

SUPERIOR COURT OF CALIFORNIA COUNTY OF FRESNO

**MARY BARBER** and **ISABEL FERNANDEZ**,  
as individuals and on behalf of all others similarly  
situated

v.

**GRUNDFOS PUMPS CORPORATION**,  
a California Corporation

Case No. 14CEG00166 KCK

NOTICE OF PENDENCY OF CLASS ACTION  
AND PROPOSED SETTLEMENT  
AND HEARING DATE FOR FINAL  
APPROVAL OF SETTLEMENT

Judge: Hon. Kristi Culver Kapetan  
Dept: 403

ATTENTION: ANYONE WHO WORKED BETWEEN JANUARY 21, 2011, THROUGH DECEMBER 14, 2013 FOR GRUNDFOS PUMPS CORPORATION (“**DEFENDANT**”), AS AN HOURLY, NON-EXEMPT EMPLOYEE AT ITS MANUFACTURING PLANT LOCATED IN FRESNO, CALIFORNIA (“**COVERED POSITION(S)**”)

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHT TO MAKE A CLAIM FOR PAYMENT.

THIS NOTICE ASKS THAT YOU SUBMIT A CLAIM FORM WHICH MUST BE POSTMARKED, FAXED OR EMAILED ON OR BEFORE JANUARY 29, 2016, IF YOU WISH TO RECEIVE PAYMENT FOR YOUR SHARE OF THE SETTLEMENT.

**OR**

SUBMIT A REQUEST FOR EXCLUSION FORM WHICH MUST BE POSTMARKED ON OR BEFORE JANUARY 29, 2016, IF YOU WISH TO BE EXCLUDED FROM THE CLASS.

**IF YOU SUBMIT A CLAIM FORM WHICH IS POSTMARKED, FAXED OR EMAILED AFTER JANUARY 29, 2016, OR IF YOU SUBMIT A CLAIM FORM WHICH IS NOT COMPLETELY FILLED OUT, YOUR CLAIM FORM WILL BE REJECTED AND YOU WILL NOT RECEIVE A SETTLEMENT PAYMENT, BUT YOU WILL BE BOUND BY THE RELEASE AND ALL OTHER SETTLEMENT TERMS.**

**IF YOU SUBMIT AN EXCLUSION FORM WHICH IS POSTMARKED AFTER JANUARY 29, 2016, YOUR EXCLUSION FORM WILL BE REJECTED AND YOU WILL BE BOUND BY THE CLASS RELEASE AND ALL OTHER SETTLEMENT TERMS.**

Pursuant to the Order of the Fresno County Superior Court entered on November 17, 2015, YOU ARE HEREBY ADVISED: A settlement has been reached between the parties in the above-captioned lawsuit on behalf of all individuals who were employed by Grundfos Pumps Corporation and earned compensation at any time between January 21, 2011 and December 14, 2013 in a covered position.

## **1. WHY HAVE YOU RECEIVED THIS NOTICE?**

You have received this Notice because Defendant's records indicate that you were employed by Defendant at some time between January 21, 2011 and December 14, 2013, as an hourly, non-exempt employee at its manufacturing plant located in Fresno, California. This Notice is designed to advise you of how you can participate in this settlement or, alternatively, how you can be excluded from this settlement, or object to this settlement.

## **2. HISTORY OF THE LITIGATION**

On January 21, 2014, a class action lawsuit was filed by Plaintiff Mary Barber on behalf of herself and all individuals similarly situated. A First Amended Complaint ("FAC") was filed by Plaintiffs Mary Barber and Isabel Fernandez on October 28, 2014. The Plaintiffs allege that Defendant failed to issue compliant wage statements to its hourly, non-exempt employees and failed to maintain copies of the actual wage statements issued to its employees in violation of California Labor Code §226. Specifically, Plaintiffs allege that the wage statements issued by Defendant did not comply with the Labor Code because they did not contain the hourly rates of pay when individuals received overtime pay, temporary lead pay, or temporary shift differential pay. Plaintiffs also allege that due to the inaccurate wage statements, their base rate of pay and overtime rates of pay were not properly calculated by Defendant. Based on these allegations, Plaintiffs sought statutory penalties for all of Defendant's employees who received allegedly non-compliant wage statements. Defendant has denied and contested the allegations made in this case.

