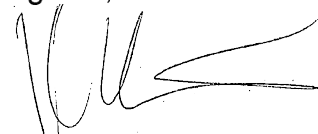


Electronically Filed
Superior Court of California
County of Santa Cruz
December 12, 2024
Clerk of the Court by Deputy,
Broughton, Karen



Anthony J. Orshansky (SBN 199364)
anthony@counselonegroup.com
COUNSELONE, PC
9465 Wilshire Boulevard, Suite 300
Beverly Hills, California 90212
Tel: (310) 277-9945 / Fax: (424) 277-3727

Edwin Aiwazian (SBN 232943)
edwin@calljustice.com
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ

EDGAR GUTIERREZ, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

v.

ZERO MOTORCYCLES INC., an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 19-CV-03725

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

Further Case Management Hearing

Date: January 9, 2025
Time: 8:30 a.m.
Dept.: 5

1 WHEREAS, this matter came on for hearing on July 26, 2022, at 8:30 a.m. before the
2 Honorable Timothy Volkmann in Department 5 of the Santa Cruz County Superior Court, located
3 at 701 Ocean Street, Santa Cruz, California 95060, upon the motion of the Plaintiff Edgar Gutierrez
4 (“Plaintiff”) for final approval of the settlement set forth in the proposed Class Action and PAGA
5 Settlement Agreement and Stipulation (“Settlement” or “Settlement Agreement”) attached as
6 Exhibit “1” to the Declaration of Jennifer L. Connor filed concurrently with the motion;

7 WHEREAS, the parties and the Settlement Administrator have completed supplemental
8 administration and distribution of funds as set forth in the November 6, 2024 Declaration of Bryn
9 Bridley on file with the Court;

10 WHEREAS, the Court’s November 21, 2024 Order directed Plaintiff to submit an amended
11 Judgment reflecting the supplemental administration and distribution of funds;

12 WHEREAS, due and adequate notice was given to the members of the Class, the Court
13 having considered all papers filed and proceedings in this case and good cause appearing therefore,
14 and

15 WHEREAS, all defined terms contained herein have the same meanings as set forth in the
16 Stipulation,

17 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

18 1. Capitalized terms not otherwise defined herein shall have the same meaning as set
19 forth in the Settlement.

20 2. The Court has jurisdiction over this matter and venue is proper.

21 3. The Court finds that this Action is properly maintained as a class action, for
22 settlement purposes only, pursuant to California Code of Civil Procedure Section 382 and California
23 Rule of Court 3.769.

24 4. For settlement purposes only, the “Class” and “Class Member(s)” for purposes of
25 this Order shall mean:

26 **Class Members** - All current and former hourly-paid or non-exempt employees who
27 worked for Defendant Zero Motorcycles, Inc. within the State of California at any
28 time during the Class Period (collectively, the “Class” or “Class Members”).

1 5. The “Class Period” is defined as the time period between December 16, 2015 and
2 June 13, 2021.

3 6. After distribution of the Court-approved Notice of Class Action and PAGA
4 Settlement (“Notice”) and a forty-five (45) day opt-out period, the Settlement Administrator reports
5 that response from the 146 Class Members resulted in zero objections and zero opt-outs/request for
6 exclusions. While ten (10) of the 146 Notices mailed were returned as undeliverable, the four (4)
7 undeliverable Notices/Supplemental Notices received prior to the opt-out deadline were remailed to
8 newly obtained addresses after a skip-trace was conducted.

9 7. Thus, the Class consisting of 146 Class Members shall be bound by this Final
10 Approval Order or any release provided herein.

11 8. CounselOne, P.C. and Lawyers *for* Justice, P.C. are appointed Class Counsel.

12 9. Named Plaintiff Edgar Gutierrez is appointed Class Representative.

13 10. The Court approves Atticus Administration, Inc. as the Settlement Administrator.

14 11. The Court finds that the 6-page Notice of Proposed Class Action Settlement, along
15 with Share Form and Workweek Dispute (collectively, “Notice Packets”) which were attested to
16 and authenticated by the Settlement Administrator – [see, internal exhibit “A” to the Declaration of
17 Bryn Bridley Regarding Notice and Settlement Administration] - as mailed to Class Members by
18 the Settlement Administrator was the best notice practicable under the circumstances. The Class
19 Notice provided due process and adequate notice of the proceedings and of the matters set forth
20 therein, including the proposed terms of settlement set forth in the Settlement Agreement, to all
21 persons entitled to such notice, and said Class Notice fully satisfied the requirements of the law and
22 the requirements of due process. Out of the 146 putative Class Members, zero Class Members
23 submitted opt-outs/requests for exclusion (thus, 100% of the Class Members are participating in the
24 Settlement), and no Settlement Class Members objected to the Settlement.

