

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Kristina Bui Carlson, Esq. [CSB No. 294924]
kristina@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

RICHARD HARPER, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

HAMNER TOWING, INC., a California
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CIVSB 2127523
*[Assigned to Hon. Judge David Cohn, Dept S26,
for all purposes]*

[PROPOSED] ORDER:

- 1) PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT;**
- 2) CONDITIONALLY CERTIFYING A
CLASS FOR SETTLEMENT
PURPOSES ONLY;**
- 3) DIRECTING DISTRIBUTION TO THE
CLASS OF THE SETTLEMENT
NOTICE AND EXPLANATION FORM;
AND**
- 4) SETTING A HEARING FOR FINAL
APPROVAL OF THE SETTLEMENT**

Complaint filed: October 4, 2021

Having reviewed and read the Class Action and Private Attorney General Act Settlement Agreement and Release of Claims (the "Settlement Agreement") between Plaintiff Richard Harper and Defendant Hamner Towing, Inc. (collectively, the "Parties"), as well as the Memorandum of Points and Authorities in Support of the Unopposed Motion for Preliminary

1 Approval of Class Action Settlement, the documents submitted in support of the motion, and all
2 supporting legal authorities and documents, IT IS HEREBY ORDERED:

3 1. The Court GRANTS preliminary approval of the Settlement based upon the terms
4 set forth in the Settlement Agreement and finds its terms to be within the range of reasonableness
5 of a settlement that ultimately could be granted final approval by the Court at a Final Approval
6 hearing. The settlement appears to be fair, adequate and reasonable to the Class. Based on a
7 review of the papers submitted by Plaintiff, the Court finds that the Settlement is the result of
8 arms-length negotiations conducted after the Parties adequately investigated and became familiar
9 with the strengths and weaknesses of the claims. The assistance of an experienced mediator in
10 the Settlement process supports the Court's conclusion that the Settlement is non-collusive.

11 2. For settlement purposes only, the Court finds that the proposed Class is
12 ascertainable and that there is a sufficiently defined community of interest among the Class
13 Members in questions of law and fact. The Court, therefore, conditionally certifies the following
14 Class, for settlement purposes only:

15 All current and former non-exempt employees employed by
16 Defendant in California at any time during the Class Period.

17 3. Additionally, the "Aggrieved Employees" are defined to include: "all current and
18 former nonexempt employees employed by Defendant in California at any time during the
19 PAGA Period."

20 4. As set forth in the Settlement Agreement and as relevant to Class and Aggrieved
21 Employees definitions: (a) "Class Period" means the period of October 4, 2017, through March
22 9, 2023, and (b) "PAGA Period" means the period of October 4, 2020, through March 9, 2023.

23 5. The class action settlement set forth in the Settlement Agreement between
24 Plaintiff and Defendant is preliminarily approved as it appears to be proper, to fall within the
25 range of a fair, reasonable and adequate settlement, and to be presumptively valid, subject only
26 to any objections that may be raised at the Final Approval Hearing.

27 6. For settlement purposes only, the Court appoints Plaintiff Richard Harper as Class
28 Representative, and Brian Mankin and Kristina Bui Carlson as Class Counsel.

1 7. The Court approves Phoenix Settlement Administrators to act as the Settlement
2 Administrator.

3 8. The Court approves, as to form and content, the Class Notice and finds that the
4 Class Notice satisfies the requirements of California Rule of Court, rules 3.766 and 3.769, subd.
5 (f), and fairly apprises the Class Members of the terms of the final approval hearing date, the
6 proposed settlement terms and of their options, including: (1) the nature of the action, the
7 definition of the Class, the identity of Class Counsel, and the essential terms of the Settlement;
8 (2) Named Plaintiffs' and Class Counsel's applications for the Class Representative Service
9 Payments, and Class Counsel's request for attorneys' fees and costs; (3) a formula used to
10 determine the Class Member's estimated Individual Settlement Payment; (4) Settlement Class
11 Members' rights to appear through counsel if they desire; (5) how to object to the Settlement or
12 submit an opt-out request if a Class Member wishes to do so; and (6) how to obtain additional
13 information regarding the action and the Settlement. Counsel for the Parties are authorized to
14 correct any typographical errors in settlement and make clarifications, to the extent the same are
15 found or needed, so long as such corrections do not materially alter the substance of the
16 documents.