The total amount of the proposed Settlement is \$1,250,000, from which court approved attorneys' fees and costs, enhancement payments to the Class Representatives, and Claims Administrator costs will be deducted, leaving a "Net Settlement Fund." Settlement awards will be paid out of the Net Settlement Fund to Class Members who timely file valid claims, as described below.

The Court has granted preliminary approval to a Joint Stipulation of Settlement and Release, which has been signed by the parties.

As set forth in Section 4(E), below, all settlement class members who do not timely exclude themselves from this settlement or object to the settlement, will be releasing any and all claims that they have against Defendant for inaccurate wage statements and/or claims that their base rate of pay and/or overtime rate of pay was not properly calculated by Defendant. Claims not released in this case include claims that the class members were not paid wages for all hours worked, i.e., I worked eight hours and was only paid for four hours, and/or not paid overtime for all hours worked in excess of eight hours per day or forty hours per week, i.e., I worked ten hours and was not paid for two hours worth of overtime.

## **3. THE SETTLEMENT CLASS AND SUB-CLASSES**

The Court has certified, for settlement purposes only, the following Class and Sub-Classes:

**The Settlement Class:** all current and former Fresno-based hourly non-exempt employees employed by Grundfos at any time between January 21, 2011 and December 14, 2013.

**A. Sub-Class 1: "Alternate Rate Sub-Class:"** all Settlement Class Members who, at any time between January 21, 2011 and December 14, 2013, earned overtime, double-time, shift differentials, lead pay, or other compensation for time worked that was paid at anything other than their respective base rate.

**B. Sub-Class 2: "Base Rate Sub-Class:"** all Settlement Class Members who, for the entirety of the period between January 21, 2011 and December 14, 2013, only earned compensation for time worked paid at their respective base rate.

#### **4. SUMMARY OF THE PROPOSED SETTLEMENT**

##### **A. Total Payout Settlement**

This settlement is a total payout, meaning that Defendant has agreed to pay the entire \$1,250,000 regardless of the number of claims received. Settlement awards for participating class members will be paid out of the Net Settlement Fund based on whether the Class Members are members of the Alternate Rate Sub-Class or the Base Rate Sub-Class. Because this is a total payout settlement, the amount of the settlement payments to participating class members may increase depending on the number of timely and valid claims that are filed. In other words, if not all class members turn in claim forms, more money will go to those who do.

##### **B. Settlement Formula**

Settlement awards will be paid to each Class Member who submits a valid and timely Claim Form. All Claim Forms must be signed under penalty of perjury and completed in their entirety to be considered valid. The Claims Administrator will determine whether each class members is a member of the Alternative Rate Sub-Class or the Base Rate Sub-Class based on information to be provided by Defendant.

The Claim Form that you receive with this Notice informs you of the amount that you are expected to receive (approximately) if you submit a valid and timely Claim Form. This amount will increase if not all eligible members submit claims. Your amount will also increase if the Court declines to approve the fees requested by Class Counsel, the reimbursement of litigation expenses, the enhancement payments to the Class Representative, or the fees of the Claims Administrator. Assuming that the Court grants the full amount of attorney's fees, costs, enhancement awards and claims administration costs, members of the Alternative Rate Sub-Class will receive settlement awards based on the number of weeks that they were paid at a rate other than their normal base rate of pay during the Class Period. Specifically, members of the Alternative Rate Sub-Class will be paid according to the following formula:

<b># Pay Periods For Which Alternative Rate Sub-Class Members Earned Compensation For Time Worked That Was Paid At Anything Other Than Base Rate (January 21, 2011 – December 14, 2013)</b>	<b>Settlement Share</b>
1-10	\$500
11-20	\$1000
21-30	\$2000
31-40	\$3000
41+	\$4000

Members of the Base Rate Sub Class will each receive a settlement award in the amount of \$155.60. Under California Law, the maximum amount of statutory penalties that members of the Alternative rate Sub-Class can receive is \$4,000 each. (California Labor Code §226(e)(1)). Additionally, the maximum amount of statutory penalties available to persons who allegedly did not receive complaint wage statements (Alternative Rate Sub-Class Members) is paid at the rate of “fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000)...” (*Id.*) Under the formula noted above, members of the Alternative Rate Sub-Class will receive nearly 100% of the maximum amount of statutory penalties available to them under the law, even after attorney's fees and costs have been deducted.

