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**FILED**  
Superior Court of California  
County of Los Angeles

12/19/2022

David W. Slayton, Executive Officer / Clerk of Court

By:                     R. Aspiras                     Deputy

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

EDGAR MACABULIT, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

vs.

DMC POWER, INC., a Delaware corporation;  
and DOES 1 through 100,

Defendants

Lead Case No. 20STCV32034 (Related to  
20STCV05459)

[Assigned for all purposes to the  
Hon. William F. Highberger, Dept. SSC-10]

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND FINAL JUDGMENT**

Date: December 19, 2022

Time: 11:00 a.m.

Dept: SSC-10

Complaint Filed: August 20, 2020

Trial Date: None set.

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1 This matter came on regularly for hearing before this Court on December 19, 2022 at  
2 11:00 a.m., pursuant to California Rule of Court 3.769 and this Court’s earlier Order Granting  
3 Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”). Having  
4 considered the parties’ Stipulation of Settlement (“Settlement Agreement”)<sup>1</sup> and the documents  
5 and evidence presented in support thereof, and recognizing the sharply disputed factual and legal  
6 issues involved in this case, the risks of further prosecution and the substantial benefits to be  
7 received by the Settlement Class pursuant to the Settlement, the Court hereby makes a final ruling  
8 that the proposed Settlement is fair, reasonable, and adequate, and is the product of good faith,  
9 arm’s-length negotiations between the parties. Good cause appearing therefor, the Court hereby  
10 GRANTS Plaintiffs’ Motion for Final Approval of Class Action Settlement and ORDERS as  
11 follows:

12 1. Final judgment is hereby entered in conformity with the Settlement Agreement  
13 and this Final Approval Order.

14 2. The conditional class certification contained in the Preliminary Approval Order is  
15 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement  
16 Class consisting of:

17 All current and former non-exempt employees employed by Defendant  
18 DMC Power, Inc. in California from February 10, 2016 until August 1, 2022  
19 (the “Class Period”).

20 3. Plaintiffs Edgar Macabulit and San Antonio Brock are hereby confirmed as the  
21 Class Representatives, and Paul K. Haines, Sean M. Blakely, and Neil M. Larsen of Haines Law  
22 Group, APC, Raymond P. Boucher and Alexander Gamez of Boucher LLP, and Sahag Majarian  
23 II of the Law Offices of Sahag Majarian II are hereby confirmed as Class Counsel.

24 4. Notice was provided to the Settlement Class as set forth in the Settlement, which  
25 was preliminarily approved by the Court on August 1, 2022, and the notice process has been  
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28 <sup>1</sup> All terms used in this Order and Final Judgment shall have the same meaning as that assigned  
to them in the Settlement Agreement.

1 completed in conformity with the Court's Orders. The Court finds that said notice was the best  
2 notice practicable under the circumstances. The Class Notice provided due and adequate notice  
3 of the proceedings and matters set forth therein, informed Settlement Class members of their  
4 rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),  
5 California Rule of Court 3.769, and due process.

6 5. The Court finds that no Settlement Class member objected to the Settlement, no  
7 Settlement Class member has elected to opt-out of the Settlement, and that the 100% participation  
8 rate in the Settlement supports final approval.

9 6. The Court hereby approves the Settlement as set forth in the Stipulation of  
10 Settlement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement  
11 Agreement according to its terms.

12 7. For purposes of settlement only, the Court finds that: (a) the members of the  
13 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;  
14 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined  
15 community of interest among members of the Settlement Class with respect to the subject matter  
16 of the litigation; (c) the claims of the Class Representative are typical of the claims of the members  
17 of the Settlement Class; (d) the Class Representative has fairly and adequately protected the  
18 interests of the Settlement Class members; (e) a class action is superior to other available methods  
19 for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as  
20 counsel for the Class Representative and the Settlement Class.

21 8. The Court orders that Defendant DMC Power, Inc. shall deposit the Gross  
22 Settlement Amount in the amount of \$1,100,000.00 with the Settlement Administrator, Phoenix  
23 Settlement Administrators, within thirty (30) calendar days of the date of this Order and  
24 Judgment.

25 9. The Court orders that any Individual Settlement Awards that remain uncashed  
26 after 180 days after they are mailed shall be distributed to the Controller of the State of California  
27 to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the  
28 name of the Settlement Class member to whom the check was issued.

1           10.     The Court finds that the Individual Settlement Awards, as provided for in the  
2 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to  
3 distribute the Individual Settlement Awards in conformity with the terms of the Settlement.

