

DEC 15 2022

BY  DEPUTY  
Samantha Neubauer

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

Attorneys for ERIK MARTINEZ,  
on behalf of himself, all others similarly situated,  
and on behalf of the general public,

Plaintiff,

v.

PATRICK INDUSTRIES, INC.; and DOES 1-  
100,

Defendants.

Case No. CIVDS2009663

[Assigned for All Purposes to the  
Hon. David Cohn; Dept. S26]

~~PROPOSE~~ ORDER GRANTING  
PLAINTIFF ERIK MARTINEZ'S  
MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT,  
ATTORNEYS' FEES AND COSTS,  
CLASS REPRESENTATIVE  
ENHANCEMENT PAYMENT,  
ADMINISTRATION COSTS, LWDA  
PAYMENT, AND ENTERING OF  
FINAL JUDGMENT

Date: December 15, 2022  
Time: 10:00 a.m.

Complaint Filed: June 1, 2020  
Trial Date: None Set



1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

2 Plaintiff's Motion for Final Approval of Class Action Settlement, Attorneys' Fees, Costs,  
3 Class Representative Enhancement Payment, and Entering of Final Judgment ("Motion for Final  
4 Approval") came before this Court, the Honorable David Cohn, presiding, on December 15, 2022.  
5 The Court having considered the papers submitted in support of the Motion for Final Approval,  
6 **HEREBY ORDERS AND MAKES THE FOLLOWING DETERMINATIONS:**

7 1. All terms used herein shall have the same meaning as defined in the Parties' Joint  
8 Stipulation and Settlement Agreement ("Settlement Agreement") and the Order Granting  
9 Plaintiff's Motion for Preliminary Approval of Class Action Settlement, Conditional Certification,  
10 Approval of Class Notice, Setting of Final Approval Hearing Date ("Preliminary Approval  
11 Order").

12 2. The Court finds that the applicable requirements of California Code of Civil  
13 Procedure section 382 and California Rule of Court 3.769, *et seq.* have been satisfied with respect  
14 to the Class and the settlement. The Court hereby makes final its earlier provisional certification  
15 of the Class for settlement purposes, as set forth in the Preliminary Approval Order. The Class is  
16 hereby defined to include all non-exempt employees of Defendant who worked in California from  
17 June 1, 2016 through June 10, 2022 ("Class" or "Class Members").

18 3. The Court has jurisdiction over the claims of the Class Members asserted in this  
19 proceeding and over all parties to the proceeding.

20 4. The Notice of Class Action Settlement ("Class Notice") was mailed by first-class  
21 U.S. mail to Class Members. The Class Notice informed the Class of the material terms of the  
22 settlement, of their right to receive a *pro rata* portion of the Net Settlement Amount, of their right  
23 to request exclusion from the settlement, of their right to comment upon or object to the settlement  
24 and to appear in person or through counsel at the Final Approval Hearing and of the date set for  
25 the Final Approval Hearing. Adequate periods of time were provided by each of these procedures.

26 5. In response to the Class Notice, no member of the Class submitted a written  
27 objection to the settlement or stated an intention to appear at the Final Approval Hearing. No  
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1 member of the Class requested to be excluded from the settlement. No member of the Class  
2 submitted a dispute regarding the number of workweeks credited to him/her.

3         6.       The Court finds and determines that this notice procedure afforded adequate  
4 protections to Class Members and provides the basis for the Court to make an informed decision  
5 regarding approval of the settlement based on the Class Members' response. The Court finds and  
6 determines that the Class Notice was the best notice practicable under the circumstances and  
7 satisfied the requirements of law and due process.

8         7.       The Court further finds and determines that the terms of the settlement are fair,  
9 reasonable, and adequate to the Class and to each Class Member

10        8.       Pursuant to California law, the Court hereby grants final approval of the settlement.  
11 The Court finds that the settlement was reached as a result of informed and non-collusive arm's-  
12 length negotiations facilitated by a neutral mediator. The Court further finds that the Parties  
13 conducted extensive investigation, research, and discovery and that their attorneys were able to  
14 reasonably evaluate their respective positions. The Court also finds that settlement will enable the  
15 Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if  
16 the Parties were to continue to litigate the case. The Court has considered the absence of objections  
17 to and requests for exclusion from the settlement, reviewed the monetary recovery provided as part  
18 of the settlement, and recognizes the significant value accorded to the Class. Accordingly, the  
19 Court hereby approves the terms set forth in the Settlement Agreement and finds that the settlement  
20 is, in all respects, fair, adequate, and reasonable, and directs the Parties to effectuate the settlement  
21 according to its terms.

22         9.       A full opportunity has been afforded to the Class Members to participate in the  
23 Final Approval Hearing, and all Class Members and other persons wishing to be heard have been  
24 heard. The Class Members also have had a full and fair opportunity to exclude themselves from  
25 the settlement. Accordingly, the Court determines that all Class Members who did not submit a  
26 timely and valid request for exclusion from the settlement to the Settlement Administrator  
27 ("Participating Class Members") are bound by this Order Granting Plaintiff's Motion for Final  
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1 Approval of Class Action Settlement, Attorneys' Fees, Costs, Class Representative Enhancement  
2 Payment, and Entering of Final Judgment ("Final Approval Order and Judgment").

3 10. The Court hereby confirms David Mara and Jill Vecchi of Mara Law Firm, PC, as  
4 Class Counsel in this action.

5 11. The Court hereby confirms Plaintiff Erik Martinez as the Class Representative in  
6 this action.

