

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 9

21STCV22694

RAFAEL GUTIERREZ, et al. vs M. ARGUESO & CO. INC., et al.

July 20, 2023

10:00 AM

Judge: Honorable Yvette M. Palazuelos

Judicial Assistant: R. Arraiga

Courtroom Assistant: M. Tavakoli

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Hearing on Motion for Preliminary Approval of Settlement;

The matter is NOT called for hearing.

The Court's tentative Rulings/Orders was issued and served on the parties via Case Anywhere on 07/17/2023.

The parties submitted to the Court's tentative rulings/orders via the Case Anywhere message board on 07/17/2023.

The Court now adopts its tentative RULINGS/ORDERS RE: MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT as the final order of the court. Said ruling is signed and filed this date and is incorporated into the case file.

The Court's ruling is as follows:

The Plaintiff's Notice of Motion and Motion for Preliminary Approval of Class Action Settlement filed by Rafael Gutierrez on 01/31/2023 is Granted. The motion is GRANTED as the settlement is fair, adequate, and reasonable.

The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$250,000. There is an escalator clause.1

B. The Net Settlement Amount is the GSA minus the following:

Up to \$83,333.33 (33 1/3%) for attorney fees (§II.C);

Up to \$20,000 for litigation costs (Ibid.);

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Up to \$4,500 for settlement administration costs (§II.E.);
Up to \$7,500 for a Service Payment to the Named Plaintiff (§II.J.);
\$15,000 (75% of \$20,000 PAGA penalty) to the LWDA. (§II.R.)

C. Defendants will pay their share of taxes separate from the GSA. (§4.3)

I Forty-five (45) Class Members have worked approximately 6,422 workweeks through May 17, 2022. If the actual number of workweeks worked by Class Members during the Class Period (i.e., through the date of Preliminary Approval or September 6, 2022 – whichever is sooner) grows by more than ten percent (10%), or more than the 7,065 workweeks, then Plaintiff has the option to nullify this Agreement. Plaintiff shall provide ten (10) business days' notice of such intent to nullify prior to taking any action with the court. During this 10-day nullification notice period, Defendant at its exclusive discretion may cure by agreeing to increase the Class Settlement Amount proportionately for any excess increase in the total number of workweeks worked by Class Members during the Class Period. For example, if the total number of workweeks worked by Class Members during the Class Period increases by 11% beyond 6,422 workweeks (i.e., approximately 7,129 workweeks), the Class Settlement Amount will increase by 1% (actual increase minus the 10% tolerated increase). In the alternative, Defendant shall have the exclusive option to modify the applicable Class Period to a date prior to Preliminary Approval to avoid incurring the pro rata increase. (§XII.2.)

D. Plaintiffs release of Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by **01/22/2024**. The parties are ordered to contact the Clerk in Department 9 to obtain a hearing date **PRIOR** to filing their motion.

The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out; and the parties **MUST** email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

If motion **and** [proposed] judgment are **NOT** filed/lodged/emailed and served by said date an Order to Show Cause Re: Sanctions hearing will be set.

A Non-Appearance Case Review Re: Filing and Serving of Motion for Final Approval is scheduled for 01/29/2024 at 08:30 AM in Department 9 at Spring Street Courthouse.

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The Judicial Assistant to give notice to Counsel for Plaintiff who is ordered to give further and formal notice to all parties.

Clerk's Certificate of Service By Electronic Service is attached.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		FILED Superior Court of California County of Los Angeles 07/20/2023 <small>David W. Slayton, Executive Officer / Clerk of Court</small> By: <u> R. Arraiga </u> Deputy
PLAINTIFF: Rafael Gutierrez		
DEFENDANT: M. Argueso & Co. Inc.		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER 21STCV22694

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Minute Order and FINAL RULINGS/ORDERS RE: MOTION FOR PRELIMINARY APPROVAL OF CLASS entered herein, on 07/20/2023, upon each party or counsel of record in the above entitled action, by electronically serving the document(s) on Case Anywhere at www.caseanywhere.com on 07/20/2023 from my place of business, Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012 in accordance with standard court practices.

David W. Slayton, Executive Officer / Clerk of Court

Dated: 07/20/2023

By: R. Arraiga

Deputy Clerk