Members of the Base Rate Sub-Class are receiving less than members of the Alternative Rate Sub-Class because they only received wage statements that complied with the California Labor code.

### **C. Calculations To Be Based on Defendant's Records**

For each Class Member submitting a timely and valid claim, the amount payable to the Class Member will be calculated by the Claims Administrator from Defendant's records. Defendant's records will be presumed correct with respect to whether the Class Members are part of the Alternative Rate Sub-Class or the Base Rate Sub-Class and the number of weeks in which members of the Alternative Rate Sub-Class were paid at a rate other than their normal base rate of pay between January 21, 2011 and December 14, 2013. A Class Member may challenge whether they are a member of either Sub-Class. If a Class Member disputes the accuracy of Defendant's records, the Class Member should submit documentation in writing (i.e., wage statements or pay stubs) supporting his or her position to the Claims Administrator **at the same time** the Class Member sends the Claim Form to the Claims Administrator. The Parties will attempt to resolve the matter informally, but if they cannot do so, the Claims Administrator will review Defendant's records and any written information or documents submitted by the Class Member and issue a non-appealable decision as to which Sub-Class the Class Member is a member of.

### **D. Payroll Deductions and Taxes**

For each Settlement Class Member who is entitled to payment under this Settlement, Defendant will issue a Form 1099 on which the interest of the settlement payment shall be reported and from which no deductions will be taken.

Defendant has not made any representations regarding the tax obligations or consequences, if any, related to the Settlement. Each Settlement Class Member is solely responsible for determining the tax consequences of payments made pursuant to the Settlement and for paying taxes, if any, which are determined to be owed by each of them on such payments (including penalties and interest related thereto) by any taxing authority, whether state, local, or federal.

### **E. Release**

Upon the final approval by the Court, the Settlement Class and each member of the Settlement Class who has not submitted a timely and valid Request for Exclusion Form, fully releases and discharges Defendant from any and all claims, judgments, liens, losses, debts, liabilities, demands, obligations, guarantees, penalties, costs, expenses, attorneys' fees, rights, damages, suits, indemnities, actions, and causes of action of every nature and description whatsoever in law, equity or otherwise, whether known or unknown, ascertained or unascertained, suspected or unsuspected, disclosed or undisclosed, contingent or accrued, existing or claimed to exist, as of the Effective Date by Plaintiffs and all Settlement Class Members (and Plaintiffs' and Settlement Class Members' respective heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns) arising out of or related to the dispute which is the subject of the Class Action or which could have been asserted in the Class Action based on the facts alleged, whether in contract, violation of any state or federal statute, rule or regulation, arising out of, concerning or in connection with any act or omission alleged in the FAC by or on the part of Released Parties, including, without limitation, those relating to wage statements, record-keeping, and the failure to pay wages and/or premiums at the proper regular rate arising under the California Labor Code, California Industrial Welfare Commission Wage Order 1-2001, California's Unfair Competition Law, California's Business & Professions Code, and/or California's Private Attorney General Act ("PAGA"), or any other California or federal laws relating to the furnishing of wage statements based on the facts alleged in the FAC from January 21, 2011, through December 14, 2013.

Claims not released are those not specifically addressed herein and/or not pleaded in the complaint. Notwithstanding the foregoing, nothing in this Agreement releases any claims that cannot be released as a matter of law.

## **F. Additional Enhancement Payments for the Class Representatives**

The Class Representatives, Barber and Fernandez, will each receive an enhancement award in an amount to be set by the Court, not to exceed the sum of Ten Thousand Dollars (\$10,000), each. Any payment approved by the Court is for their time and effort expended on behalf of the litigation effort as well as their willingness to accept the risk of paying Defendant's costs in the event of an unsuccessful outcome.

## **G. Attorneys' Fees**

The attorneys for the class filed this action, have actively litigated the case for over a year and a half and have brought it to resolution. They will request the Court award fees from the Settlement of one-third of the \$1,250,000 and also up to \$20,000 to reimburse them for litigation costs that they have advanced. The Court will determine the appropriate fees and costs. The attorneys will submit an application to the Court for the payment of attorney's fees and costs. This application will be filed with the court, and also will be posted on the claims administrator's website, within 30 days of the mailing of this Notice.

