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ELECTRONICALLY FILED: 09/14/2022
San Luis Obispo Superior Court
By: McCormick, Karen

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO**

STEPHEN FIANT, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

ERNIE BALL, INC., a California corporation;
and DOES 1 through 100,

Defendant.

Case No. 21CV-0016

[Assigned for all purposes to the Hon. Tana L.
Coates, Dept. 9]

**~~[PROPOSED]~~ JUDGMENT AND ORDER
GRANTING PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT, ATTORNEYS'
FEES AND COSTS, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT**

Date: September 14, 2022
Time: 9:00 a.m.
Dept.: 9

Action Filed: January 14, 2021
Trial Date: None Set

1 **[PROPOSED] JUDGMENT AND ORDER**

2 The Motion of Plaintiff Stephen Fiant (“Plaintiff”) for Final Approval of Class Action
3 Settlement, Attorneys’ Fees and Costs, and Class Representative Enhancement Payment came on
4 regularly for hearing before this Court on September 14, 2022, at 9:00 a.m., pursuant to California
5 Rule of Court 3.769 and this Court’s Order granting Preliminary Approval of Class Action
6 Settlement (“Preliminary Approval Order”). Having considered the parties’ Stipulation of
7 Settlement (“Settlement” or “Settlement Agreement”) and all other documents and evidence
8 presented in support thereof, and recognizing the sharply disputed factual and legal issues
9 involved in this case, the risks of further prosecution, and the benefits to be received by the
10 participating Settlement Class members pursuant to the Settlement, the Court hereby makes a
11 final ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of
12 good faith, arms’-length negotiations between the parties. Good cause appearing therefor, the
13 Court hereby GRANTS Plaintiff’s Motion for Final Approval of Class Action Settlement and
14 HEREBY ORDERS THE FOLLOWING:

15 1. Final judgment is hereby entered in conformity with the Settlement and this Final
16 Approval Order.

17 2. The conditional class certification is hereby made final, and the Court thus
18 certifies, for purposes of the Settlement, the following Settlement Class:

19 All current and former non-exempt employees who worked for
20 Defendant Ernie Ball, Inc. (“Defendant”) in California and received
21 both an attendance bonus during the COVID-19 pandemic and
22 overtime wages in the same pay period during at least one pay period
between January 14, 2017 and October 1, 2021 (the “Class Period”).

23 3. As of the date that this Judgment becomes final, all participating Settlement Class
24 members who did not timely opt-out from participation, by virtue of this Judgment, will fully
25 release and discharge Defendant and any of its former or present parents, subsidiaries, affiliates,
26 investors, partners, owners, related organizations, predecessors or successors, clients, and all
27 agents, employees, officers, directors, members, managers, holding companies, insurers, and
28 attorneys thereof, (collectively, the “Released Parties”), from liability for all claims arising from
Defendant’s alleged Labor Code violations for its failure to include the value of non-discretionary

1 bonus payments in the regular rate of pay when calculating employee overtime wages, including
2 claims for unpaid overtime wages, wage statement violations, waiting time penalties, and civil
3 penalties under the Private Attorneys General Act, Labor Code § 2968 *et seq.* (“PAGA”) that
4 arose during the Class Period (the “Released Claims”). The time period for the Released Claims
5 will be from January 14, 2017 to October 1, 2021.

6 4. Plaintiff Stephen Fiant is hereby confirmed as Class Representative. Paul K.
7 Haines, Fletcher Schmidt, Matthew K. Moen, and Susan J. Perez of Haines Law Group, APC are
8 hereby confirmed as Class Counsel.

9 5. Notice was mailed to the Settlement Class members in English and Spanish as set
10 forth in the Settlement, which was approved by the Court on May 4, 2022. The notice process has
11 been completed in conformity with the Settlement and with this Court’s orders. The Court finds
12 that said notice was the best notice practicable under the circumstances. The notice provided due
13 and adequate notice of the proceedings and matters set forth therein, informed Settlement Class
14 members of their rights, and fully satisfied the requirements of California Code of Civil Procedure
15 § 1781(e), California Rule of Court 3.769, and due process.

