

FILED
KING COUNTY, WASHINGTON

AUG 21 2015

**SUPERIOR COURT CLERK
BY DAVID J. ROBERTS
DEPUTY**

The Honorable Dean S. Lum
Hearing Date/Time:
August 21, 2015 at 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

ROBERT S. BRUNER and CECIL G.
MARKLEY, individually and on behalf
of others similarly situated,

Plaintiffs,

vs.

DAVIS WIRE CORPORATION,

Defendant.

CLASS ACTION

NO. 12-2-15676-0 SEA

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT

[CLERK'S ACTION REQUIRED]

THIS MATTER came before the Court on Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement. The Court has considered all papers and materials submitted by the parties in support of the proposed Settlement Agreement, including Plaintiffs' preliminary and final memoranda in support of approval of the Settlement Agreement, the first and second Declarations of Adam Berger in support of the proposed settlement, the Declaration of Jennifer Robbins, and the exhibits attached thereto. The Court has also considered the objections submitted by Marwan Ahmad, Muayyad Ahmad, Kamal Faraj, Jabbar Shamdeen, and Salim Sulaiman to the proposed settlement. Having considered these materials and the statements of counsel and the objectors at the Final Approval Hearing on August 21, 2015, the Court, being fully advised in

~~PROPOSED~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION SETTLEMENT - 1

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1 the matter, has determined that the proposed Settlement Agreement should be approved as
2 fair, adequate and reasonable. In making this determination, the Court has considered: the
3 Court's prior Findings of Fact, Conclusions of Law, and Judgment in this matter; the likelihood
4 of the Parties' success on appeal with respect to Plaintiffs' claims and Defendant's defenses;
5 the status and extent of the Parties' investigation, research, discovery and negotiation with
6 respect to Plaintiffs' claims and Defendant's defenses; and the risks, costs, and delay imposed
7 on the Plaintiff class by pending appeals and continued litigation of the case. The Court has
8 reviewed the terms of the Settlement Agreement and has considered the recommendations
9 of counsel for all parties. The Court is aware that substantial time and expense would be
10 required to litigate Plaintiffs' claims in the event the proposed Settlement Agreement is not
11 approved. Finally, the Court finds that all settlement negotiations were conducted in good faith
12 and at arms' length and that there was no collusion. Good cause appearing therefore, it is
13 hereby
14

15
16 ORDERED, ADJUDGED AND DECREED that:

17 1. The definitions set forth in the parties' Settlement Agreement, and the
18 Court's June 17, 2015 Order (1) Preliminarily Approving Proposed Class Action
19 Settlement, (2) Authorizing Notice, and (3) Setting Hearing Date for Final Approval of
20 Class Action Settlement ("Preliminary Order") are hereby incorporated as though fully set
21 forth herein.
22

23 2. The Court has jurisdiction over the subject matter of this Class Action and over all
24 parties to this Class Action, including all members of the Class previously certified by the Court.

25 3. The Court hereby approves the Settlement Agreement and finds that it is, in all
26 respects, fair, reasonable and adequate to the Class Members.



~~PROPOSED~~ ORDER GRANTING FINAL
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1 4. On or about June 19, 2015, the Notice of Proposed Class Action Settlement (“Notice”)
2 was mailed to the last known addresses of all Class Members, with a supplemental mailing to
3 class members whose initial mailing was returned as undeliverable. The Court finds and
4 concludes that said Notice fully satisfied the requirements of CR 23(c)(2) and CR 23(e) and the
5 requirements of due process.
6

7 5. The Court finds that the Notice, which consisted of an individual notice
8 mailed to the last-known address of each Settlement Class Member, provided the best notice
9 practicable under the circumstances. This Notice provided due and adequate notice of
10 these proceedings and of the matters set forth therein, including the pendency of the
11 Class Action, the terms of the proposed Settlement Agreement, and the procedure
12 for submitting objections to the Settlement Agreement, to all persons entitled to such
13 notice, and said Notice fully satisfied the requirements of CR 23 and the requirements of
14 due process. The Second Declaration of Adam J. Berger confirms that the Notice was
15 mailed in accordance with the terms of the Settlement Agreement and the Court’s
16 Preliminary Order.
17

18 6. Five objections to the Settlement Agreement have been communicated to Class
19 Counsel and filed by Class Counsel with the Court. The objectors also had the opportunity to
20 and did address the Court at the final approval hearing, and the Court has fully considered
21 their objections. The Court finds that these objections lack merit and that the Settlement is
22 fair, reasonable, and adequate notwithstanding these objections. Specifically, the Court finds
23 that the five objectors were excluded from recovery by the Court following trial of this case
24 based on specific, consistent and undisputed evidence that these individuals received the
25 work-free meal periods to which they were entitled under Washington law. Therefore, the
26