25 12. The Court finds that the Settlement Agreement is fair, reasonable, and adequate to
26 the Class Members, is in the best interest of the Class Members, has been entered into in good faith
27 and should be and hereby is fully and finally approved. The Settlement represents a fair resolution
28

1 of all claims asserted on behalf of Plaintiff and the Class Members, and fully and finally resolves
2 all such claims.

3 13. The Court hereby approves the class settlement set forth in the Settlement Agreement
4 and finds that the settlement is, in all respects, fair, adequate and reasonable and directs the Parties
5 and Settlement Administrator to effectuate the Settlement according to its terms. The Court finds
6 that the settlement has been reached as result of intensive, serious and non-collusive arm's length
7 negotiations. The Court finds that the Parties have conducted extensive investigation and research
8 and counsel for the Parties are able to reasonably evaluate their respective positions. The Court also
9 finds that settlement at this time will avoid additional substantial costs, as well as avoid the delay
10 and risks that would be presented by the further prosecution of this Action. The Court has noted the
11 significant benefits to the Class Members under the Settlement.

12 14. As of the Effective Date, Plaintiff and each Settlement Class Member, on behalf of
13 himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries and successors,
14 shall be deemed to have, and by operation of the Final Approval Order shall have, fully and
15 irrevocably released and forever discharged the Released Parties from all Settlement Class
16 Members' Released Claims, as more fully set forth in the Settlement Agreement.

17 15. The Court orders that, upon the Effective Date, the Settlement shall be the exclusive
18 remedy for any and all Plaintiff's Released Claims of Plaintiff, and for any and all Class Members'
19 Released Claims of each and every Class Member.

20 16. The Settlement Amount to be paid by Defendant Zero Motorcycles, Inc. is a non-
21 reversionary \$506,615.04 as part of the Gross Settlement Amount. The Gross Settlement Amount
22 ("GSA") will be used for the following: (1) to satisfy the Individual Settlement Payments to Class
23 Members; (2) to pay the Court-approved Class Representative Enhancement Payment; (3) to pay
24 the PAGA Penalties including the Labor and Workforce Development Agency ("LWDA") payment
25 and to Class Members who worked during the PAGA Period; (4) to pay the Settlement
26 Administration Costs; (5) to pay the Court-approved Class Counsel's attorneys' fees; and (6) to pay
27 the Court-approved Class Counsel's actual litigation costs. The Gross Settlement Amount is
28 exclusive of employer federal and state payroll taxes.

1 17. The requested award of attorneys' fees to Class Counsel in the amount of \$148,750
2 is approved as fair, adequate, and reasonable and is to be divided between the two law firms,
3 *Lawyers for Justice*, P.C. and *CounselOne*, P.C. in accord with their respective 57.5% and 42.5%
4 fee split terms per their written fee agreement.

5 18. The requested award of litigation costs of \$8,847.04 to Class Counsel - \$1,914.39 on
6 behalf of *Lawyers for Justice*, P.C. and \$6,932.65 on behalf of *CounselOne*, P.C. - for expenses
7 incurred is approved as fair, adequate, and reasonable.

8 19. The Class Representative enhancement payment in the amount of \$7,500 to the Class
9 Representative is approved as being fair and reasonable compensation for the Class Representative's
10 efforts in initiating and prosecuting this action, the work involved, and the risks assumed.

11 20. The Court approves the costs of the Settlement Administrator, Atticus
12 Administration, Inc., in the amount of \$16,000 for the notification and settlement administration
13 services it performed in connection with this Action, which includes the award of \$10,000 requested
14 in Plaintiff's July 22, 2022 Motion for Final Approval, as well as the additional \$6,000 for
15 supplemental administration services set forth in the November 6, 2024 Declaration of Bryn Bradley
16 on file with the Court, which was paid out of the additional funds provided by the triggering of the
17 escalator provision in the Settlement Agreement as also set forth in the same Bradley Declaration.

