

Envelope: 13336896

Kane Moon (SBN 249834)  
Lilit Ter-Astvatsatryan (SBN 320389)  
Linh H. Tran (SBN 349486)  
**MOON LAW GROUP, PC**  
1055 W. Seventh St., Suite 1880  
Los Angeles, California 90017  
Telephone: (213) 232-3128  
Facsimile: (213) 232-3125  
E-mail: kmoon@moonlawgroup.com  
E-mail: lilit@moonlawgroup.com  
E-mail: ltran@moonlawgroup.com

Attorneys for Plaintiff NOE ALCAZAR

**FILED**  
**October 19, 2023**  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara

**20CV367311**

By: **rwalker**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA

NOE ALCAZAR, individually, and on behalf of all  
others similarly situated,

Plaintiff,

vs.

QUALITY FIRST HOME IMPROVEMENT,  
INC., a California corporation; and DOES 1  
through 10, inclusive,

Defendants.

Case No.: 20CV367311

[Assigned for All Purposes to the Honorable  
Theodore C. Zayner in Department 19]

**[PROPOSED] ORDER AND JUDGMENT  
OF FINAL APPROVAL**

FINAL FAIRNESS HEARING

Date: October 18, 2023

Time: 1:30 p.m.

Complaint Filed: June 17, 2020

FAC Filed: August 26, 2020

SAC Filed: May 16, 2022

Trial Date: Not Set

1 The Court issued an Order Granting Preliminary Approval of Class Action Settlement on  
2 April 21, 2023. Plaintiff Luwana Diane Mahler (“Plaintiff”) now seeks an Order and Judgment of  
3 Final Approval of the same Joint Stipulation of Class Action and PAGA Action Settlement and  
4 Release (“Settlement”) between Plaintiff and Defendant Quality First Home Improvement, Inc.  
5 (“Defendant”), attached to the Declaration of Kane Moon in Support of Plaintiff’s Motion for Final  
6 Approval of Class Action Settlement as **Exhibit 1**.

7 The Court, having considered Plaintiff ’s Notice of Motion and Motion for Final Approval  
8 of Class Action Settlement (“Motion”), the supporting Declarations and Exhibits therein, the records  
9 and files in this Action, and the absence of any written objections received regarding the Settlement;  
10 and good cause appearing, **HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

11 The Court has jurisdiction over all claims asserted in this Action, Plaintiff, all Settlement  
12 Class Members, all Aggrieved Employees, and Defendant.

13 The Court, for purposes of this Order and Judgment of Final Approval, refers to all defined  
14 terms as set forth in the Settlement.

15 The Settlement appears to have been made and entered into in good faith and is hereby  
16 approved, subject to any limitations on the requested fees and payments as set forth below.

17 For purposes of effectuating the Settlement, the following Class is hereby certified: all  
18 persons who worked for Defendant in California as an hourly paid, non-exempt employee at any  
19 time from June 17, 2016 through July 1, 2022. (Settlement, ¶ 12.)

20 The Parties shall bear their own respective attorneys' fees and costs, except as provided for  
21 in the Settlement and approved by the Court.

22 No Class Members have objected to the terms of the Settlement, and no Class Members have  
23 requested exclusion from the Settlement. (Declaration of Taylor Mitzner Regarding Settlement Notice  
24 Administration, ¶¶ 8-9.)

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1 Plaintiff, all Participating Class Members, and all PAGA Employees shall have, by operation  
2 of this Order and Judgment of Final Approval, fully, finally and forever released, relinquished, and  
3 discharged all Released Parties from all Released Claims and Released PAGA Claims upon the Final  
4 Approval of the Court of the Joint Stipulation of Class Action and PAGA Action Settlement and  
5 Release, as stated in the Settlement and reproduced here. (Settlement, ¶¶ 10, 26, 52.)