## **H. Support for the Settlement**

The Class Representatives, Class Counsel, and Defendant strongly support this Settlement. This issue has been vigorously litigated by Plaintiffs' counsel. Even if a class could be certified, trial would be lengthy and have risks. Even if the class won at trial, the judgment could be appealed, resulting in further lengthy delays.

## **I. Claims Administrator**

Phoenix Settlement Administrators will receive a payment for handling the claims administration for this case and its costs. It is estimated that the costs of claims administration should not exceed approximately \$10,000.

# **5. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?**

## **A. Submitting a Claim**

Anyone who wishes to submit a claim for money must complete the Claim Form in its entirety, sign it, and submit it to Phoenix Settlement Administrators by mail, fax, or email, as described on the Claim Form. The Claim Form must be postmarked, faxed, or emailed no later than January 29, 2016. **If your Claim Form is postmarked, faxed or emailed after January 29, 2016, you will not receive any payment, but you will be bound by the Release and all other Settlement Terms. It is strongly suggested, although not required, that you retain proof of your mailing, faxing or emailing of your Claim Form.** If you lose, misplace, or need another Claim Form or a Request for Exclusion Form, you should contact the Claims Administrator, Phoenix Settlement Administrators at (888) 613-5553, by email at [classmember@phoenixclassaction.com](mailto:classmember@phoenixclassaction.com) or by visiting [www.phoenixclassaction.com/barbervgrundfos](http://www.phoenixclassaction.com/barbervgrundfos).

## **B. Excluding Yourself from the Settlement**

Any class member who does not wish to participate in the Settlement may exclude themselves (i.e., "opt-out") by completing the Request for Exclusion Form. The Request for Exclusion Form must be signed, dated, completed, and returned by registered or certified mail to:

PHOENIX SETTLEMENT ADMINISTRATORS  
P.O. BOX 27907  
SANTA ANA, CA. 92799

The Request for Exclusion Form must be postmarked no later than January 29, 2016. **If you submit an Exclusion Form which is postmarked after January 29, 2016, your Exclusion Form will be rejected, and you will be bound by the Release and all other Settlement Terms.** If the Request for Exclusion Form is sent from within the United States, it must be sent by registered or certified mail.

Persons who submit a Request for Exclusion may be contacted by either Class Counsel or Defense Counsel.

Any person who files a complete and timely Request for Exclusion Form shall, upon receipt by the Claims Administrator, no longer be a member of the Settlement Class, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. Any such person, at their own expense, may pursue individually any claims he/she may have against Defendant. If you wish to exclude yourself and wish to pursue an individual action, you should know there are time limits on your right to file any such individual action.

**DO NOT SUBMIT BOTH THE CLAIM FORM AND THE REQUEST FOR EXCLUSION FORM. IF YOU SUBMIT BOTH, THE REQUEST FOR EXCLUSION FORM WILL BE INVALID, YOU WILL BE INCLUDED IN THE SETTLEMENT CLASS, AND YOU WILL BE BOUND BY THE TERMS OF THE SETTLEMENT.**

### **C. Objection to Settlement**

You can object to the terms of the Settlement before final approval. If the Court rejects your objection, you will still be bound by the terms of the Settlement. To object to the Settlement, you must file a written objection and any notice of intention to appear at the final approval hearing currently set for March 9, 2016, at 3:30 p.m. in Courtroom 403, with the Clerk of the Fresno County Superior Court located at 1130 O Street, Fresno, Ca. 93721 and send copies to the following via registered or certified mail:

**CLASS COUNSEL:**

Charles A. Jones  
Kelly McInerney  
9585 Prototype Court, Suite B  
Reno, NV 89521

**DEFENDANT'S COUNSEL:**

Catherine A. Conway  
Gibson, Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, CA 90071

Any written objections must state specific reasons in support of your objection and any legal support for each objection. Your objection must also state your full name, address, date of birth, and the dates of your employment with Defendant in a covered position during the class period. To be valid and effective, any objections to approval of the Settlement must be filed with the Clerk of the Court and received by each of the above-listed attorneys no later than January 29, 2016. **DO NOT TELEPHONE THE COURT.**

