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IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CARLOS MORENO, individually, and
on behalf of all others similarly situated,

Plaintiff,

v.

PRETIUM PACKAGING, L.L.C., a
Delaware limited liability company, and
DOES 1 through 10, inclusive,

Defendants

Case No. 8:19-cv-02500-SB-DFM

[Assigned to Stanley Blumenfeld, Jr.]

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement came
2 before this Court on March 12, 2021. The Court, having fully reviewed Plaintiff’s
3 Motion for Preliminary Approval of Class Action Settlement, and the supporting
4 Points and Authorities and Declarations filed in support thereof, including the Joint
5 Stipulation of Class Action Settlement (“Settlement Agreement”) and Notice of
6 Settlement (“Notice”), and for good cause appearing, HEREBY MAKES THE
7 FOLLOWING ORDERS:

8 1. The Court grants preliminary approval of the settlement based upon the
9 terms set forth in the Settlement Agreement, which is attached as Exhibit 1 to the
10 Declaration of Justin F. Marquez in Support of Plaintiff’s Motion for Preliminary
11 Approval of Class Action Settlement, and is incorporated in full by this reference and
12 made a part of this Order. The Settlement appears to be fair, adequate, and
13 reasonable to the Class.

14 2. All capitalized terms defined in the Settlement Agreement shall have the
15 same meaning when used in this Order.

16 3. The Settlement falls within the range of reasonableness of a settlement
17 which could ultimately be given final approval by this Court, and appears to be
18 presumptively valid, subject only to any objections that may be raised at the Final
19 Approval Hearing and final approval by this Court. The Court notes that Defendant
20 Pretium Packaging, L.L.C. (“Defendant”) has agreed to create a common fund of
21 \$1,600,000 to cover (a) settlement payments to Class Members who do not validly
22 opt out; (b) a \$37,500 payment to the State of California, Labor & Workforce
23 Development Agency for its share of the settlement of claims for penalties under the
24 Private Attorneys General Act; (c) Class Representative service payment of up to
25 \$10,000 for Class Representative Carlos Moreno; (d) Class Counsel’s attorneys’ fees,
26 not to exceed 33-1/3% of the Gross Settlement Amount; (e) actual litigation expenses
27 incurred by Class Counsel of up to \$20,000; and (f) Settlement Administration Costs
28 of up to \$15,000. In the event the final class size through December 16, 2020 is

1 increased by more than 10% above the estimated total of 749 individuals (i.e., if the
2 class size is 824 or more individuals), Defendant shall increase the value of the gross
3 settlement fund by an equivalent percentage. For example, if there are 20% more
4 Class Members during the time period of November 26, 2015 through December 16,
5 2020 than the initial figure of 749 Class Members, then Defendant will increase the
6 Gross Settlement Amount by 20%.

7 4. The Court finds and concludes that the Settlement is the result of arms-
8 length negotiations between the parties conducted after Class Counsel had adequately
9 investigated Plaintiff's claims and become familiar with the strengths and
10 weaknesses. The assistance of an experienced mediator in the settlement process
11 further confirms that the Settlement is non-collusive. The Court further finds that the
12 settlement of Plaintiff's representative claims under the California Private Attorneys
13 General Act, Cal. Labor Code §§2698 *et seq.*, is fair and reasonable and is approved.

14 5. In accordance with the Settlement Agreement, the Court hereby certifies
15 the following class for purposes of settlement: all persons who worked for Defendant
16 in California as an hourly paid or non-exempt employee at any time during time
17 period of November 26, 2015 to February 9, 2021, excluding any person who, by the
18 time the Court grants preliminary approval of the Settlement, has separately released
19 the Released Claims. The Court hereby finds and concludes that the Settlement Class
20 satisfies all of the requirements for certification under Fed. R. Civ. P. 23(a) and
21 23(b)(3), except manageability. Because certification of the Class is proposed in the
22 context of a settlement, the Court need not inquire whether the case, if tried as a class
23 action, would present intractable management problems.

24 6. With respect to the requirements of Fed. R. Civ. P. 23(a) and 23(b)(3),
25 the Court makes the following findings:

26 a. The Class, which has approximately 749 members, satisfies the
27 standard for numerosity in Fed. R. Civ. P. 23(a)(1).

28 b. There are many questions of fact and law that are common to the

1 Class regarding the policies and practices that applied to Class Members’
2 employment with Defendant, thereby satisfying the standard for commonality
3 in Fed. R. Civ. P. 23(a)(2).

4 c. Plaintiff’s claims meet the typicality requirement because he has
5 been an hourly-paid, non-exempt employee of Defendant during the Class
6 Period and his claims arise from the same alleged events and course of conduct
7 as those alleged on behalf of the Class, thereby satisfying Fed. R. Civ. P.
8 23(a)(3).

9 d. The Court finds that Wilshire Law Firm, PLC will fairly and
10 adequately represent the Class, and appoints them as Class Counsel.

11 e. The Court finds that Plaintiff Carlos Moreno will fairly and
12 adequately represent the Class, and appoints him as Class Representative.

13 f. The Court finds that for purposes of settlement only, common
14 questions of law and fact predominate over individualized issues, because the
15 claims arise from Defendant’s policies and widespread practices, and further
16 finds that the superiority requirement is satisfied because it is likely that
17 recovery on an individual basis would be dwarfed by the cost of litigating on an
18 individual basis.

