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Superior Court of California
County of Los Angeles

DEC 10 2020

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

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PATRICIA HERNANDEZ, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

FRED M. BOERNER MOTOR CO., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 19STCV28136 FILING WINDOW

[Assigned for All Purposes to the Hon. William
F. Highberger, SSC-10]

~~PROPOSED~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE'S SERVICE AWARD,
AND ATTORNEYS' FEES AND COSTS

Date: December 10, 2020
Time: 1:30 p.m.
Dept.: SSC-10

Complaint Filed: August 12, 2019
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on December 10, 2020,
2 pursuant to California Rule of Court 3.769 and this Court's August 11, 2020 Order Granting
3 Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"). Having
4 considered the parties' Stipulation of Settlement ("Settlement")¹ and the documents and
5 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
8 ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of good
9 faith, arm's-length negotiations between the parties. Good cause appearing therefor, the Court
10 hereby GRANTS Plaintiff's Motion for Final Approval of Class Action Settlement and
11 ORDERS as follows:

12 1. The conditional class certification contained in the Preliminary Approval Order is
13 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
14 Class defined as:

15 All current and former non-exempt, hourly, employees of Defendant Fred
16 M. Boerner Motor Co. who worked in California at any time from August
12, 2015 through August 11, 2020.

17 2. Plaintiff Patricia Hernandez is hereby confirmed as Class Representative, and
18 Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC and Paul K. Haines
19 of Haines Law Group, APC are hereby confirmed as Class Counsel.

20 3. Notice was provided to the Settlement Class as set forth in the Settlement. The
21 form and manner of notice were approved by the Court on August 11, 2020, and the notice
22 process has been completed in conformity with the Court's Order. The Court finds that said
23 notice was the best notice practicable under the circumstances. The Class Notice provided due
24 and adequate notice of the proceedings and matters set forth therein, informed Settlement Class
25

26
27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
28 assigned to them in the Settlement.

1 members of their rights, and fully satisfied the requirements of California Code of Civil
2 Procedure § 1781(e), California Rule of Court 3.769, and due process.

3 4. The Court finds that no Settlement Class member objected to the Settlement, no
4 class member has opted out of the Settlement, and that the 100% participation rate in the
5 Settlement supports final approval.

6 5. The Court hereby approves the settlement as set forth in the Settlement
7 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
8 Agreement according to its terms.

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

18 7. The Court finds that given the absence of objections to the Settlement, and
19 objections being a prerequisite to appeal, that this Order shall be considered final as of the date
20 of notice of entry.

21 8. The Court orders that that Defendant deposit the Gross Settlement Amount of
22 Two Hundred Sixty-Two Thousand Dollars and Zero Cents (\$262,000.00) with Phoenix
23 Settlement Administrators ("Phoenix"), the Settlement Administrator, as provided for in the
24 Settlement.

25 9. Any Settlement funds that remain uncashed after 180 calendar days after they are
26 mailed shall be delivered to the California State Controller's Office – Unclaimed Property Fund
27 in the name of the Settlement Class member.

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

4 11. The Court finds that a service award in the amount of \$6,500.00 for Plaintiff
5 Patricia Hernandez is appropriate for her risks undertaken and service to the Settlement Class.
6 The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement
7 Administrator make this payment in conformity with the terms of the Settlement.

8 12. The Court finds that attorneys' fees in the amount of \$87,333.33 and litigation
9 costs of \$19,471.94 for Class Counsel, are fair, reasonable, and adequate, and orders that the
10 Settlement Administrator distribute these payments to Class Counsel in conformity with the
11 terms of the Settlement.

12 13. The Court orders that the Settlement Administrator shall be paid \$6,250.00 from
13 the Gross Settlement Amount for all of its work done and to be done until the completion of this
14 matter, and finds that sum appropriate.

15 14. The Court finds that the payment to the California Labor & Workforce
16 Development Agency ("LWDA") in the amount of \$7,500.00 for its share of the settlement of
17 Plaintiff's representative action under the California Labor Code Private Attorneys General Act
18 ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
19 this payment to the LWDA in conformity with the terms of the Settlement.

20 15. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for
21 the portion of the Net Settlement Amount allocated to wages shall be paid by Defendant
22 separately from, and in addition to, the Gross Settlement Amount.

23 16. The Court finds and determines that upon satisfaction of all obligations under the
24 Settlement and this Order, all Settlement Class members will be bound by the Settlement, will
25 have released the Released Claims as set forth in the Settlement, and will be permanently barred
26 from prosecuting against Defendant any of the Released Claims pursuant to the Settlement.

1 17. The Settlement is not an admission by Defendant nor is this Order a finding of
2 the validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the
3 Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement,
4 shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of
5 Defendant.

6 18. The Court will retain jurisdiction to enforce the Settlement, this Final Approval
7 Order, and the Judgment entered in connection with the Settlement.

8 19. The Settlement Administrator shall file a declaration regarding the disbursement
9 of Settlement funds on or before August 17, 2021.

10 **IT IS SO ORDERED.**

11
12 Dated: 12/10, 2020

WILLIAM F. HIGHBERGER

Honorable William F. Highberger
Judge of the Superior Court

*Non-App. Case Review Re
same 8/24/21 @ 9am.*