

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Richard E. Donahoo, SBN 186957; Sarah L. Kokonas, SBN 262875 Donahoo & Associates, PC 440 W. First Street, Suite 101 Tustin, CA 92780 TELEPHONE NO: 714-953-1010 FAX NO, (Optional) 714-953-1777 E-MAIL ADDRESS (Optional): rdonahoo@donahoo.com; skokonas@donahoo.com ATTORNEY FOR (Name) Plaintiffs DINO MINTER, et al.</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice</p>	
<p>PLAINTIFF/PETITIONER: Dino Minter, et al. DEFENDANT/RESPONDENT: Bombardier Mass Transit Corporation, et al.</p>	
<p style="text-align: center;">NOTICE OF ENTRY OF JUDGMENT OR ORDER</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeded \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded was \$25,000 or less)</p>	<p>CASE NUMBER: 37-2018-00059972</p>

TO ALL PARTIES:

1. A judgment, decree, or order was entered in this action on (date): 11/27/2023
2. A copy of the judgment, decree, or order is attached to this notice.

Date: 11/30/2023

Sarah L. Kokonas

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)



(SIGNATURE)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, HALL OF JUSTICE

DINO MINTER, BOBBY BAKER, CAESAR
JIMINEZ, JAMES ADOCK, and MARK
NOREM, on behalf of themselves and all
others similarly situated, and on behalf of the
general public,

Plaintiffs,

v.

BOMBARDIER MASS TRANSIT
CORPORATION, NORTH COUNTY
TRANSIT DISTRICT (NCTD); and DOES 1
through 20, inclusive,

Defendants.

Case No. 37-2018-00059972-CU-OE-CTL

Judge: Hon. Marcella O. McLaughlin

Dept.: C-72

CLASS ACTION

~~PROPOSED~~ **[AMENDED] ORDER**
GRANTING FINAL APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT AND AWARING
ATTORNEYS' FEES, COSTS AND
INCENTIVE AWARDS

Date: November 9, 2023

Time: 1:30 .m.

Dept.: C-72

Complaint filed: November 28, 2018

Trial date: February 9, 2024

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1 **ORDER**

2 On June 16, 2023 the Court issued an order on Plaintiffs’ Motion For Preliminary Approval
3 Of Class Action Settlement, approving the Joint Stipulation of Class Action and PAGA Settlement
4 And Release of Claims (“Settlement” or “Settlement Agreement”) reached between Plaintiffs and
5 Defendants. Now before the Court is Plaintiffs’ Motion For Final Approval Of Class Action and
6 PAGA Settlement And Approval Of Attorneys’ Fees, Costs And Incentive Awards related to the
7 Settlement.

8 On November 9, 2023 the Court held a Final Approval hearing. Richard E. Donahoo of
9 DONAHOO & ASSOCIATES, PC appeared on behalf of Plaintiffs. Bruno Katz of WILSON,
10 ELSER, MOSKOWITZ, EDELMAN & DICKER LLP appeared on behalf of Defendant Bombardier
11 Mass Transit Corporation. The Court issued a minute order November 9, 2023 and requested Plaintiff
12 prepare a proposed order.

13 The Court having reviewed the Settlement Agreement, and determining that the Settlement
14 Agreement, is fair, adequate and reasonable, and otherwise being fully informed and GOOD CAUSE
15 appearing therefor, it is hereby ORDERED AS FOLLOWS:

16 1. For the reasons set forth in the order granting the Motion for Preliminary Approval of
17 Class Action Settlement, and this Court’s minute order of November 9, 2023 which are adopted and
18 incorporated herein by reference, this Court finds that the requirements of California Code of Civil
19 Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

20 2. The Court finds that it has jurisdiction over the subject matter of the action and over
21 all parties to the action, including all members of the Settlement Class.