18 21. The payment of the California Labor and Workforce Development Agency
19 ("LWDA") for civil penalties in the amount of \$40,000.00, \$30,000.00 of which will be paid to the
20 LWDA pursuant to statute, is approved.

21 22. From the Net Settlement Amount, the Settlement Administrator shall pay all
22 individual settlement amount payments to Class Members, including the employment taxes for
23 wage-related portions thereto. The calculation, timing, and payment of individual settlement checks
24 to Class Members will be made by the Defendant and Settlement Administrator in specific accord
25 with paragraph C.13.a-b, and among other paragraphs, in the Settlement Agreement. (Settlement
26 Agreement ¶ C.13.a-b.)

27 23. The Settlement provides that any uncashed checks remaining 180 days after
28 distribution will be provided to a *cy pres* recipient, pursuant to Code of Civil Procedure section 384.

1 Counsel for the Parties propose and the Court approves the California non-profit, Legal Services for
2 Children. (Settlement Agreement ¶ C.13.c.) Legal Services for Children is a 501(c)(3) not-for-profit
3 with a mission to train volunteers to advocate and represent the interests of abused and neglected
4 children and youth in the juvenile court process, along with schools and other community
5 environments. On December 6, 2024, the Settlement Administrator mailed payment in the amount
6 of \$27,528.34 to the *cy pres* recipient.

7 24. The Court finds the settlement on the terms set forth in the Settlement Agreement
8 was made in good faith and constitutes a fair, reasonable, and adequate compromise of the released
9 claims against Defendant. Without affecting the finality of this Judgment in any way, this Court
10 hereby retains continuing jurisdiction over the interpretation, implementation, and enforcement of
11 the settlement and all orders and judgments entered in connection therewith.

12 25. Without further order of the Court, the Parties may agree to reasonably necessary
13 extensions of time to carry out any of the provisions of the settlement.

14 Based on the foregoing Order the Court enters the following Judgment:

15 **Judgment**

16 26. Judgment is hereby entered pursuant to California Rules of Court, Rule 3.769(h).
17 Without affecting the finality of this Order and further pursuant to Rule 3.769(h), the Court retains
18 exclusive and continuing jurisdiction over the litigation for purposes of supervising, implementing,
19 interpreting, and enforcing this order and the Settlement Agreement, and in order to conduct the
20 final compliance hearing on certification of distribution procedure.

21 27. The Settlement Administrator shall post this Judgment on the Settlement website for
22 a period of at least 30 days. This posting shall provide the requisite notice of the Judgment to the
23 Settlement Class and satisfy the requirements of California Rules of Court, Rule 3.771(b).

24
25 **IT IS SO ORDERED.**

26 Dated: **December 9, 2024**
27 _____



Honorable Judge of the Superior Court

Cogliati, Syda

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 18 and not a party to the within action; my business address is 9465 Wilshire Boulevard, Suite
300, Beverly Hills, CA 90212.

5 On December 6, 2024, I caused to be served the following document(s) to the
6 address(es) and by the method of service described below:

7 **[PROPOSED] AMENDED FINAL ORDER AND JUDGMENT GRANTING**
8 **PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS AND**
9 **REPRESENTATIVE ACTION SETTLEMENT, ATTORNEYS' FEES AND COSTS,**
10 **AND CLASS REPRESENTATIVE'S ENHANCEMENT PAYMENT**

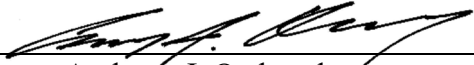
11 Julie A. Marguis
12 Nicole M. Cloudsley
13 **FREEMAN, MATHIS & GARY, LLP**
1010 B Street, Suite 400
San Rafael, CA 94901
Email: jmarquis@fmglaw.com
Email: ncloudsley@fmglaw.com

13 *Attorneys for Defendant*

14 [X] (BY E-SERVICE) I delivered to LEGAL DOCUMENT SERVER, an e-filing
15 and e-service provider with the Superior Court of California for the County of
16 Santa Cruz, the above-described document(s) to be filed and electronically
served through the Superior Court's e-filing system on the above registered
participants on this date.

17 I declare under penalty of perjury that the above is true and correct.

18 Executed on December 6, 2024 at Beverly Hills, California.

19
20 
21 Anthony J. Orshansky
22
23
24
25
26
27
28