

**FILED**  
Clerk of the Superior Court

JAN 26 2024

By: E. Reyes, Deputy

~~ELECTRONICALLY RECEIVED  
Superior Court of California,  
County of San Diego  
01/03/2024 at 04:30:47 PM  
Clerk of the Superior Court  
By: Andrea Naranjo, Deputy Clerk~~

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO**

GERARDO DIAZ, on behalf of himself, all  
others similarly situated, and on behalf of the  
general public,

Plaintiff,

v.

CMC AMERICA, LLC; and DOES 1  
through 100,

Defendants.

Case No.: 37-2022-00019716-CU-OE-CTL

~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT

Date: January 26, 2024

Time: 9:00 a.m.

Dept.: C-73

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action Settlement came before this Court,  
3 the Honorable Joel R. Wohlfeil presiding, on January 26, 2024. The Court having considered the  
4 papers submitted in support of the Motion, HEREBY ORDERS THE FOLLOWING:

5 1. The following Class is conditionally certified for purposes of settlement only: All  
6 hourly, non-exempt technicians, repairmen, mechanical technicians, machinery technicians,  
7 machinery repairmen, or similar job designations and titles, and all other similarly situated non-  
8 exempt, hourly employees who worked for Defendant CMC America, LLC from May 24, 2018  
9 through January 17, 2023.

10 2. The Court grants preliminary approval of the Settlement and the Class based upon  
11 the terms set forth in the Settlement Agreement filed herewith. Capitalized terms shall have the  
12 definitions set forth in the Settlement.

13 3. The Settlement appears to be fair, adequate and reasonable to the Class. The  
14 Settlement falls within the range of reasonableness and appears to be presumptively valid,  
15 subject only to any objections that may be raised at the final approval hearing and final approval  
16 by this Court.

17 5. Plaintiff Gerardo Diaz is conditionally approved as the Class Representative for  
18 the Class.

19 6. The proposed Class Representative Enhancement Payment of \$10,000 payable to  
20 the Plaintiff for his services as the class representative is conditionally approved.

21 7. David Mara and Matthew Crawford of Mara Law Firm, PC are conditionally  
22 approved as Class Counsel for the Class.

23 8. The proposed awards of up to \$50,000 in attorneys' fees and up to \$5,000 in  
24 actual costs payable to Class Counsel are conditionally approved.

25 9. A final approval hearing on the question of whether the Settlement, attorneys'  
26 fees and costs to Class Counsel, and the Class Representative Enhancement Payment should be  
27 finally approved as fair, reasonable and adequate as to Class Members is scheduled in  
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1 Department C-73 on the date and time set forth in Paragraph 16 below.

2 10. The Court confirms Apex Class Action LLC ("Apex") as the Settlement  
3 Administrator.

4 11. The proposed payment of no more than \$5,000 in costs to Apex for its services as  
5 the Settlement Administrator is conditionally approved.

6 12. The Court hereby preliminarily approves the allocation of \$5,000 of the Gross  
7 Fund Value Amount to Plaintiff's PAGA claims. Of this amount, 75% will be paid to the Labor  
8 and Workforce Development Agency ("LWDA") and the remaining 25% will be distributed to  
9 the Aggrieved Employees. At the Final Approval Hearing, the Court will determine the  
10 sufficiency of the PAGA payment. If the Court decides to award less than the amounts set forth  
11 by the Parties, then excess amount will become part of the available Net Settlement Amount.

12 13. The Court approves, as to form and content, the Notice in substantially the form  
13 attached as Exhibit A to the Settlement. The Court approves the procedure for Class Members to  
14 participate in, to opt out of, and to object to, the Settlement as set forth in the Notice of  
15 Settlement.

16 14. The Court directs the mailing of the Notice by first class mail to Class Members  
17 in accordance with the implementation schedule set forth in Paragraph 16 below. The Court  
18 finds the dates selected for the mailing and distribution of the Notice, as set forth in the  
19 Implementation Schedule, meet the requirements of due process and provide the best notice  
20 practicable under the circumstances and shall constitute due and sufficient notice to all persons  
21 entitled thereto.

22 15. To facilitate administration of the Settlement pending final approval, the Court  
23 hereby enjoins Plaintiffs and all Class Members from filing or prosecuting any claims, suits or  
24 administrative proceedings (including, but not limited to, filing claims with the Division of  
25 Labor Standards Enforcement of the California Department of Industrial Relations) regarding  
26 claims released by the Settlement unless and until such Class Members have filed valid Requests  
27 for Exclusion with the Settlement Administrator and the time for filing valid Requests for  
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1 Exclusion with the Settlement Administrator has elapsed. This provision shall not apply to  
2 claims not alleged in the Action.

3 16. The Court orders the following **Implementation Schedule** for further  
4 proceedings:

5 a.	Deadline for Defendant to submit Class Data to Settlement Administrator:	[10 business days after entry of the Preliminary Approval Order]
6 b.	Deadline for Settlement Administrator to Mail the Notice to Class Members	[10 business days after receipt of the Class Data]
7 c.	Deadline for Class Members to Postmark Requests for Exclusion Forms	[30 days after mailing of Notice to Class Members]
8 d.	Deadline for Receipt by Court and Counsel of any Objections to the Settlement	[30 days after mailing of Notice to Class Members]
9 e.	Deadline for Class Counsel to file Motion for Final Approval of Settlement	[16 Court days before Final Approval Hearing]
10 f.	Deadline for Class Counsel to file Motion for Attorneys' Fees, Costs and Service Awards	[16 Court days before Final Approval Hearing]
11 g.	Final Approval Hearing and Final Approval	<u>5-23</u> , 2024 <u>6:00 p.m.</u>

22 **IT IS SO ORDERED.**

23 Dated: 1-26, 2024

24 BY [Signature]  
25 Honorable Joel R. Wohlfeil  
26 San Diego Superior Court Judge