

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento
02/09/2024

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10 PATRICK WIRTH

11 **SUPERIOR COURT OF CALIFORNIA**
12
13 **FOR THE COUNTY OF SACRAMENTO**

14 JOE HART, individually and on behalf of all
15 other similarly situated employees,

16 Plaintiff,

17 vs.

18 ALUMINUM COATING TECHNOLOGIES,
19 INC., a California Corporation;
20 BRUCE CENICEROS, an individual;
21 ANDREA CENICEROS, an individual; and
22 DOES 1 to 100, inclusive,

23 Defendants.

Case No. 34-2022-00320564

CLASS ACTION

**DECLARATION OF PATRICK WIRTH IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No. A-320564-001

Date: March 8, 2024

Time: 9:00 a.m.

Dept.: 22

Judge: Hon. Lauri A. Damrell

Filed: May 23, 2022

FAC Filed: July 29, 2022

SAC Filed: June 13, 2023

Trial Date: none set

1 I, Patrick Wirth, declare:

2 1. I am a competent adult, I have personal knowledge of the facts set forth in this
3 declaration, and I am making this declaration on behalf of myself, as a named plaintiff, and in support
4 of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement.

5 2. I worked for Defendants Aluminum Coating Technologies, Inc., Bruce Cenicerros, and
6 Andrea Cenicerros (“Defendants”) in March 2019 as a non-exempt employee. I was subject to
7 Defendants’ policies and practices that have been alleged as unlawful in the Complaint and the notice
8 sent to the Labor and Workforce Development Agency, including the following: failure to pay
9 overtime, failure to pay split shift premiums, failure to provide meal and rest periods or pay premiums
10 in lieu thereof, failure to provide accurate wage statements, failure to timely pay final wages, failure to
11 reimburse expenses, and engaging in unfair competition.

12 3. In March 2023, I received a notice with information about this pending class action case
13 against Defendants. The notice stated that the employee who filed the action was unwilling and unable
14 to continue to serve as the class representative and asked me to fill out a form if I was interested in
15 assisting in the prosecution of the lawsuit by serving as the class representative. The notice also had
16 information about the claims and a class representative’s fiduciary duty and responsibilities. I
17 expressed interest in serving as the class representative because I believed that the lawsuit’s claims had
18 merit and I was willing to participate, provide information and produce documents, give testimony if
19 there was a deposition and/or trial, and assist Shimoda & Rodriguez Law, PC in prosecuting the action
20 for the benefit of all Class Members.

21 4. Since I became a class representative in May 2023, I have actively participated in the
22 litigation of this case for the benefit of all Class Members. My attorneys explained to me the risks and
23 benefits of bringing a class action and a claim under the Private Attorneys General Act (“PAGA”). I
24 understood that pursuing the case as a class and PAGA action meant that it would take substantially
25 longer than pursuing my claims individually, whether in Court or with the California Labor
26 Commissioner, and that I risked getting nothing in the end, but I believed it was important to make sure
27 that Defendants followed the law for everyone. I understood that I took on the risk, both professionally
28 and financially, in pursuing the case as a class and PAGA action rather than pursuing my claims

1 individually, including the risk of having to pay Defendants' costs if we were unsuccessful in bringing
2 our claims.

3 5. During the course of this litigation, I have given detailed accounts of all the facts related
4 to my employment. I searched for any documentation that I believe supported the claims brought
5 against Defendants to provide to my attorneys. I also assisted my attorneys by providing information
6 about Defendants' employment policies and payroll process as it applied to me and how I believed it
7 applied to Defendants' other employees. I worked for Defendants as both a driver and warehouse
8 employee and was familiar with Defendants' policies and practices, so I was able to discuss the
9 similarities of the wage and hour policies and practices among all Class Members.

10 6. I kept in touch with my attorneys and received frequent updates on the status of the case.
11 I also had multiple conversations with my attorneys to go over relevant facts about my employment and
12 answer any questions my attorneys had. I provided substantial information about the way Defendants'
13 tracked employees hours worked, what a typical workday looked like, what policies Defendants'
14 communicated to Class Members, how Defendants communicated policies to Class Members, Class
15 Members' roles and job duties, Defendants' policies and practices regarding lunches and breaks,
16 Defendants' practices regarding work communications with employees on their personal cellphones,
17 Defendants' policies and practices regarding reimbursing expenses, bonuses Defendants paid,
18 Defendants' sick time policies and practices, Defendants' practices regarding paying overtime wages,
19 and Defendants' practices regarding paying final wages. My attorneys kept me informed about the
20 policies, time records, and payroll records produced by Defendants for mediation and their findings
21 after their analysis of the time and pay records. I also answered questions my attorneys had related to
22 the informal information and document exchange to aid in mediation. Overall, I have spent a
23 substantial amount of time assisting in the prosecution of this case.

24 7. I participated in the negotiations and settlement discussions in this case, including
25 participating in mediation by phone speaking with my attorney several times throughout the mediation
26 to answer questions, provide any additional information needed to assist the negotiations, and
27 discussing the potential terms of the Agreement to evaluate its adequacy. Throughout the course of this
28

1 litigation, I have asked questions when I needed clarification about various aspects of this case to make
2 sure there were continually steps taken to advance the interests of Class Members.

3 8. Although I have already spent a substantial amount of time on this case and assisting my
4 attorneys, I expect the amount of time I spend on this case may increase if preliminary approval is
5 granted because Class Members may reach out to me about the Settlement and the process for receiving
6 payment.

7 9. I have not received any benefits as a result of filing this lawsuit. I have, however,
8 experienced substantial burdens as a result of filing the lawsuit that other Class Members were not
9 subject to. For example, in bringing the lawsuit, I assumed the risk of having to pay Defendants' costs
10 if the Court or jury rules against us on the claims. My understanding is that this is a substantial risk
11 because the costs associated with litigation, in general, are very high and this cost is multiplied many
12 times over in complex litigation like class actions. I have spent a substantial amount of time in this
13 case, securing a monetary benefit for many individuals who have not had to do anything whatsoever to
14 have the opportunity to receive it. I have been employed full/part-time during the majority of the time
15 this case has been pending. As a result, the time I have spent on this case has to occur during my lunch
16 and/or breaks times, after hours, and on my days off for the benefit of Class Members. Finally, as part
17 of the Settlement, I am the only individual providing a general release of all my individual claims and
18 waiving the protections of California Civil Code section 1542 for unknown claims. No other Class
19 Member is subject to such a broad release.

20 10. I have reviewed the final Joint Stipulation of Class Action and PAGA Settlement and
21 Release, discussed the terms with my attorney, and asked my attorney any questions I had. I believe
22 the terms of the Settlement and allocations are fair and reasonable given the facts of the case.

23 11. I understand that any Class Representative Enhancement Payment I may receive is for
24 my participation as a Class Representative and it is not contingent on my support or approval of the
25 Agreement.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 2/9/2024 in Ek grove, California.

DocuSigned by:
Patrick Wirtle
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