7 12. The Court finds and determines that the Individual Settlement Shares provided for  
8 by the terms of the Settlement Agreement to be paid to the Participating Class Members are fair  
9 and reasonable. The Court hereby gives final approval to and orders the payment of those amounts  
10 be made to the Participating Class Members in accordance with the terms of the Settlement  
11 Agreement.

12 13. The Court finds and determines the Class Representative Enhancement Payment in  
13 the sum of \$7,500 to Plaintiff Erik Martinez is fair and reasonable. The Court hereby orders the  
14 Settlement Administrator to make the payment to the Plaintiff/Class Representative Erik Martinez  
15 in the amount of \$7,500 for the Class Representative Enhancement Payment in accordance with  
16 the terms of the Settlement Agreement.

17 14. The Court finds and determines that the payment to the Settlement Administrator,  
18 Phoenix Settlement Administrators, in the sum of \$10,000 for its fee and expenses incurred and to  
19 be incurred for the notice and settlement administration process is fair and reasonable. The Court  
20 hereby orders the Settlement Administrator to make payment to itself in the amount of \$10,000 for  
21 Administration Costs in accordance with the terms of the Settlement Agreement.

22 15. Pursuant to the terms of the settlement, and the authorities, evidence and argument  
23 submitted by Class Counsel, the Court hereby approves of an attorneys' fee award in the sum of  
24 \$599,940 and a Cost Award of \$18,424.51 to Class Counsel. The Court finds such amounts to be  
25 fair and reasonable. The Court hereby orders the Settlement Administrator to make payment to  
26 Class Counsel in the amount of \$599,940 for attorneys' fees and \$18,424.51 for litigation expenses  
27 in accordance with the terms of the Settlement Agreement.

1           16.     The Court finds and determines that the payment to the Labor and Workforce  
2 Development Agency (“LWDA”), in the sum of \$56,250 (which is 75% of the \$75,000 allocated  
3 to claims under the Private Attorneys General Act of 2004 (“PAGA”)), is fair and reasonable. The  
4 Court hereby orders the Settlement Administrator to make the payment to the LWDA in the  
5 amount of \$56,250 for the PAGA payment in accordance with the terms of the Settlement  
6 Agreement.

7           17.     Neither Defendant nor any related persons or entities shall have any further liability  
8 for costs, expenses, interest, attorneys’ fees, or for any other charge, expense, or liability, except  
9 as provided for by the Settlement Agreement. Pursuant to the terms of the Settlement Agreement,  
10 Defendant shall not be liable for more than the agreed upon Gross Settlement Amount.

11           18.     The Court finds and determines that the release contained in the Settlement  
12 Agreement is appropriate and shall bind all Settlement Class Members.

13           19.     Nothing in this Final Approval Order and Judgment shall preclude any action to  
14 enforce the Parties’ obligations pursuant to the Settlement Agreement or pursuant to this Final  
15 Approval Order and Judgment, including the requirement that Defendant make payments to  
16 Settlement Class Members in accordance with the Settlement Agreement.

17           20.     The Court finds and determines that nothing in the Settlement Agreement or this  
18 Final Approval Order and Judgment is intended or will be construed as an admission of liability  
19 or wrongdoing by Defendant. Except as necessary to enforce the terms of the Settlement  
20 Agreement, neither the Settlement, nor any document, statement, proceeding or conduct related to  
21 the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or  
22 admitted into evidence as, received as or deemed to be in evidence for any purpose adverse to the  
23 Defendant, including, but not limited to, evidence of a presumption, concession, indication or  
24 admission by Defendant of any liability, fault, wrongdoing, omission, concession, or damage,  
25 except for legal proceedings concerning the implementation, interpretation, or enforcement of the  
26 Settlement Agreement.

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1 21. The Court hereby enters final judgment in this action in accordance with the terms  
2 of the Settlement Agreement, Preliminary Approval Order, and this Final Approval Order and  
3 Judgment.

4 22. A final compliance hearing will be set for 12/14/23  
5 at 9:00 a.m. A declaration from the settlement administrator must be filed at least 5 court days  
6 prior to the compliance hearing.

7 23. The Parties shall bear their own costs and attorneys' fees except as otherwise  
8 provided for by the Settlement Agreement and this Final Approval Order and Judgment.

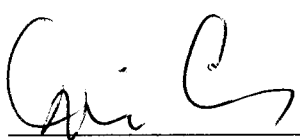
9 24. Without affecting the finality of this Final Approval Order and Judgment in any  
10 way, the Court retains jurisdiction of all matters relating to the interpretation, administration,  
11 implementation, effectuation and enforcement of this order and the Settlement.

12 **JUDGMENT**

13 25. This document shall constitute a judgment for purposes of California Rules of Court, Rule  
14 3.769(h). In accordance with, and for the reasons stated in this Final Approval Order and Judgment,  
15 judgment shall be entered within the meaning and for purposes of Code of Civil Procedure sections  
16 577, 904.1(a), and Rules 3.769, and 8.104 of the California Rules of Court whereby named  
17 Plaintiff/Class Representative and all Settlement Class Members shall take nothing from  
18 Defendant except as expressly set forth in the Settlement Agreement, in conjunction with  
19 Plaintiff's Unopposed Motion for Preliminary Approval of the Class Action Settlement. The Court,  
20 pursuant to California Rule of Court 3.769(h), shall retain jurisdiction over the parties to enforce  
21 the terms of the judgment.

22 **IT IS SO ORDERED.**

23  
24 Dated: 12/15/22

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26 \_\_\_\_\_  
27 Honorable David Cohn  
28 Superior Court Judge