

FILED
KERN COUNTY SUPERIOR COURT
9/15/2020

BY Taylor, Geena
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

ANTHONY NUNCIO; KYLE PETERSON;
individually, and on behalf of other members
of the general public similarly situated and on
behalf of aggrieved employees pursuant to the
Private Attorneys General Act (“PAGA”);

Plaintiffs,

v.

MMI SERVICES, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: S-1500-CV-282534-DRL

Honorable David R. Lampe
Department 11

CLASS ACTION

**~~PROPOSED~~ FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: September 15, 2020
Hearing Time: 8:30 a.m.
Hearing Place: Dept. 11

Complaint Filed: July 22, 2014
Trial: None Set

1 This matter has come before the Honorable David R. Lampe in Department 11 of the
2 above-entitled Court located at 1415 Truxtun Avenue, Bakersfield, California 93301, on Plaintiffs
3 Anthony Nuncio, Kyle Peterson, and Pedro Hernandez’s (“Plaintiffs”) Motion for Final Approval
4 of Class Action Settlement, Attorneys’ Fees, Costs, and Class Representative Enhancement
5 Payment (“Motion for Final Approval”). Lawyers *for* Justice, PC and Justice Law Corporation
6 appeared on behalf of Plaintiffs and the Class. Musick, Peeler & Garrett LLP appeared on behalf
7 of Defendant MMI Services, Inc. (“Defendant”).

8 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

9 1. All terms used herein shall have the same meaning as defined in the Parties’ Joint
10 Stipulation Class Action Settlement and Release (“Settlement” or “Settlement Agreement”).

11 2. The Court finds that the applicable requirements of California Code of Civil
12 Procedure section 382 and Rule 3.769 of the California Rule of Court have been satisfied with
13 respect to the Class and the Settlement. The Court hereby makes final its earlier provisional
14 certification of the Class for settlement purposes, as set forth in the Order Granting Preliminary
15 Approval of Class Action Settlement. The Class is hereby defined to include:

16 All current and former California-based hourly-paid or non-exempt field
17 employees of Defendant from July 22, 2010 through February 21, 2020 (“Class
18 Period”).

19 3. The Notice of Class Action Settlement (“Class Notice”) given to the Class
20 Members fully and accurately informed the Class Members of all material elements of the
21 Settlement and of their opportunity to object to, comment thereon, or to seek exclusion from, the
22 Settlement; was the best notice practicable under the circumstances; was valid, due, and
23 sufficient notice to all Class Members; and complied fully with the laws of the State of
24 California, the United States Constitution, due process and other applicable law. The Class
25 Notice fairly and adequately described the Settlement and provided the Class Members adequate
26 instructions and a variety of means to obtain additional information.

27 4. This Court has jurisdiction over the claims of the Class Members asserted in this
28 proceeding and over all Parties to the Action, including the Class.

1 5. Pursuant to California law, the Court hereby grants Final Approval of the
2 Settlement and finds it reasonable and adequate, and in the best interests of the Class as a whole.
3 More specifically, the Court finds that the Settlement was reached following meaningful
4 discovery and investigation conducted by Class Counsel; that the Settlement is the result of
5 serious, informed, adversarial, and arm’s-length negotiations between the Parties; and that the
6 terms of the Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court
7 has considered all of the evidence presented, including evidence regarding the strength of
8 Plaintiffs’ case; the risk, expense, and complexity of the claims presented; the likely duration of
9 further litigation; the amount offered in Settlement; the extent of investigation and discovery
10 completed; and the experience and views of Class Counsel. The Court has also considered the
11 absence of objection to the Settlement by Class Members, as well as the absence of request for
12 exclusion. Accordingly, the Court hereby directs that the Settlement be affected in accordance
13 with the Settlement Agreement and the following terms and conditions.

14 6. A full opportunity has been afforded to the Class Members to participate in this
15 hearing, and all Class Members and other persons wishing to be heard have been heard. The
16 Class Members also have had a full and fair opportunity to exclude themselves from the
17 Settlement and the Class. Accordingly, the Court determines that Plaintiffs and all Settlement
18 Class Members are bound by the Settlement, the release of Released Claims, and this Final
19 Approval Order and Judgment.

20 7. It is hereby ordered that Defendant fund the settlement in accordance with the
21 Settlement Agreement.