17 9. The Court approves the procedure for Class Members to participate in, request
18 exclusion from or object to, and preserve appeal rights as set forth in the Settlement Agreement
19 and the Class Notice.

20 10. The Court finds that the deadlines and method set forth in the Settlement
21 Agreement for the mailing of the Class Notice meet the requirements of due process, provide the
22 best notice practicable under the circumstances, constitute due and sufficient notice to all persons
23 entitled to notice, and otherwise satisfy the requirements of California law and due process.

24 11. The Court directs the Settlement Administrator to perform address verification
25 measures and mail the Class Notice by first class mail to the Class Members not later than 10
26 days after it receives the "Class Data" as defined in the Settlement Agreement and to otherwise
27 carry out the Settlement according to the terms of the Settlement Agreement and in conformity
28 with this Order. The Parties are also ordered to carry out the Settlement according to the terms

of the Settlement Agreement.

12. All Class Members shall be deemed to participate in the Settlement, although any Class Member who wishes to comment on or object to the Settlement or who elects not to participate in the Settlement has until thirty (30) days after the mailing of the Class Notice to submit his or her objection or Request to be Excluded, pursuant to the procedures set forth in the Class Notice.

13. The Court approves the handling of unclaimed funds set forth in the Settlement Agreement, specifically that any unclaimed funds in the Settlement Administrator's account to the California State Controller's Office in the name of the Class Member and/or Aggrieved Employee, as set forth in the Settlement Agreement.

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

March 9, 2023	Preliminary Approval (PA) hearing
April 3, 2023 (24 days after PA)	Deadline for Settlement Administrator to complete first mailing of the Notice Packet to all Settlement Class Members.
May 3, 2023 (30 days after mailing Class Notice)	Deadline for Settlement Class Members to submit Requests for Exclusion and Objections to the settlement.
16 court days before Final Approval hearing	Deadline for Plaintiffs to file and serve Motion for Final Approval and application for award of attorneys' fees, costs and service payments.
9 court days before Final Approval hearing	Deadline for filing of any written opposition to Plaintiffs' Motion for Final Approval, or filing any response to an objection to the settlement.
5 court days before final approval hearing	Deadline for filing of any written reply to opposition Motion for Final Approval
TBD (Approximately July 7, 2023 - 120 days after Preliminary Approval)	Final Approval Hearing.

15. A final approval hearing shall be held in this Court on _____, 2023 at _____ a.m. to determine (1) whether the proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the amount of Attorneys' Fees and Costs Award to Class Counsel; and (3) the amount of the Service Payment to the Class Representative. The Court may continue or adjourn the final approval

1 hearing without further notice to the Class Notice.

2 16. Counsel for the parties shall file memoranda, declarations, or other statements and
3 materials in support of their request for final approval of the Settlement, attorneys' fees,
4 litigation costs, Class Representative's Service Payment, Settlement Administration Costs, and
5 payment to LWDA for PAGA penalties prior to the Final Approval hearing according to the time
6 limits set by the Code of Civil Procedure and the California Rules of Court.

7 17. Neither this Order, the Settlement Agreement, nor any document referred to
8 therein, nor any action taken to carry out the settlement embodied in the Settlement Agreement
9 may be construed as, or may be used as an admission by or against Defendant or any of the other
10 Released Parties (as that term is defined in the Settlement Agreement) of any fault, wrongdoing
11 or liability whatsoever. The entering into or carrying out of the Settlement Agreement, and any
12 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to
13 be evidence of, an admission or concession with regard to the denials or defenses by Defendant
14 or any of the other Released Parties and shall not be offered in evidence in any action or
15 proceeding against Defendant or any of the Released Parties in any court, administrative agency
16 or other tribunal for any purpose whatsoever other than to enforce the provisions of this Order,
17 the Settlement Agreement, or any related agreement or release.

18 18. The Court may, for good cause shown, extend any of the deadlines set forth in
19 this Order.

20 19. In the event that the Settlement Agreement does not receive final approval or the
21 Effective Date of the Settlement does not occur, this Order shall be rendered null and void and
22 shall be vacated.

23 20. Pending the Final Approval hearing, all proceedings in this action, other than
24 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this
25 Order, are stayed.

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1 21. Counsel for the Parties are hereby authorized to utilize all reasonable procedures
2 in connection with the administration of the Settlement which are not materially inconsistent
3 with either this Order or the terms of the Settlement.

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5 Date: _____

6 Hon. David H. Cohn
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