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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

JUAN CARLOS AVILES AMAYA,
individually, and on behalf of all others similarly
situated,

Plaintiff,

vs.

PUROSIL, LLC, a limited liability corporation;
and DOES 1 through 10, inclusive,

Defendants

Case No.: CVRI2202854

CLASS AND REPRESENTATIVE ACTION

[Hon. Harold W. Hopp, Dept. 1]

~~PROPOSED~~ **FINAL ORDER
GRANTING MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT AND JUDGMENT**

[Filed with Plaintiff's Notice of Motion and
Motion for Final Approval, and the
Declarations of Kane Moon, Plaintiff Amaya,
and Taylor Mitzner in Support of Motion]

FINAL APPROVAL HEARING:

Date: October 30, 2023

Time: 8:30 a.m.

Dept.: 1

Action Filed: July 12, 2022

Trial Date: Not set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 On July 24, 2023, the Court entered an Order granting Plaintiff Juan Carlos Aviles Amaya's
3 ("Plaintiff") Motion for Preliminary Approval of Class Action and PAGA Settlement, conditional
4 class certification, and approval of Class Notice, and setting a Final Approval Hearing (the
5 "Preliminary Approval Order"), thereby preliminarily approving a settlement of the above-entitled
6 action (the "Action") that was reached between Plaintiff and Defendant Purosil, LLC ("Defendant,"
7 and together with Plaintiff, the "Parties"), in accordance with the Parties' Joint Stipulation of Class
8 Action Settlement and Release of Claims (the "Settlement" or "Settlement Agreement"). The
9 Settlement Agreement, as amended, was attached as Exhibit 1 to the Declaration of Kane Moon in
10 Support of Plaintiff's Motion for Preliminary Approval of Class and PAGA Action Settlement that
11 was filed on June 15, 2023, and which, together with the exhibits annexed thereto, set forth the terms
12 and conditions for settlement of the Action. The Court now has before it a Proposed Final Order and
13 Judgment to finally approve the Settlement.

14 Due and adequate notice having been given to Class Members, and the Court having reviewed
15 the Settlement Agreement and duly considered Plaintiff's Motion for Final Approval of Class Action
16 and PAGA Settlement, the supporting declarations and exhibits thereto, all other papers filed and
17 proceedings had hereto, the record in this Action, and any oral argument, and good cause appearing,

18 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

19 1. The Court, for purposes of this Final Order and Judgment, refers to all terms and
20 definitions as set forth in the Settlement Agreement.

21 2. Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement,
22 including a motion for payment of attorneys' fees and litigation costs to Class Counsel, class
23 representative service award, Settlement Administrator's fees, and PAGA Penalties to the California
24 Labor and Workforce Development Agency (the "LWDA") (collectively "Motion for Final
25 Approval"), and whether the Settlement should be finally approved as fair, reasonable, and adequate
26 as to Class Members, came before Department 1 of this Court, the Honorable Harold W. Hopp
27 presiding, on October 30, 2023.

28 3. The Court finds that the Settlement Agreement appears to have been made and entered

1 into in good faith, the terms of which are fair, reasonable, and adequate; was reached following
2 meaningful discovery and investigation conducted by Plaintiff and his counsel of record (“Class
3 Counsel”); is the result of serious, informed, adversarial, and arms-length negotiations between the
4 Parties; and therefore, meets the requirements for final approval. In so finding, the Court has
5 considered all the evidence presented, including evidence regarding the strength of Plaintiff’s claims;
6 the risk, expense, and complexity of the claims presented; the likely duration of further litigation; the
7 amount offered in the Settlement; the extent of investigation and discovery completed; and the
8 experience and views of Class Counsel. The Court has further considered the absence of objections
9 to the Settlement by Class Members, and only two requests for exclusion from the Settlement.
10 Accordingly, the Court hereby **GRANTS** Plaintiff’s Motion for Final Approval and **ORDERS**
11 Judgment to be entered in accordance with the terms herein.

12 4. The Court certifies, for settlement purposes only, the following Class (the “Settlement
13 Class”): All current and former non-exempt employees who worked for Defendant in California
14 during the Class Period (the “Class Period” is July 12, 2018 through June 5, 2023). Excluded from
15 the Settlement Class are all persons who submitted a complete, valid, and timely request to be
16 excluded from the Settlement pursuant to the instructions provided in the Class Notice.

