motion for
2 Final Approval of Class Action Settlement (the "Final Approval Motion"), and after review and
3 consideration of the parties' fully-executed Joint Stipulation and Settlement Agreement of Class
4 Action and PAGA Representative Claims (collectively, the "Settlement" or "Settlement
5 Agreement") and the papers in support of the Final Approval Motion, due and adequate notice
6 having been given to the Class, and the Court having reviewed and considered the Settlement,
7 all papers filed, the record, proceedings in the above-entitled action ("Litigation" or "Action"),
8 and all oral and written comments received regarding the Settlement, and good cause appearing
9 therefor,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

11 1. Other than the defined terms set forth in this Order, the Court, for purposes of this
12 Order, adopts all defined terms as set forth in the Settlement filed in this case.

13 2. The Court has jurisdiction over all claims asserted in the Action, Plaintiff, all
14 members of the Settlement Class, and Defendant Tara Materials, Inc. ("Defendant").

15 3. The Court finds that the Settlement appears to have been made and entered into in
16 good faith and hereby approves the settlement subject to the limitations on the requested fees and
17 enhancements as set forth below.

18 4. Plaintiff and all Participating Settlement Class Members shall have, by operation of
19 this Final Order and Judgment, fully, finally, and forever released, relinquished, and discharged
20 Defendant and the Released Parties from all released claims as set forth in the Settlement.

21 5. Plaintiff, the State of California, and all Aggrieved Employees shall have, by
22 operation of this Final Order and Judgment, fully, finally, and forever released, relinquished, and
23 discharged Defendant and the Released Parties from all released PAGA claims as set forth in the
24 Settlement.

25 6. The Parties shall bear their own respective attorneys' fees and costs, except as
26 otherwise provided for in the Settlement and approved by the Court.

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1 7. Solely for purposes of effectuating the settlement, the Court finally certified the
2 following Class: all current and former non-exempt employees who worked for Defendant within
3 the State of California during the Settlement Period.

4 8. The Settlement Period is January 13, 2017 through March 15, 2022.

5 9. The PAGA Period is January 19, 2020 through March 15, 2022.

6 10. No Settlement Class Members have objected to the terms of the Settlement.

7 11. No Settlement Class Members have requested exclusion from the Settlement.

8 12. The Notice provided to the Class conforms with the requirements of California
9 Rules of Court 3.766 and 3.769, and constitutes the best notice practicable under the circumstances,
10 by providing individual notice to all Class Members who could be identified through reasonable
11 effort, and by providing due and adequate notice of the proceedings and of the matters set forth
12 therein to the Class Members. The Notice fully satisfies the requirements of due process.

13 13. The Court finds the Settlement Amount, the Net Settlement Fund, and the
14 methodology used to calculate and pay the individual Settlement Awards to each Participating
15 Settlement Class Member are fair and reasonable and authorizes the Settlement Administrator to
16 pay the individual Settlement Awards to the Participating Settlement Class Members in accordance
17 with the terms of the Stipulation.

18 14. The Court approves the Settlement and finds that it is fair, reasonable, and adequate,
19 and worthy of final approval.

20 15. The Court also finds the PAGA Settlement is fair and reasonable, and that Plaintiff
21 provided notice of the proposed Settlement to the Labor and Workforce Development Agency
22 (LWDA) and will fully and adequately comply with the notice requirements of California Labor
23 Code section 2699(1). The Court hereby approves the PAGA Settlement.

24 16. Defendant shall pay the total of \$140,000.00 to resolve this litigation. No later than
25 thirty (30) calendar days following the Effective Date as defined in the Settlement, Defendant
26 shall deposit this amount into an account established by the Settlement Administrator. Thereafter,
27 compensation to the Participating Settlement Class Members and Aggrieved Employees shall be
28 disbursed pursuant to the terms of the Settlement (i.e., within 15 calendar days of Defendant

1 funding the Settlement Amount).

2 (a) From the Settlement Amount, \$3,750.00 shall be paid to the California Labor
3 and Workforce Development Agency, representing approximately 75% of
4 the penalties awarded under the terms of the Settlement Agreement pursuant
5 to the Labor Code Private Attorneys General Act of 2004, California Labor
6 Code section 2698, *et seq.*

7 (b) From the Settlement Amount, \$2,500.00 shall be paid to the named Plaintiff
8 for his service as class representative.

9 (c) From the Settlement Amount, \$6,500.00 shall be paid to the Settlement
10 Administrator, Phoenix Settlement Administrators.

11 17. Each Participating Settlement Class Member will have 180 calendar days from the
12 date of the mailing of the individual Settlement Award check to cash their check. Uncashed checks
13 will be cancelled by the Settlement Administrator and remitted to the Controller of the State of
14 California pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be
15 held in trust for those Participating Settlement Class Members who did not timely cash their
16 checks, until such time as they claim their property.

17 18. The Court hereby confirms Justin F. Marquez, Benjamin H. Haber, and Arrash T.
18 Fattahi of Wilshire Law Firm, PLC as Class Counsel.

19 19. From the Settlement Amount, Class Counsel is awarded \$46,666.67 for their
20 reasonable attorneys' fees and \$8,473.35 for their reasonable costs incurred in the Action. The fees
21 and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds that
22 the fees are reasonable in light of the benefit provided to the Class.

23 20. Notice of entry of this Final Approval Order and Judgment shall be given to Class
24 Members by posting a copy of the Final Approval Order and Judgment on Phoenix Settlement
25 Administrator's website for a period of at least sixty (60) calendar days after the date of entry of
26 this Final Approval Order and Judgment.

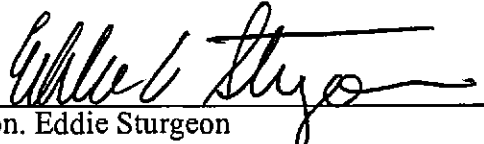
27 21. Without affecting the finality of this Final Judgment in any way, this Court retains
28 continuing jurisdiction over the implementation, interpretation, and enforcement of the Settlement

1 with respect to all Parties to this action, and their counsel of record.

2 22. Plaintiff's Motion for Final Approval of Class Action Settlement is hereby granted
3 and the Court directs that judgment shall be entered in accordance with the terms of this Order.

4 **IT IS SO ORDERED.**

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6 DATE: May 30, 2023

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8 Hon. Eddie Sturgeon
9 Judge of the San Diego County Superior Court
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