- 6 1. “Released Parties” means Defendant, their officers and directors, and any of their former and  
7 present parents, subsidiaries, affiliates, divisions, corporations in common control,  
8 predecessors, successors, and assigns, as well as all past and present officers, directors,  
9 employees, partners, shareholders and agents, attorneys, insurers, and any other successors,  
10 assigns, or legal representatives, if any. (Settlement, ¶ 21.)
- 11 2. “Released Claims” means all claims, rights, demands, liabilities, and causes of action, that  
12 were or could have been pleaded based on, arising from, or related to, the factual allegations  
13 set forth in the Operative Complaint and in the June 16, 2020 and April 4, 2022 Notice and Amended  
14 Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and Defendant, including: (i)  
15 all claims for unpaid minimum and straight time wages; (ii) all claims for unpaid overtime; (iii) all claims  
16 for meal and rest break violations; (iv) all claims for unreimbursed business expenses; (v) all claims for  
17 the failure to timely pay wages upon termination; (vi) all claims for failure to timely pay wages during  
18 employment; (vii) all claims for wage statement violations; (viii) all claims that could arise under  
19 Business & Professions Code §§ 17200, *et seq.* (Settlement, ¶ 21.)
- 20 3. “Release by Class Members” means it is the desire of the Plaintiff, Class Members (except  
21 those who exclude themselves from the Settlement), and Defendant to fully, finally, and  
22 forever settle, compromise, and discharge the claims asserted in the Operative Complaint.  
23 Upon the Final Approval of the Court of this Settlement Agreement, and except as to such  
24 rights or claims as may be created by this Settlement Agreement, the Class Members shall  
25 fully release and discharge the Released Parties from any and all Released Claims for the  
26 entire Released Claims Period. This release shall be binding on all Class Members who have  
27 not timely submitted a valid and complete Request for Exclusion, including each of their  
28 respective attorneys, agents, spouses, executors, representatives, guardians ad litem, heirs,

1 successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have  
2 no further or other liability or obligation to any Settlement Class Member with respect to the  
3 Released Claims, except as expressly provided herein. (Settlement, ¶ 52.)

4 4. “Release by PAGA Employees” means it is desire of the Plaintiff, in her capacity as a  
5 representative of PAGA Employees, and Defendant to fully, finally, and forever settle,  
6 compromise, and discharge the claims asserted in the June 16, 2020 Notice of Labor Code  
7 Violations and PAGA Penalties sent to the LWDA and the Operative Complaint. Upon the  
8 Final Approval of the Court of this Settlement Agreement, and except as to such rights or  
9 claims as may be created by this Settlement Agreement, Plaintiff, the PAGA Employees, the  
10 LWDA, and the State of California shall fully release and discharge the Released Parties from  
11 any and all Released PAGA Claims for the entire Released PAGA Claims Period. This  
12 release shall be binding on all PAGA Employees regardless if they submitted a valid and  
13 complete Request for Exclusion. (Settlement, ¶ 53.)

14 5. “Effective Date” means the sixty-one (61) days after the Court enters an order granting final  
15 approval of the Joint Stipulation of Class Action and PAGA Action Settlement and Release.  
16 (Settlement, ¶ 10.)

17 The Class Settlement Amount, Net Settlement Amount, and methodology used to calculate  
18 and pay the Settlement Class Payments and PAGA Settlement Payments are fair and reasonable. The  
19 Settlement Administrator is authorized to issue payments to the Participating Class Members and  
20 PAGA Employees in accordance with the terms of the Settlement.

21 Defendant shall pay a total of \$1,000,000.00 to resolve this litigation. Defendant will fund  
22 the settlement account within fourteen (14) calendar after the Effective Date of the Settlement.  
23 (Settlement, ¶ 26.) The Settlement Administrator will distribute the fund installments within seven  
24 (7) days of receipt. *Id.*

25 From the Class Settlement Amount, a payment of \$56,250.00 shall be paid to the California  
26 Labor and Workforce Development Agency (“LWDA”), representing 75% of the PAGA Allocation  
27 awarded under the terms of the Settlement, pursuant to the California Private Attorneys General Act  
28 of 2004, *Labor Code* sections 2698, *et. seq.* (Settlement, ¶ 31.)

1 From the Class Settlement Amount, a Class Representative Enhancement Payment in the  
2 amount of \$5,000.00 shall be paid to Luwana Diane Mahler for her service as Class Representative  
3 and general release of claims. Luwana Diane Mahler is hereby confirmed as Class Representative.  
4 (Settlement, ¶¶ 28-29.)