17 5. The deadline to request exclusion from or to submit written objections to the
18 Settlement was October 2, 2023. The only complete, valid, and timely requests for exclusion that
19 were received were for the following individuals: Noe Guzman and Doraluz Prestegui Alvarado.
20 Accordingly, these two individuals are excluded from the Settlement Class.

21 6. All other Class Members who did not request exclusion from the Settlement Class
22 had an opportunity to object to the Settlement Agreement. No written objection was received.

23 7. The Court-approved Notice of Class Action Settlement (the “Class Notice”), which
24 was attached to the Preliminary Approval Order as Exhibit A and provided to the Class pursuant to
25 the plan for distribution described under the Settlement Agreement, conformed with the requirements
26 of California Rules of Court 3.766 and 3.769, and constituted the best notice practicable under the
27 circumstances, by providing individual and adequate notice of the proceedings and of the matters set
28 forth therein to Class Members. The Class Notice fully satisfied the requirements of due process and

1 provided the Class Members with adequate instructions and a variety of means to obtain additional
2 information.

3 8. A full opportunity has been afforded to the Settlement Class Members to participate
4 in the Final Approval Hearing, and all Settlement Class Members and other persons wishing to be
5 heard have been heard and/or had an opportunity to be heard. The Settlement Class Members have
6 had a full and fair opportunity to exclude themselves from the Settlement or object to the Settlement.
7 Accordingly, the Court determines that all Settlement Class Members who did not request exclusion
8 from the Settlement (“Participating Class Members”) are bound by this Final Order and Judgment.

9 9. Release of Claims:

10 a. Plaintiff’s Released Claims. Plaintiff, individually and on behalf of Plaintiff’s heirs,
11 executors, administrators, representatives, attorneys, successors and assigns knowingly
12 and voluntarily releases and forever discharges Defendant, including any and all parent
13 corporations, affiliates, subsidiaries, managers, divisions, predecessors, insurers,
14 franchisors, successors and assigns, including but not limited to each of their current
15 and former employees, attorneys, officers, directors and agents thereof, both
16 individually and in their business capacities, and their employee benefit plans and
17 programs and the trustees, administrators, fiduciaries and insurers of such plans and
18 programs (collectively, “Plaintiff’s Released Parties”), to the fullest extent permitted by
19 law, of and from any and all claims, known and unknown, asserted and unasserted,
20 which Plaintiff has or may have against the Plaintiff’s Released Parties as of the date of
21 execution of this Settlement Agreement. Plaintiff is not waiving any rights Plaintiff may
22 have to: (i) Plaintiff’s own vested accrued employee benefits under the Defendant’s
23 health, welfare or retirement benefits plans, if any, as of the date of execution of this
24 Settlement Agreement, (ii) benefits or rights to seek benefits under applicable workers’
25 compensation (except as to claims under Labor Code §§ 132a and 4553 which are
26 expressly released herein) or unemployment insurance or indemnification statutes; (iii)
27 pursue claims which by law cannot be waived by signing this Settlement Agreement;
28 and (iv) enforce this Settlement Agreement. To affect a full and complete general

1 release as described above, Plaintiff expressly waives and relinquishes all rights and
2 benefits of § 1542 of the Civil Code of the State of California, without exception, except
3 as may be prohibited by law, and does so understanding and acknowledging the
4 significance and consequence of specifically waiving § 1542. Civil Code section 1542,
5 which Plaintiff agrees to expressly waive, states:

6 A general release does not extend to claims that the creditor or releasing party
7 does not know or suspect to exist in his or her favor at the time of executing
8 the release and would have materially affected his or her settlement with the
9 debtor or released party.

10 Thus, notwithstanding the provisions of § 1542, and to implement a full and complete
11 release and discharge of all parties, Plaintiff expressly acknowledges this Settlement
12 Agreement is intended to include in its effect, without limitation, all claims Plaintiff does
13 not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement
14 Agreement, and that this Settlement Agreement contemplates the extinguishment of any
15 such claims. Plaintiff warrants Plaintiff has read this Settlement Agreement, including
16 this waiver of California Civil Code § 1542, and that Plaintiff has consulted with or had
17 the opportunity to consult with counsel of Plaintiff's choosing about this Settlement
18 Agreement and specifically about the waiver of § 1542, and that Plaintiff understands this
19 Settlement Agreement and the § 1542 waiver, and so Plaintiff freely and knowingly enters
20 into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may
21 discover facts different from or in addition to those Plaintiff now knows or believes to be
22 true regarding the matters released or described in this Settlement Agreement, and even
23 so Plaintiff agrees that the releases and agreements contained in this Settlement
24 Agreement shall remain effective in all respects notwithstanding any later discovery of
25 any different or additional facts. Plaintiff expressly assumes any and all risk of any
26 mistake in connection with the true facts involved in the matters, disputes or controversies
27 released or described in this Settlement Agreement or with regard to any facts now
28 unknown to Plaintiff relating thereto.

