

ORIGINAL

FILED
Superior Court of California
County of Los Angeles

JUN 11 2021

Sherri R. Carter, Executive Officer/Clerk of Court
By _____ Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BRANDEN BAGGOT, as an individual and on behalf of all others similarly situated, and as a private attorney general,

Plaintiff,

vs.

FOTO-KEM INDUSTRIES, INC., a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 20STCV31051

[Hon. William F. Highberger]

~~PROPOSED~~ ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

[Filed concurrently with Notice of Motion and Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points and Authorities; Declaration of Larry W. Lee, Declaration of Simon L. Yang; Declaration of William L. Marder; Declaration of Branden Baggot]

Date: June 4, 2021
Time: 1:30 p.m.
Department: 10

Complaint Filed: August 17, 2020

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FILING WINDOW**

1 Plaintiff's motion for an Order Granting Preliminary Approval of Class Action Settlement was
2 filed with the Court on May 12, 2021, and a hearing was held before this Court on June 4, 2021. Simon
3 L. Yang of Diversity Law Group, P.C. appeared on behalf of Plaintiff and the Class, and Evelyn Zarraga
4 of Landegger Verano & Davis, ALC appeared for Defendant.

5 After considering the papers and evidence, arguments of counsel, and all other matters presented
6 to the Court, and having taken the matter under submission, **IT IS HEREBY ORDERED** as follows:

7 1. The Court grants preliminary approval of the Joint Stipulation of Class Action and PAGA
8 Settlement ("Agreement") submitted by Plaintiff and Defendant. The Agreement appears to be fair,
9 adequate, and reasonable to the Class.

10 2. The Class Representative and Defendant (the "Parties"), through their counsel of record,
11 have reached an agreement to settle all claims alleged by Plaintiff on behalf of the Class (as defined
12 below and in the Agreement) and as a proxy for the State of California pursuant to the Labor Code
13 Private Attorneys General Act of 2004 ("PAGA"). The Court hereby conditionally certifies the
14 following Class for settlement purposes only:

15 All persons whom Defendant employed in California as a non-exempt employee who earned
16 shift premium wages in the same workweek he/she took paid time off ("PTO") at any time from
17 April 6, 2016, through January 18, 2021 (the "Class Period") and did not execute a severance
18 agreement at any time during the Class Period.

19 The subset of Class Members employed at any time during the period from April 6, 2019 through
20 January 18, 2021 (the "PAGA Period") and who earned shift premium wages in the same workweek
21 he/she took PTO at any time during the PAGA Period are "PAGA Employees."

22 3. Should for whatever reason the Agreement not be granted final approval, the fact that the
23 Parties were willing to stipulate to certification of a class as part of the Agreement shall have no bearing
24 on the issue of whether a class should be certified in a non-settlement context.

25 4. The Court appoints and designates: (a) Plaintiff, Branden Baggot, as the Class
26 Representative, and (b) Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., and William L.
27 Marder of Polaris Law Group as Class Counsel for the Class. Class Counsel is authorized to act on
28 behalf of the Class with respect to all acts or consents required by, or which may be given, pursuant to
the Agreement, and such other acts reasonably necessary to finalize the Agreement and its terms. Any

1 Class Member may enter an appearance through his or her own counsel at such Class Member's own
2 expense. Any Class Member who does not enter an appearance or appear on his or her own behalf will
3 be represented by Class Counsel.

4 5. The Court hereby approves the terms and conditions provided for in the Agreement. The
5 Court finds that on a preliminary basis the Agreement falls within the range of reasonableness of a
6 settlement and appears to be presumptively valid, subject to any objections that may be raised at the
7 final fairness hearing and subject to final approval by the Court. It appears to the Court on a preliminary
8 basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when
9 balanced against the probable outcome of further litigation relating to liability and damages issues. It
10 also appears that investigation, research, and court proceedings have been conducted so that counsel for
11 the Parties are able to reasonably evaluate their respective positions. It appears to the Court that
12 settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay
13 and risks that would be presented by the further prosecution of the action. It also appears that settlement
14 has been reached as a result of intensive, serious, and non-collusive arms-length negotiations.

15 6. A final fairness hearing on the question of whether the proposed Agreement, the
16 allocation of payments to Settlement Class Members, attorneys' fees and costs to Class Counsel, the
17 payment to the Labor Workforce & Development Agency, and the Class Representative Award should
18 be finally approved as fair, reasonable, and adequate as to the members of the Class is set for

19 Nov. 18, 2021 at Ham in this Court. *File motion by 10/26/2021*

20 7. The Court hereby approves, as to form and content, the Notice of Class Action Settlement
21 ("Class Notice"), which is attached as Exhibit A to the Agreement. The Court finds that distribution of
22 the Class Notice to Class Members substantially in the manner and form set forth in the Agreement and
23 this Order meets the requirements of due process and shall constitute due and sufficient notice to all
24 parties entitled thereto.

25 8. The Court appoints and designates Phoenix Settlement Administrators as the Settlement
26 Administrator. The Court hereby directs the Settlement Administrator to provide the approved Class
27 Notice to Class Members using the procedures set forth in the Agreement.

1 9. Any Class Member may choose to opt out of and be excluded from the settlement as
2 provided in the Agreement and Class Notice and by following the instructions for requesting exclusion.
3 Any person who timely and properly opts out of the settlement will not be bound by the Agreement or
4 have any right to object, appeal, or comment thereon. Any request for exclusion must be in writing and
5 signed by each such Class Member opting out and must otherwise comply with the requirements
6 delineated in the Class Notice. Class Members who have not requested exclusion by submitting a valid
7 and timely request for exclusion shall be bound by all determinations of the Court, the Agreement, and
8 Judgment.

9 10. Any Class Member may object to the Agreement or express his or her views regarding
10 the Agreement. Any Class Member may present evidence and file briefs or other papers relevant to the
11 issues to be heard and determined by the Court as provided in the Class Notice.

12 11. A Motion for Final Approval shall be filed by the Class Representative no later than
13 sixteen (16) court days before the final fairness hearing.

14 12. The Court reserves the right to adjourn or continue the date of the final fairness hearing
15 and all dates provided for in the Agreement without further notice to the Class. The Court retains
16 jurisdiction to consider all further applications arising out of or connected with the Agreement.

17 **IT IS SO ORDERED.**

18 DATED: 6/11, 2021

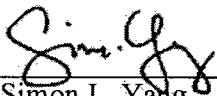

19 _____
20 THE HONORABLE WILLIAM F. HIGHBERGER
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1 Respectfully submitted on May 12, 2021, by:

2 DIVERSITY LAW GROUP, P.C.

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By: 
Simon L. Yang
Attorneys for Plaintiff

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