19 7. The Court approves ILYM Group (“Settlement Administrator”) to
20 perform the duties of the Settlement Administrator as set forth in this Order and the
21 Settlement Agreement.

22 8. The Court finds that the Notice, which is attached as Exhibit A to the
23 Settlement Agreement, comports with Fed. R. Civ. P. 23 and all constitutional
24 requirements including those of due process. The Court further finds that the Notice
25 adequately advises the Class about the class action; the terms of the proposed
26 settlement, the benefits available to each Class Member, and the proposed fees and
27 costs to Class Counsel; each Class Member’s right to object or opt out of the
28 settlement, and the timing and procedures for doing so; preliminary Court approval of

1 the proposed settlement; and the date of the Final Approval hearing as well as the
2 rights of Class Members to file documentation in support of or in opposition to and
3 appear in connection with said hearing. The Court further finds that the mailing of
4 the Notice to each Class Member's last known address, with appropriate skip tracing
5 and mail forwarding for Notices returned as undeliverable, as specifically described
6 in the Settlement Agreement, constitutes reasonable notice to Class Members of their
7 rights with respect to the class action and proposed settlement.

8 9. Within thirty (30) days of the issuance of this Order, Defendant shall
9 provide the Settlement Administrator with the Class Member Database, as specified
10 in the Settlement Agreement.

11 10. Within 14 days after receipt of the Database, the Settlement
12 Administrator shall mail the Notice in the manner specified in the Settlement
13 Agreement.

14 11. The Court orders that any request for exclusion from the Settlement must
15 be postmarked no later than 60 days after the Notice is initially mailed to Class
16 Members, and must be received by the Settlement Administrator to be valid.

17 12. If more than 10% of the total number of Class Members submit timely
18 and valid opt-out requests, Defendant shall have the option to void the settlement. To
19 exercise this option, Defendant's Counsel must send written notification to Class
20 Counsel within 14 days of receiving a report from the Settlement Administrator of the
21 total number of timely and valid opt-out requests received from Class Members.

22 13. Any Class Member who does not timely and validly request exclusion
23 from the settlement may object to the Settlement Agreement. Any objection must be
24 in writing, and must be mailed to the Settlement Administrator. Such objection shall
25 include the name and address of the Class Member and the basis of the objection, and
26 must be signed by the Class Member. To be timely, the objection must be
27 postmarked no later than 60 days after the Notice is initially mailed to the Class. Any
28 Class Member who does not timely submit such a written objection will not be

1 permitted to raise such objection, except for good cause shown, and any Class
 2 Member who fails to object in the manner prescribed by this Order will be deemed to
 3 have waived, and will be foreclosed from raising, any such objection.

4 14. The Final Approval Hearing shall be held before this Court on
 5 _____, 2021 at 8:30 a.m. in Courtroom 6C, to consider the fairness,
 6 adequacy, and reasonableness of the proposed settlement preliminarily approved by
 7 this Order, and to consider the motion of Class Counsel for an award of reasonable
 8 attorneys’ fees and costs and Class Representative service payment.

9 15. Any party to this case, including any Class Member, may be heard in
 10 person or by counsel, to the extent allowed by the Court, in support of, or in
 11 opposition to, the Court’s determination of the good faith, fairness, reasonableness,
 12 and adequacy of the proposed settlement, the requested attorneys’ fees and costs, the
 13 requested Class Representative service payment, and any order of final approval and
 14 Judgment regarding such settlement, fees, costs, and payments; provided however,
 15 that no person shall be heard in opposition to such matters unless such person has
 16 complied with the conditions set forth in the Notice.

17 16. Briefs regarding the settlement shall be served and filed in accordance
 18 with the following briefing schedule:

19 20	Plaintiff’s motion for attorneys’ fees and costs	14 days before the deadline for Class Members to submit objections to the settlement
21 22	Plaintiff’s motion for final approval of the settlement and for Class Representative service payments	28 days before the Final Approval Hearing
23 24 25	Defendant’s Counsel shall file with the Court a declaration attesting that CAFA Notice has properly been served pursuant to 28 U.S.C. §1715	14 days before the Final Approval hearing
26	Reply briefs, if any	14 days before the Final Approval Hearing

27 17. The Court orders that if for any reason the Court does not execute and
 28 file an order of final approval and judgment, or if such a final approval order is

1 reversed, the Settlement Agreement and the proposed settlement which is the subject
2 of this Order and all evidence and proceedings had in connection therewith, shall be
3 without prejudice to the status quo ante rights of the Parties to the litigation as more
4 specifically set forth in the Settlement Agreement.

5 18. The Court orders that the Settlement Agreement shall not be construed as
6 an admission or evidence of liability.

7 19. Pending further order of this Court, all proceedings in this matter except
8 those contemplated herein and in the Settlement Agreement are stayed.

9 20. The Court expressly reserves the right to adjourn or continue the Final
10 Approval Hearing without further notice to Class Members.

11 **IT IS SO ORDERED.**

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13 Date: _____, 2021

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15 HON. STANLEY BLUMENFELD, JR.
16 United States District Judge
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