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Superior Court of California
County of Los Angeles

AUG 11 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Aldwin Lim Deputy

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
PATRICIA HERNANDEZ

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
PATRICIA HERNANDEZ

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

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

[Assigned for all purposes to Hon. William
F. Highberger, SSC-10]

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

Date: August 11, 2020

Time: 1:30 p.m.

Dept.: SSC-10

Complaint Filed: August 12, 2019

Trial Date: None Set

1 The Motion of Plaintiff Patricia Hernandez ("Plaintiff") for Preliminary Approval of Class
2 Action Settlement ("Motion") came on regularly for hearing before this Court on August 11, 2020 at
3 1:30 p.m. in Department SSC-10. The Court, having considered the proposed Stipulation of Settlement
4 (the "Settlement"), attached as Exhibit 1 to the Declaration of Scott M. Lidman filed concurrently with
5 the Motion; having considered Plaintiff's Motion, Memorandum of Points and Authorities in support
6 thereof, and supporting declarations filed therewith; and good cause appearing, HEREBY ORDERS
7 THE FOLLOWING:

8 1. The Court GRANTS preliminary approval of the class action settlement as set forth in
9 the Settlement and finds its terms to be within the range of reasonableness of a settlement that ultimately
10 could be granted approval by the Court at a Final Fairness Hearing. For purposes of the Settlement,
11 the Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently well-
12 defined community of interest among the members of the Settlement Class in questions of law and fact.

13 Therefore, for settlement purposes only, the Court grants conditional certification of the following
14 Settlement Class:

15 All current and former non-exempt, hourly, employees of Defendant Fred M.
16 Boerner Motor Co. who worked in California at any time from August 12, 2015
17 through September 2, 2020 or the date the Court grants preliminary approval,
18 whichever is earlier.

19 2. For purposes of the Settlement, the Court designates named Plaintiff Patricia Hernandez
20 as Class Representative, and designates Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of
21 Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel.

22 3. The Court designates Phoenix Settlement Administrators ("Phoenix") as the third-party
23 Settlement Administrator for mailing notices.

24 4. The Court approves, as to form and content, the Notice of Pendency of Class Action
25 and Proposed Settlement and Notice of Individual Settlement Award attached to the Settlement as
26 **Exhibit B.**

27 5. The Court finds that the form of notice to the Settlement Class regarding the pendency
28 of the action and of the Settlement, and the methods of giving notice to Settlement Class members,
constitutes the best notice practicable under the circumstances, and constitute valid, due, and sufficient
notice to all members of the Settlement Class. The form and method of giving notice complies fully

1 with the requirements of California Code of Civil Procedure section 382, California Civil Code section
2 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and
3 other applicable law.

4 6. The Court further approves the procedures for Settlement Class members to opt out of
5 or object to the Settlement, as set forth in the Notice of Pendency of Class Action and Proposed
6 Settlement.

7 7. The procedures and requirements for filing objections in connection with the Final
8 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly
9 presentation of any Settlement Class member's objection to the Settlement, in accordance with the due
10 process rights of all Settlement Class members.

11 8. The Court directs the Settlement Administrator to mail the Notice of Pendency of Class
12 Action and Proposed Settlement and Notice of Individual Settlement Award to all of the Class members
13 in accordance with the terms of the Settlement.

14 9. The Class Notice shall provide at least 45 calendar days' notice for Settlement Class
15 members to opt out of, or object to, the Settlement.

16 10. The Final Fairness Hearing on the question of whether the Settlement should be finally
17 approved as fair, reasonable, and adequate is scheduled in Department SSC-10 of this Court, located
18 at 312 N. Spring Street, Los Angeles, California 90012 on Dec. 10, 2020 at 1:30 ~~a.m.~~ p.m.
19 p.m.

20 11. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement
21 should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a
22 judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's
23 application for reasonable attorneys' fees, reimbursement of litigation expenses, service award to
24 Plaintiff, and payment to the Labor and Workforce Development Agency ("LWDA") for penalties
25 under the Labor Code Private Attorneys General Act ("PAGA") should be granted.

26 12. Counsel for the parties shall file memoranda, declarations, or other statements and
27 materials in support of their request for final approval of the Settlement, attorneys' fees, litigation
28 expenses, Plaintiff's service award, settlement administration costs, and payment to the LWDA for

PAGA penalties prior to the Final Fairness Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

13. Plaintiff is granted leave to file the First Amended Complaint Class and Representative Action Complaint, which is attached as **Exhibit A** to the Settlement.

14. An implementation schedule is below:

Event	Date	Actual Date ¹
Defendant to provide Class Data to Settlement Administrator	15 calendar days after issuance of the preliminary approval order	August 26, 2020
Settlement Administrator to mail Notice Packets to Class Members	10 business days after receiving Class Information from Defendant	September 10, 2020
Deadline for Class Members to request exclusion from, submit disputes, or object to, the Settlement	45 calendar days after mailing of the Notice by the Settlement Administrator	October 26, 2020 ²
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	16 Court days before the Final Fairness Hearing	
Final Fairness Hearing:	Dec. 10, 2020 1:30pm	

14. Pending the Final Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

15. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

IT IS SO ORDERED.

Dated: 8/11, 2020


Honorable William F. Highberger
Judge of the Superior Court

¹ These dates are based on the Court granting preliminary approval at the hearing, currently noticed for August 11, 2020.

² Plaintiff recognizes that 45 calendar days would be Sunday, October 25, 2020. Therefore, Plaintiff calendared this deadline for the next business day, Monday, October 26, 2020.