If you choose to file an objection to the terms of this Settlement, you may enter an appearance in propria persona (meaning you choose to represent yourself) or through your own attorney. To do so, you must file an Entry of Appearance with the Clerk of the Court and deliver copies to each of the attorneys listed above. Such Entry of Appearance must be filed with the Court and received by the above attorneys no later than January 29, 2016. You will then continue as a Settlement Class Member either in propria persona or with representation by your own attorney, and you will be solely responsible for the fees and costs of your own attorney. The final approval hearing at which the Court will be asked to approve the Settlement will be at 3:30 p.m. (Pacific Time) on March 9, 2016, in Courtroom 403 of the Fresno County Superior Court, 1130 O Street, Fresno, CA 93721

Plaintiffs' application for an award of attorney's fees and costs will be posted on the Claims Administrator's website within 30 days of the mailing of this Notice.

**D. Do Nothing**

You can decide to do nothing in response to this Notice of Settlement. *Be advised that if you choose to do nothing, you will be bound by the Release even though you will not receive a settlement payment.* If you do not want to be bound by the Release, you must exclude yourself from the settlement by sending in the Exclusion Form.

**E. No Retaliation**

Whether you submit a claim form, exclude yourself from this settlement, object to this settlement or do nothing, you are protected by law from retaliation. Grundfos Pumps Corporation does not tolerate or engage in retaliation.

**F. Contacting the Claims Administrator**

If you wish to contact Phoenix Settlement Administrators, the Claims Administrator, you can do so either by mail, telephone, or online at [website]. Please tell them you are contacting them regarding "Barber v. Grundfos Pumps Corporation."

**G. Obtaining Additional Information About The Settlement**

If you would like to obtain additional information about the settlement, or review the parties' settlement agreement, you can do so by visiting the Claims Administrator's web site at [www.phoenixclassaction.com/barbergrundfos](http://www.phoenixclassaction.com/barbergrundfos). Posted on the web-site is the Settlement Agreement between the parties, and this Notice. In addition, Plaintiffs' application for attorney's fees, costs and Enhancement awards for the named Plaintiffs will also be posted on the web site within thirty days of the mailing of this Notice.

**6. EFFECT OF THE SETTLEMENT**

**A. Released Rights and Claims**

It is the desire of Named Plaintiffs, Class Members and Defendant to fully, finally, and forever settle, compromise, and discharge disputes and claims alleged in the Litigation. Upon the Settlement Approval and Dismissal Order becoming final and nonappealable, Named Plaintiffs and each Class Member shall be bound by this Agreement as to the Released Claims, as defined above in section 4(E), and shall have recourse exclusively to the benefits, rights and remedies provided hereunder. In exchange for the consideration provided pursuant to this Agreement, Named Plaintiffs and each Class Member shall be deemed to have, and by operation of the Settlement Approval/Dismissal Order and Judgment shall have, fully, finally and forever released, relinquished and discharged Defendant from the Released Claims.

**7. FINAL SETTLEMENT APPROVAL HEARING**

The Court will hold a hearing in Courtroom 403 of the Fresno County Superior Court, 1130 O Street, Fresno, CA 93721 on March 9, 2016, at 3:30 p.m. (Pacific Time), to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees, reimbursement of costs, and the enhancement awards to be paid to the Class Representatives.

The hearing may be continued without further notice to the Settlement Class. **It is not necessary for you to appear at this hearing unless you wish to argue an objection.**

**DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS!**

CLASS MEMBERS CAN CONTACT CLASS COUNSEL WITH QUESTIONS ABOUT THE SETTLEMENT OR THE CLAIMS PROCESS:

Charles A. Jones

Kelly McInerney

(775) 853-6440

[www.cjoneslawfirm.com](http://www.cjoneslawfirm.com)

IF YOU ARE SEPARATELY REPRESENTED BY YOUR OWN COUNSEL,  
DO NOT CONTACT CLASS COUNSEL; HAVE YOUR ATTORNEY CONTACT CLASS COUNSEL.

BY ORDER OF THE FRESNO COUNTY SUPERIOR COURT