4           11.     The Court finds that Class Representative Service Awards in the amount of  
5 \$7,500.00 to each Plaintiff, for a total of \$15,000.00, are appropriate for the risks undertaken and  
6 their service to the Settlement Class. The Court finds that the service awards are fair, reasonable,  
7 and adequate, and orders that the Settlement Administrator make these payments in conformity  
8 with the terms of the Settlement.

9           12.     The Court finds that attorneys' fees in the amount of \$366,666.66 and actual  
10 litigation costs of \$38,946.93 for Class Counsel, are fair, reasonable, and adequate, and orders the  
11 Settlement Administrator to distribute these payments to Class Counsel in conformity with the  
12 terms of the Settlement.

13           13.     The Court finds that a payment to the Labor & Workforce Development Agency  
14 ("LWDA") in the amount of \$37,500.00 for the LWDA's share of civil penalties under the Labor  
15 Code Private Attorneys General Act is fair, reasonable, and adequate, and orders that the  
16 Settlement Administrator make this payment in conformity with the terms of the Settlement.

17           14.     The Court orders that the Settlement Administrator shall be paid \$9,500.00 from  
18 the Gross Settlement Amount for all of its work done and to be done until the completion of this  
19 matter, and finds that sum appropriate.

20           15.     The Settlement is not an admission by Defendant, nor is this Order and Final  
21 Judgment a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither  
22 this Order and Final Judgment, the Settlement, nor any document referred to herein, nor any action  
23 taken to carry out the Settlement, shall be construed or deemed an admission of liability,  
24 culpability, or wrongdoing on the part of Defendant.

25           16.     As of the date of this Order and Final Judgment, Plaintiffs and every member of  
26 the Settlement Class will fully release and discharge Defendant, and all of its past and present  
27 officers, directors, shareholders, employees, agents, principals, heirs, representatives,  
28 accountants, auditors, consultants, and their respective successors and predecessors in interest,

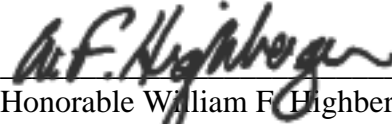
1 subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), from all  
2 claims, demands, rights, liabilities and causes of action that were pled in the operative Second  
3 Amended Class and Representative Action Complaint, or which could have been pled in the  
4 Second Amended Class and Representative Action Complaint, that arose during the Class Period,  
5 including: the failure to pay minimum wage, the failure to pay all overtime wages, failure to  
6 authorize and permit rest periods, or premium pay for non-compliant rest periods, failure to  
7 provide proper meal periods, or premium pay for non-compliant meal periods, failure to furnish  
8 complete and accurate wage statements, waiting time penalties and civil penalties under the  
9 Private Attorneys General Act (Lab. Code section 2698, et seq.), all related statutory claims  
10 including, but not limited to, alleged violations of California Labor Code sections 201-204, 210,  
11 226, 226.3, 226.7, 256, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 1199, and  
12 California Business and Professions Code section 17200, et. seq., the applicable Wage Order of  
13 the Industrial Welfare Commission, and all claims for unfair business practices that could have  
14 been premised on the facts, claims, causes of action or legal theories described above (the  
15 “Released Claims”). In addition, all Settlement Class members (regardless of whether they opt  
16 out) who worked for Defendant at any time from November 25, 2018 through August 1, 2022  
17 (the “PAGA Period”) are “Aggrieved Employees” and shall release the Released Parties from all  
18 claims for civil penalties that could have been premised on the facts alleged within the exhaustion  
19 letters filed with the Labor and Workforce Development Agency (“LWDA”) by Plaintiff Brock  
20 and Plaintiff Macabulit (“the PAGA Released Claims”).

21           17. This document shall constitute a final judgment pursuant to California Rule of  
22 Court 3.769(h) which provides, “If the court approves the settlement agreement after the final  
23 approval hearing, the court must make and enter judgment. The judgment must include a  
24 provision for the retention of the court’s jurisdiction over the parties to enforce the terms of the  
25 judgment. The court may not enter an order dismissing the action at the same time as, or after,  
26 entry of judgment.” The Court will retain jurisdiction to enforce the Settlement, and this Final  
27 Approval Order and Judgment. The Settlement Administrator shall give notice of this Judgment  
28 by posting this Final Judgment on its website.

1           18.     The Settlement Administrator shall file a final report regarding distribution and  
2 uncashed checks by October 2, 2023.

3           **IT IS SO ORDERED.**

4  
5 Dated: 12/19/2022, 2022

  
6 \_\_\_\_\_  
7 Honorable William F. Highberger  
8 Judge of the Superior Court

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