22 8. It is hereby ordered that the Claims Administrator, Phoenix Class Action
23 Administration Solutions (“Phoenix”), shall pay the Individual Settlement Payments to the
24 participating Class Members in accordance with the Settlement Agreement.

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1 9. The Court finds that the Class Representative Enhancement Payment of \$15,000 to
2 Plaintiff Anthony Nuncio, \$15,000 to Plaintiff Kyle Peterson, and \$10,000 to Plaintiff Pedro
3 Hernandez is fair and reasonable in light of the risks and burdens undertaken by Plaintiffs in this
4 Action and for their time and effort in bringing and prosecuting this matter on behalf of the Class
5 and is hereby approved. It is hereby ordered that the Claims Administrator shall issue the Class
6 Representative Enhancement Payment of \$15,000 to Plaintiff Nuncio, \$15,000 to Plaintiff
7 Peterson, and \$10,000 to Plaintiff Hernandez in accordance with the Settlement Agreement.

8 10. It is hereby ordered that the Claims Administrator, Phoenix, shall pay itself the
9 Claims Administration Costs of \$10,0000 for the services performed and costs incurred in
10 administration of the Settlement.

11 11. The Court finds that the amount of \$20,000 allocated toward penalties under the
12 Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“PAGA”), is fair and
13 reasonable, and is hereby approved. The Claims Administrator shall issue payment in the amount
14 of \$15,000 to the California Labor and Workforce Development Agency (“LWDA”) and shall
15 distribute the remaining penalties allocation in the amount of \$5,000 to the participating Class
16 Members, according to the terms of Paragraphs 29, 56 and 57 of the Settlement Agreement.

17 12. The Court finds that Class Counsel’s request for attorneys’ fees falls within the
18 range of reasonableness, and the results achieved justify the award. Class Counsel’s request for
19 attorneys’ fees is hereby approved. It is hereby ordered that the Claims Administrator shall pay
20 Class Counsel’s attorneys’ fees of \$665,000, in accordance with the Settlement Agreement, as
21 follows.

22 13. The Court finds that Class Counsel’s litigation costs and expenses in prosecuting
23 this Action were reasonably incurred. Class Counsel’s request for reimbursement of litigation
24 costs and expenses is hereby approved. It is hereby ordered that the Claims Administrator shall
25 pay Class Counsel for reimbursement of litigation costs and expenses in accordance with the
26 Settlement Agreement, as follows: payment to Lawyers *for* Justice, PC in the amount of
27 \$3,653.16; and payment to Justice Law Corporation in the amount of \$44,355.40.

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1 14. Neither the making of the Settlement Agreement nor the entry into the Settlement
2 Agreement constitutes an admission by Defendant, nor is this Order a finding of the validity of
3 any claims in the Complaint or of any other wrongdoing. Further, the Settlement Agreement is
4 not a concession, and shall not be used as an admission of any wrongdoing, fault, or omission of
5 any entity or persons; nor may any action taken to carry out the terms of the Settlement
6 Agreement be construed as an admission or concession by or against Defendant or any related
7 person or entity.

8 15. With this Final Approval of the proposed Settlement and conditioned upon
9 Defendant's obligation to make timely payment under Paragraph 51 of the Settlement Agreement,
10 it is hereby ordered that Class Members and their successors shall conclusively be deemed to have
11 given a release, as set forth in the Settlement Agreement and Class Notice, against the Released
12 Parties, and all such participating Class Members and their successors shall be permanently
13 enjoined and forever barred from asserting any claim related to this Action against the Released
14 Parties.

15 16. After entry of this Final Approval Order and Judgment, pursuant to California
16 Rules of Court, Rule 3.769(h), the Court reserves exclusive and continuing jurisdiction over the
17 Action, the Class Representatives, the Class Members, and Defendant for the purposes of
18 supervising the implementation, enforcement, construction, administration and interpretation of
19 the Settlement Agreement and this Judgment.

20 17. Notice of entry of this Final Approval Order and Judgment shall be given to Class
21 Members by posting a copy of the Final Approval Order and Judgment on Phoenix's website for
22 no less than a period of sixty (60) days.

23 **IT IS SO ORDERED.**

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25 Dated: Signed: 9/15/2020 03:42 PM , 2020



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27 Honorable David R. Lampe
28 Judge of the Superior Court