

1
2
3 BRIAN A. SHORT, ESQ. SBN 236140
brian@shortlegal.com
4 DOROTA A. JAMES, ESQ. SBN 309933
dorota@shortlegal.com
5 **SHORTLEGAL, APC**
350 10th Ave., Suite 1000
6 Telephone: (619) 272-0720
Facsimile: (619) 839-3129

7 Attorneys for Plaintiff Hector Martin
8
9

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN DIEGO

13 HECTOR MARTIN, Individually and
on behalf of all similarly-situated
14 employees of Defendants in the State of
California,

15
16 Plaintiffs,

17 v.

18 HERC RENTALS, INC and DOES 1
through 50, inclusive,

19
20 Defendants.
21
22
23
24
25
26
27
28

Case No.: 37-2020-00016112-CU-OE-CTL

Unlimited Civil - Amount Demanded
Exceeds \$25,000.00

IMAGED FILE

[PROPOSED] ORDER

Date: May 12, 2023

Time: 8:30 a.m.

Judge: Hon. Ronald F. Frazier

Department: C-65

Date Complaint Filed: March 16, 2020

1
2
3 Plaintiffs' Hector Martin's and Erik Rudolph's unopposed Motion for an Order for leave to
4 file a Second Amended Complaint; preliminarily approving the class action settlement;
5 provisionally certifying a class for settlement purposes only; approving and directing distribution
6 to the class of the notice to the class, appointing class counsel, appointing the claims administrator,
7 and scheduling a final approval hearing was considered on May 12, 2023 at 8:30 a.m. at Dept. C-
8 65. The Court has considered the Settlement and Release of Claims ("Agreement"), the
9 submissions of counsel, and all other papers filed in this action. The matter having been submitted
10 and good cause appearing therefore, the Court orders as follows:

11 1. The Court preliminarily approves of the settlement set forth in the Agreement as
12 falling within the range of possible approval and meriting submission to potential Class Members
13 for consideration, subject only to the consideration of objections of Class Members and the final
14 review by the Court.

15 2. For purposes of, and solely in connection with, the settlement, the Court finds that
16 each of the requirements for certification of the class set forth in Plaintiff's unopposed Motion for
17 Preliminary Approval of Class Action Settlement are met and hereby certifies the Class and
18 Subclass.

19 3. The Court approves, as to form and content, for dissemination and distribution to
20 the Class Members, the proposed Notice of Proposed Class Action Settlement ("Notice").

21 4. The Court hereby appoints Brian R. Short of ShortLegal, APC and Zach Crosner
22 and Jamie Serb of Crosner Legal P.C. as counsel for the Final Settlement Class.
23

24 //

5. The following dates shall govern for purposes of this settlement:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including their last known addresses, telephone numbers, social security numbers, and their dates of employment in California during the Class Period (“Settlement Class Information”)	7 calendar days after entry of Court’s Order granting preliminary approval of Settlement
Last day for Settlement Administrator to mail Notice to Class Members	14 calendar days after the Settlement Administrator’s receipt of the Settlement Class Information
Last day for Class Members to submit a written Request for Exclusion form to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Members to submit an Objection to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys’ fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Settlement Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days before the final settlement approval hearing date
Final settlement approval hearing	_____, 2023, at _____.m.

6. The Court hereby appoints Phoenix Settlement Administrators as the Claims Administrator of the settlement.

7. The Claims Administrator shall send the Notice by first class United States mail to the Settlement Class on or before 21 calendar days after Preliminary Approval. Each Class Member shall have until 45 days after initial mailing of Notice within which to postmark his or her request for exclusion and return it to the Claims Administrator.

8. The Court finds that the mailing of the Notice attached to the Declaration

1
2
3 of Brian R. Short as Exhibit C as the best notice practicable under the circumstances to the
4 Settlement Class, satisfies the requirements of California Code of Civil Procedure and due
5 process, and shall constitute due and sufficient notice to all persons entitled thereto.

6 9. Any Class Member may request to be excluded from the Settlement Class
7 by submitting a Request for Exclusion from the settlement within 45 days after initial mailing of
8 Notice by following the procedure as set forth in the Notice titled “What Are My Rights? How
9 Will My Rights Be Affected?” Any Request for Exclusion must include the name, address,
10 telephone number, last four digits of their social security number and signature, and the dates of
11 employment of the Class Member requesting exclusion. Any Class Member who timely requests
12 exclusion in compliance with these requirements (i) shall not have any rights under this
13 settlement; (ii) shall not be entitled to receive any Settlement Payments under this settlement; and
14 (iii) shall not be bound by this settlement or the Court’s Order and Final Judgment. However,
15 members of the PAGA Representative Group may not exclude themselves from the settlement
16 and release of the PAGA claims if they are finally approved by this Court.

17 10. To object, any Class Members have the option of orally objecting to the
18 settlement at the Final Approval Hearing or may file a written objection and a notice of intention
19 to appear at the Final Approval Hearing and must send copies to Class Counsel and Defendant’s
20 Counsel as set forth in the Notice. Class Members may file and serve their written objections
21 within 45 days after initial mailing of Notice. Counsel for the parties may, at least 10 days before
22 the Final Approval Hearing, file responses to any written objections submitted to the Court.

23 11. Class Counsel shall provide to the Court, at least 10 calendar days prior to
24 the Final Approval Hearing, a declaration by the Claims Administrator of due diligence and proof
25 of mailing with regard to the mailing of the Notice.

26 12. Neither this Order nor the Agreement nor any of its terms or provisions,
27 nor any of the negotiations or proceedings connected with it, shall be construed as an admission
28 or concession by Defendant of the truth of any of the allegations in the complaint or of any

1
2
3 liability, fault or wrongdoing of any kind.

4 13. Upon final approval by the Court of the Agreement, and except as to such
5 rights or claims as may be created by the settlement, the Class Representatives, the Settlement
6 Classes and each Class Member who has not submitted a valid and timely Request for Exclusion,
7 each fully release and will be deemed to have forever released and discharged the Released
8 Claims. In the event that the settlement does not become final for any other reason, the settlement
9 will be null and void.

10 14. Class Counsel shall file their motion for final approval at least 16 court
11 days before the date of the Final Approval Hearing.

12 15. Class Counsel shall file their application for attorney's fees and costs for
13 the named Plaintiff at least 16 court days before the date of the Final Approval Hearing.

14 16. Class Counsel are granted leave and shall file the Second Amended
15 Complaint attached as Exhibit B with the Court within 7 days which shall become the operative
16 complaint.

17 17. On _____, 2023 at _____ a.m./p.m., or as soon thereafter as counsel may
18 be heard in Department C-65, a hearing will be held to determine whether the proposed
19 settlement, including payment of Class Counsel's attorney's fees and costs and the Class
20 Representative's service payment, should be finally approved as fair, reasonable, and adequate as
21 to the members of the Settlement Class. The Court may adjourn or continue the Final Approval
22 Hearing without further notice to the Settlement Class.

23
24 **IT IS SO ORDERED.**

25 Dated: _____

26 _____
27 HON. RONALD FRAZIER
28 JUDGE OF THE CALIFORNIA SUPERIOR
COURT, COUNTY OF SAN DIEGO

-v-