b. Participating Class Members Released Claims. As of the date of the Judgment, each

1 Participating Class Member, and without the need to manually sign a release document,
2 shall release the Released Parties from all causes of action and claims stated in the
3 Operative Complaint and those based solely upon the facts alleged therein, including all
4 of the following claims for relief from July 12, 2018, through June 5, 2023: (1) Failure to
5 Pay Minimum Wages; (2) Failure to Pay Overtime Compensation; (3) Failure to Provide
6 Meal Periods; (4) Failure to Authorize and Permit Rest Breaks; (5) Failure to Indemnify
7 Necessary Business Expenses; (6) Failure to Timely Pay Wages at Termination; (7)
8 Failure to Provide Accurate and Itemized Wage Statements; and (8) Violation of Business
9 & Professional Code section 17200. (“Class Released Claims”). The Class Released
10 Claims for the Participating Class Members excludes all claims for vested benefits,
11 wrongful termination, unemployment insurance, disability, social security, workers’
12 compensation, claims while not an Eligible Employee, claims outside of the Class Period,
13 and claims covered in the PAGA Group Released Claims. The Class Released Claims
14 only covers the time period of July 12, 2018, and ending on June 5, 2023.

15 c. The PAGA Released Claims. As of the date of the Judgment, Plaintiff, and the LWDA
16 shall release, from July 3, 2021, through June 5, 2023, the Released Parties from all claims
17 for civil penalties under the California Labor Code Private Attorney’s General Act of
18 2004 that were alleged in Plaintiff’s LWDA Exhaustion Letter and only to the extent those
19 claims are also alleged in the Action, including claims for relief for: (1) Failure to Pay
20 Minimum Wages; (2) Failure to Pay Overtime Compensation; (3) Failure to Provide Meal
21 Periods; (4) Failure to Authorize and Permit Rest Breaks; (5) Failure to Indemnify
22 Necessary Business Expenses; (6) Failure to Timely Pay Wages at Termination; and (7)
23 Failure to Provide Accurate and Itemized Wage Statements. The PAGA Released Claims
24 only cover the time period of July 3, 2021, and ending on June 5, 2023.

25 d. Released Parties. “Released Parties” include Defendant Purosil, LLC, together with its
26 past and present, officers, directors, and employees.

27 e. The Participating Class Members Released Claims and PAGA Released Claims described
28 above expressly exclude all claims made for vested benefits, wrongful termination,

1 unemployment insurance, disability, social security, workers' compensation, claims
2 while classified as exempt, and claims outside of the Class Period and/or PAGA Period.

3 10. The Parties shall bear their own respective attorneys' fees and costs, except as
4 otherwise provided for in the Settlement Agreement and approved by the Court.

5 11. The Court finds that the Maximum Settlement Amount, the Net Settlement Amount,
6 and the methodology used to calculate Individual Settlement Shares and Individual PAGA Payment
7 Shares to Participating Class Members and Aggrieved Employees, respectively, are fair and
8 reasonable. The Court thus authorizes the Settlement Administrator to pay settlement allocations in
9 accordance with the terms of the Settlement Agreement. Defendant shall pay into a common fund a
10 total of \$435,000.00 (the "Maximum Settlement Amount") to resolve the Action. Defendant shall
11 fund the Maximum Settlement Amount, and also fund the amounts necessary to fully pay the
12 employer's share of payroll taxes on the Wage Portions of Individual Settlement Shares, as calculated
13 by the Settlement Administrator, by transmitting the funds to the Settlement Administrator no later
14 than 21 calendar days after the Effective Date, as that term is defined under the Settlement
15 Agreement. Payments to Class Members shall be distributed within 14 calendar days after the
16 funding and in accordance with the terms of the Settlement Agreement.