1 absence of any award for these five objectors under the Settlement is consistent with the
2 Court's Judgment and is fair and reasonable. In addition, no appeal was filed from the Court's
3 findings and conclusions regarding these five objectors. Therefore, rejection of the Settlement
4 would not improve the position of these objectors, but would deny the benefits of the
5 Settlement to those Class Members whom the Court found were entitled to back pay damages.
6 Finally, the Court notes that several factual assertions made by these individuals in their
7 objections are inconsistent with the testimony and evidence presented at trial, including with
8 the trial and deposition testimony of two of the objectors themselves. For these reasons, the
9 Court rejects and denies the objections to the Settlement.
10

11 7. The Court finds that Plaintiffs Robert Bruner and Cecil Markley and Class
12 Counsel adequately represented the Class for purposes of entering into and implementing the
13 Settlement.
14

15 8. The Court finds that Class Counsel's request for attorneys' fees and costs
16 under the Settlement is fair and reasonable, and hereby approves Class Counsel's request for
17 an award of attorneys' fees in the amount of \$932,090.94, to be paid by Defendant from
18 the Settlement Fund as provided in Paragraphs 3(c) and 13 of the Settlement Agreement. The
19 Court further finds that payment of 50% of any Remaining Settlement Funds to Class Counsel
20 under Paragraphs 3(f) and 16 of the Settlement Agreement as a supplemental attorneys' fee and
21 cost award is fair and reasonable.
22

23 9. The Court further approves payment to the Class Representatives, Robert
24 Bruner and Cecil Markley, of the amounts of \$7,500 and \$2,500 respectively, in addition to their
25 *pro rata* shares of the Net Settlement Fund, to be paid by Defendant from the Settlement Fund,
26 in recognition of their services on behalf of the Class in this action.



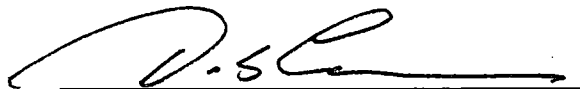
1 10. The parties are hereby directed to proceed with the settlement payment
2 procedures specified under the terms of the Settlement Agreement, including those
3 contained in Paragraphs 3 and 13 through 18 of the Settlement Agreement.

4 12. Without affecting the finality of this Final Order for purposes of appeal, the
5 Court reserves jurisdiction over the Parties as to all matters relating to the administration,
6 consummation, enforcement, and interpretation of the terms of the Settlement Agreement
7 and the Final Order, and for any other necessary purposes.

8 13. The Parties are hereby authorized, without further approval from the Court,
9 to agree to and adopt such amendments, modifications, and expansions of the Settlement
10 Agreement and all exhibits thereto as (i) are consistent in all material respects with this
11 Final Order, and (ii) do not limit the rights of the Class Members.

12 14. In the event that the Settlement Agreement does not become effective as
13 provided under its terms, this Final Order and the Preliminary Approval Order shall be
14 vacated and rendered null and void .

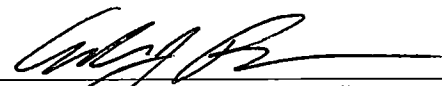
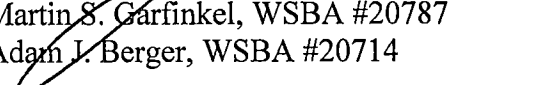
15 IT IS SO ORDERED this 21 day of August, 2015.

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19 The Honorable Dean Lum
20 Judge, King County Superior Court


21
22 PRESENTED BY:

23 SCHROETER GOLDMARK & BENDER

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25 
26 Martin S. Garfinkel, WSBA #20787
Adam J. Berger, WSBA #20714

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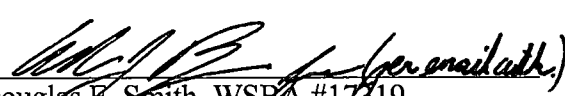
SCHWERIN CAMPBELL BARNARD
IGLITZIN & LAVITT


Dmitri Iglitzin, WSBA #17673
Jennifer L. Robbins, WSBA #40861

Counsel for Plaintiffs

APPROVED AS TO FORM AND FOR ENTRY;
NOTICE OF PRESENTATION WAIVED:

LITTLER MENDELSON P.C.

 (per email auth.)
Douglas E. Smith, WSBA #17319
Ryan P. Hammond, WSBA #38888
Jennifer S. Pirozzi, WSBA #44523
Breanne Martell, WSBA #39632

Counsel for Defendant