16 6. The Court finds that one (1) potential Settlement Class member opted out from the
17 Settlement, and that the 99.39% participation rate in the Settlement supports final approval.

18 7. The Court hereby approves the Settlement as set forth in the Settlement Agreement
19 as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement
20 according to its terms.

21 8. For purposes of settlement only, the Court finds that: (a) the members of the
22 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
23 (b) there are questions of law or fact common to the Settlement Class and there is a well-defined
24 community of interest among members of the Settlement Class with respect to the subject matter
25 of the litigation; (c) the claims of the Class Representative are typical of the claims of the members
26 of the Settlement Class; (d) the Class Representative has fairly and adequately protected the
27 interests of the Settlement Class members; (e) a class action is superior to other available methods
28

1 for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as
2 counsel for the Class Representative and the Settlement Class.

3 9. The Court finds that given the absence of objections, and objections being a
4 prerequisite to appeal, this Order will be considered final as of the date it is signed by this Court.

5 10. The Court orders Defendant to fund the entire Maximum Settlement Amount of
6 \$145,000.00 within 30 calendar days of the date of this Order, as provided for in the Settlement.

7 11. The Court finds that the Settlement Awards, as defined and provided for in the
8 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to
9 distribute the Settlement Awards in conformity with the terms of the Settlement.

10 12. The Court finds that the payment to the State of California Labor and Workforce
11 Development Agency ("LWDA") in the amount of \$7,500.00 for its 75% share of civil penalties
12 under PAGA is fair, reasonable and adequate, and orders the Settlement Administrator to
13 distribute this payment to the LWDA in conformity with the terms of the Settlement.

14 13. The Court finds that the Class Representative Enhancement Payment in the
15 amount of \$5,000.00 to Plaintiff is appropriate in recognition of the risks undertaken by Plaintiff
16 and for Plaintiff's service to the Settlement Class; for the amount of time and effort spent by
17 Plaintiff as the Class Representative; for Plaintiff's general release of claims provided as part of
18 the Settlement Agreement; and for serving the interests of the Settlement Class members. The
19 Court finds that this amount is fair, reasonable, and adequate, and orders that the Settlement
20 Administrator make this payment in conformity with the terms of the Settlement.

21 14. The Court finds that attorneys' fees in the amount of \$48,333.33, and actual
22 litigation costs of \$7,044.14, are fair, reasonable, and adequate in light of the common fund
23 provided for the benefit of the Settlement Class members, and orders that the Settlement
24 Administrator distribute these payments to Class Counsel in conformity with the terms of the
25 Settlement. The Court finds that the time devoted to the matter by Class Counsel was reasonably
26 necessary in the investigation and prosecution of this action and that the fees are appropriately
27 awarded in light of the benefit provided to the Settlement Class members by Class Counsel's
28 efforts.

1 15. The Court orders that the Settlement Administrator, Phoenix Settlement
2 Administrators, shall be paid \$7,500.00 from the Maximum Settlement Amount for all of its work
3 done and to be done until the completion of this matter, and finds that sum appropriate.

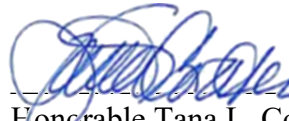
4 16. Any funds from Settlement Awards remaining uncashed after the 180-day check-
5 cashing deadline shall be transferred to the Community Action Partnership of San Luis Obispo,
6 the parties' agreed-upon *cy pres* designee.

7 17. Pursuant to California Code of Civil Procedure section 664.6 and Rule 3.769(h) of
8 the California Rules of Court, the Court will retain jurisdiction over this action and the parties
9 until final performance of the Settlement Agreement.

10 18. This document will constitute a final judgment pursuant to California Rule of
11 Court 3.769(h), which provides, "If the court approves the settlement agreement after the final
12 approval hearing, the court must make and enter judgment. The judgment must include a
13 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
14 judgment. The court may not enter an order dismissing the action at the same time as, or after,
15 entry of judgment." The Court will retain jurisdiction to enforce the Settlement and this Final
16 Approval Order and Judgment.

17 **IT IS SO ORDERED.**

18
19 Dated: 9/14/2022 _____



Honorable Tana L. Coates
Judge of the Superior Court