17 12. Any envelope transmitting a settlement distribution to a Class Member shall bear the
18 notation, "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." Any settlement
19 distribution check shall be negotiable for at least 90 days but not more than 180 days from the date
20 of mailing. The Settlement Administrator shall mail a reminder postcard to any Class Member whose
21 settlement distribution check has not been negotiated within 60 days after the date of mailing. If any
22 of the Class Members are current employees of Defendant and those Class Members' mailed
23 distribution is returned to the Settlement Administrator as being undeliverable, and if the Settlement
24 Administrator is unable to locate a valid mailing address, the Settlement Administrator shall arrange
25 with Defendant to have those distributions delivered to those Class Members at their place of
26 employment.

27 13. A total amount of \$40,000.00 shall be allocated to resolution of the Released PAGA
28 Claims under the Private Attorneys General Act of 2004 ("PAGA") and distributed as follows: 25%

1 (\$10,000.00) to the Aggrieved Employees and 75% (\$30,000.00) to the LWDA. The LWDA's claims
2 for the Released PAGA Claims are hereby extinguished.

3 14. The Court confirms the appointment of Plaintiff as the Class Representative. In
4 addition to any recovery that Plaintiff is eligible to receive under the Settlement Agreement as a Class
5 Member, the Court approves and orders a service payment in the amount of \$7,500.00 from the
6 Maximum Settlement Amount to Plaintiff for his role and service as the Class Representative, for
7 the risks and work attendant to that role, and for his general release of claims, both known and
8 unknown, and waiver of Section 1542 rights.

9 15. The Court confirms the appointment of Moon Law Group, PC as Class Counsel, as
10 they are experienced in wage and hour class action litigation, have no apparent conflicts of interest
11 with Plaintiff or other Class Members, and have adequately represented Class interests. The Court
12 approves and orders the payment to Class Counsel from the Maximum Settlement Amount for
13 reasonable attorneys' fees not to exceed one-third of the Maximum Settlement Amount
14 (\$145,000.00), as well as \$13,921.98 for reimbursement of litigation costs actually incurred. The
15 Court finds that the fees and costs amounts are reasonable in light of the benefits provided to the
16 Class.

17 16. The Court confirms the appointment of Phoenix Settlement Administrators as the
18 Settlement Administrator, who has fulfilled its initial notice and reporting duties owed under the
19 Settlement Agreement. The Court approves and orders the payment of \$10,000.00 from the
20 Maximum Settlement Amount to the Settlement Administrator for the costs of settlement
21 administration.

22 17. In accordance with California Rule of Court 3.771(b), notice of this Final Order and
23 Judgment will be given to the Class by the Settlement Administrator, who will post the Final Order
24 and Judgment on a website maintained by the Settlement Administrator, the address of which was
25 provided to Class Members in the Notice, for a period of not less than 90 calendar days after entry.

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

28 19. The obligations set forth in the Settlement Agreement are deemed part of this Final

1 Order and Judgment, and the Parties are ordered to carry out the Settlement Agreement according to
2 its terms and provisions.

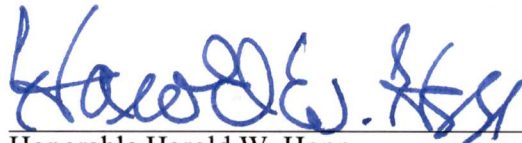
3 20. Following entry of this Final Order and Judgment, and without affecting the finality
4 thereof, the Court shall retain jurisdiction over the Action and the Settlement solely for purposes of
5 (i) enforcing this Settlement, (ii) addressing settlement administration matters, and (iii) addressing
6 such post-Judgment matters may be appropriate under court rules or applicable law.

7 21. The Settlement Agreement is finally approved but is not an admission by Defendant
8 of the validity of any claims in this Action, or of any wrongdoing by Defendant or of any violation
9 of law. Neither the Settlement Agreement nor any related document shall be offered or received in
10 evidence in any civil, criminal, or administrative action or proceeding other than such proceedings
11 as may be necessary to consummate or enforce the Settlement.

12 22. The Court sets a Non-Appearance Hearing (Case Review) re: Distribution on
13 ~~August~~ October 7, 2024 at 8:30 a.m./~~p.m.~~ in Department 1. Class Counsel are
14 ordered to file a final report and declaration by the Settlement Administrator regarding settlement
15 distribution no later than July 31, 2024. No appearance is required at the Case
16 Review if the Settlement Administrator's declaration filed prior to the hearing reports that all the
17 distributions under the Settlement Agreement are complete.

18 **IT IS SO ORDERED.**

19
20 DATE: 10/30/23

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22 _____
23 Honorable Harold W. Hopp
24 Judge of the Superior Court, Riverside County
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