5 From the Class Settlement Amount, Attorneys' Fees in the amount of \$333,333.33 and  
6 Attorneys' Costs in an amount not to exceed \$25,000.00 shall be paid to Class Counsel for their  
7 reasonable fees and actual costs incurred in furtherance of this Action. (Settlement, ¶ 27.) The fees  
8 and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds that the  
9 fees are reasonable in light of the benefit provided to the Class. Moon Law Group, PC is hereby  
10 confirmed as Class Counsel.

11 The Court approves Legal Aid at Work as the *cy pres* recipient in compliance with Code of  
12 Civil Procedure section 384.

13 From the Class Settlement Amount, Settlement Administration Costs in the amount of  
14 \$11,500.00 shall be paid to the designated Settlement Administrator, Phoenix Class Action  
15 Administration Solutions. (Settlement, ¶¶ 3, 4.)

16 The Notice provided to the Class conforms with the requirements of *California Rules of Court*  
17 rules 3.766 and 3.769, and constitutes the best notice practicable under the circumstances, providing  
18 individual notice to all Class Members who could be identified through reasonable effort and due  
19 and adequate notice of the proceedings and matters set forth therein to the Class Members. The  
20 Notice fully satisfies the requirements of Due Process.

21 The Parties are ordered to have notice of this Order and Judgment of Final Approval sent to  
22 all Participating Class Members and PAGA Employees in accordance with *California Rules of Court*  
23 section 3.771(b), along with the Settlement Class Payments and PAGA Settlement Payments issued  
24 via First Class U.S. Mail to their last known addresses and to the LWDA, pursuant to *Labor Code*  
25 section 2699(1)(3).

26 This Judgment is intended to be a final disposition of the Action in its entirety and is intended  
27 to be immediately appealable.

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1 This Court shall retain jurisdiction with respect to all matters related to the administration  
2 and consummation of the Settlement and any and all claims asserted in, arising out of, or related to  
3 the subject matter of the lawsuit, including, but not limited to, all matters related to the Settlement  
4 and the determination of all controversies relating thereto.

5 Plaintiff's Motion for Final Approval of Class and PAGA Action Settlement is hereby  
6 granted, and the Court directs that Judgment shall be entered in accordance with the terms of this  
7 Order.

8 In accordance with California Rule of Court 3.771(b), Class Counsel are ordered to give  
9 notice of this final Order and the Judgment to all Participating Class Members and PAGA Employees  
10 by posting the Order and the Judgment for a period of at least 90 calendar days on the Settlement  
11 Administrator's website.

12 The Court sets a Final Accounting Hearing on June 12, 2024 at 2:30 in  
13 Department 19. Class Counsel is ordered to file a final report and declaration regarding distribution  
14 no later than 10 court days prior.

15 **IT IS SO ORDERED.**

16 DATE: October 19, 2023



17 \_\_\_\_\_  
18 Honorable Theodore C. Zayner  
19 Judge of the Superior Court of California for the  
20 County of Santa Clara  
21  
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 ) ss  
4 COUNTY OF LOS ANGELES )

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18  
6 and not a party to the within action; my business address is 1055 West Seventh Street, Suite 1880,  
7 Los Angeles, California 90017. On October 18, 2023, I served the foregoing document described  
8 as:

9 **[PROPOSED] ORDER AND JUDGMENT OF FINAL APPROVAL**

10 X by placing \_\_\_ the original X a true copy thereof enclosed in sealed envelope(s)  
11 addressed as follows:

12 David M. Daniels  
13 Ryan S. Hanlon  
14 **ELGUINDY, MEYER & KOEGEL, APC**  
15 2990 Lava Ridge Court, Suite 205  
16 Roseville, CA 95661  
17 E-mail: ddaniels@emklawyers.com  
18 E-mail: rhanlon@emklawyers.com

19 *Attorneys for Defendant Quality First Home Improvement, Inc..*

20 ☒ **BY ELECTRONIC TRANSMISSION:** I caused all of the above-entitled  
21 document(s) to be served through OneLegal addressed to all parties appear on the  
22 OneLegal electronic service list by selection the individual recipients on the OneLegal  
23 website on the date executed below. The file transmission was reported as complete  
24 and a copy of the filing receipt page will be maintained with the original document(s)  
25 in our office.

26 X (State) I declare under penalty of perjury under the laws of the State of  
27 California that the above is true and correct.

28 Executed on October 18, 2023, at Los Angeles, California.

\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Signature