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8 **SUPERIOR COURT OF CALIFORNIA**
9
10 **FOR THE COUNTY OF SACRAMENTO**

11 JOE HART, individually and on behalf of all
12 other similarly situated employees,

13 Plaintiffs,

14 vs.

15 ALUMINUM COATING TECHNOLOGIES,
16 INC., a California Corporation; BRUCE
17 CENICEROS, an individual; ANDREA
18 CENICEROS, an individual; and DOES 1 to
19 100, inclusive,

20 Defendants.

Case No. 34-2022-00320564

*Assigned for all purposes to Lauri A. Damrell
Department 22*

CLASS ACTION

**PLAINTIFFS' SUPPLEMENTAL
BRIEFING IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: May 24, 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

TAC Filed: August 25, 2023

Trial Date: None Set

1 Pursuant to the Court’s March 8, 2024, Minute Order (“Order”) regarding Plaintiff Clint
2 Davidson’s and Plaintiff Patrick Wirth’s (“Plaintiffs”) Motion for Preliminary Approval of Class
3 Action and PAGA Settlement, Plaintiffs respectfully submit this supplemental briefing to address the
4 issues raised by the Court in its Order.

5 **I. ADDITIONAL INFORMATION REGARDING PLAINTIFFS’ EXPOSURE ANALYSIS**

6 Plaintiffs’ Counsel has submitted a further declaration detailing the additional data points
7 identified in the Court’s Order as well as some further clarifying points to correct calculation errors in
8 the prior submission. *See* Declaration of Justin P. Rodriguez, (“Decl. Rodriguez”), ¶¶ 6-8. The errors
9 and apparent inconsistencies were the result of failing to specifically identify that interest was being
10 included in the percentage valuation and a miscalculation that occurred when calculating and adding
11 the interest to the maximum and more realistic ranges of recovery. *See id.* at ¶ 7 & fn. 1. The corrected
12 numbers confirm the value and reasonableness of the settlement. The gross recovery is 7% of the
13 claims’ maximum value and between 9.8% to 32.6% of the more realistic claim value. *See id.* at ¶¶ 7-
14 8.

15 **II. PAGA RELEASE**

16 Although identified as an issue in the tentative ruling, the Order ultimately did not require any
17 modification to the PAGA release as the factual allegations in LWDA notice and the operative
18 complaint are the same. Thus, no changes were made to the Agreement or the Notice of Settlement
19 with respect to the PAGA release. *See* Decl. Rodriguez, ¶ 5.

20 **III. OBJECTIONS AND CLASS NOTICE**

21 The parties have entered into an Addendum modifying the Agreement and Notice of Settlement
22 with respect to procedures for objections. *See* Decl. Rodriguez, ¶¶ 2-4; Exh. H to Decl. Rodriguez
23 (Addendum To The Joint Stipulation Regarding Class Action And PAGA Settlement and Release).
24 The Addendum clarifies that submitting a written objection is optional and a Class Member may, in the
25 alternative to submitting a written objection, appear at the final approval hearing to state their objection.
26 *See id.* The Notice of Settlement has also been updated to reflect these changes. *See* Exh. H to Decl.
27 Rodriguez, pg. 7 (Section III.C. of Revised Notice of Settlement); Decl. Rodriguez, ¶ 4; Exh. I to Decl
28 Rodriguez (Redlined Copy of Revised Notice of Settlement).

1 **IV. CLASS REPRESENTATIVE ENHANCEMENT AWARD AND WAIVER**
2 **CLARIFICATION**

3 Plaintiffs have provided supplemental declarations attesting to the number of hours spent by
4 each thus far in working with Class Counsel on the tasks described in their initial declarations. Plaintiff
5 Patrick Wirth has spent approximately 32-38 hours on these tasks to date. *See* Supplemental
6 Declaration of Patrick Wirth (“Supp. Decl. Wirth”), ¶ 2. Plaintiff Clint Davidson has spent
7 approximately 30-35 hours on these tasks to date. *See* Supplemental Declaration of Clint Davidson
8 (“Supp. Decl. Davidson”), ¶ 2. Factors to be considered when determining whether, and how much of,
9 an incentive award may be appropriate include “1) the risk to the class representative in commencing
10 suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class
11 representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the
12 litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of
13 the litigation.” *See Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380, 1394–1395 (2010).
14 However, because there are still significant events to occur that can substantially impact the value of
15 the settlement for Class Members, any determination as to the amount of any enhancement to be
16 awarded should be deferred to final approval and the Notice of Settlement should state the potential
17 maximum allocation under the Agreement to provide adequate notice. *See Chavez v. Netflix, Inc.*, 162
18 Cal.App.4th 43, 56 (2008) (noting any changes to a settlement agreement that increase its value to class
19 members do not require additional notice to class members); *see also In re Heritage Bond Litig.*, 2005
20 WL 1594403, *21 (C.D. Cal. 2005) (noting the lack of class member objections to a settlement
21 allocation can be a factor in determining its reasonableness); Decl. Rodriguez, ¶¶ 10-11. The same
22 reasoning that supports deferring any attorney’s fees determination to final approval supports deferring
23 any class representative enhancement determination to final approval.

24 With respect to a general waiver of claims by the Class Representatives, those statements were
25 included in the prior declarations in error. *See* Decl. Rodriguez, ¶ 9; Supp. Decl. Wirth, ¶ 3; Supp.
26 Decl. Davidson, ¶ 3.

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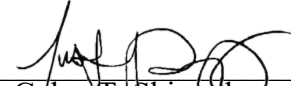
1 **V. CONCLUSION**

2 For the foregoing reasons and those stated in Plaintiffs' Motion for Preliminary Approval of
3 Class Action and PAGA Settlement, Plaintiffs respectfully request the Court grant preliminary approval
4 and signed the amended proposed order, filed concurrently herewith.

5 Dated: April 30, 2024

Shimoda & Rodriguez Law, PC

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7 By: _____


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