22 3. The Class Notice, supplemented with the remailed Class Notice, fully and accurately
23 informed Class Members of all material elements of the proposed settlement and of their opportunity
24 to opt out or object; was the best notice practicable under the circumstances; was valid, due, and
25 sufficient notice to all Class Members; and complied fully with the laws of the State of California
26 and due process. The Class Notice fairly and adequately described the settlement and provided Class
27 Members with adequate instructions and a variety of means to obtain additional information.

1 4. Class Members were given a full opportunity to participate in the Final Approval
2 hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly,
3 the Court determines that all Class Members who did not timely and properly opt-out of the settlement
4 are bound by this Order.

5 5. The Court has considered all relevant factors for determining the fairness of the
6 settlement and has concluded that all such factors weigh in favor of granting final approval. In
7 particular, the Court finds that the settlement was reached following meaningful discovery and
8 investigation conducted by Plaintiffs' Counsel; that the settlement appears to have been the result of
9 serious, informed, adversarial, and arm's-length negotiations between the Parties; and that the terms
10 of the settlement are in all respects fair, adequate, and reasonable.

11 6. In so finding, the Court has considered all evidence presented, including evidence
12 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented;
13 the likely duration of further litigation; the amount offered in settlement; the extent of investigation
14 and discovery completed; and the experience and views of counsel. The Parties have provided the
15 Court with sufficient information about the nature and magnitude of the claims being settled, as well
16 as the impediments to recovery, to make an independent assessment of the reasonableness of the
17 terms to which the Parties have agreed.

18 7. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
19 Agreement, and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and
20 in the best interests of the entire Settlement Class and hereby directs implementation of all remaining
21 terms, conditions, and provisions of the Settlement Agreement. The Court also finds that settlement
22 now will avoid additional and potentially substantial litigation costs, as well as delay and risks if the
23 Parties were to continue to litigate the case. Additionally, after considering the monetary recovery
24 provided by the settlement in light of the challenges posed by continued litigation, the Court
25 concludes that the settlement provides Class Members with fair and adequate relief.
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1 8. The Settlement Agreement is not an admission by Defendants or by any other released
2 party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant
3 or any other released party. Neither this Order, the Settlement Agreement, nor any document referred
4 to herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may
5 be used as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by
6 or against Defendants or any of the other released parties.

7 9. The essential monetary terms of the approved Settlement are as follows: A Gross
8 Settlement Amount of Fourteen Million Five Hundred Thousand Dollars (\$14,500,000) in new
9 money. The Gross Settlement Amount includes: (1) settlement payments to Class Members and
10 employee and employer payroll taxes; (2) \$4,833,333 in attorneys' fees to Class Counsel; (3)
11 litigation costs to Class Counsel in the amount of \$48,089.86 (4) Incentive Awards of \$7,500 and
12 Individual Release payments in the amount of \$7,500 to each of the five named Class
13 Representatives; (5) Settlement Administration Fees of up to \$10,000, for services on behalf of the
14 class; (6) LWDA PAGA Payment in the amount of \$157,356 and Individual PAGA payments to
15 Aggrieved Employees in the aggregate amount of \$52,452.

16 10. Final approval shall be with respect to a settlement class defined as: ““All non-exempt
17 individuals employed by BOMBARDIER in California who worked in execution of the “North
18 County Transit District (NCTD) RFP 24617 Rail Operations and Maintenance project during the
19 period from June 16, 2016 to the date the Court grants final approval of this Settlement in at least one
20 of the defined Subclasses (Maintenance of Way (MOW), Maintenance of Signal (MOS),
21 Maintenance of Equipment (MOE).” (Donahoo Decl. ISO Prelim. Approval, Exhibit A, ¶6, (“the
22 Settlement Agreement”)(“Class Members”).

23 11. Class Members will release the following released claims: all claims pleaded in the
24 operative Complaint and all claims alleged against the Released Parties, for work performed during
25 the Settlement Class Period, including the following:

26 The Class Members release all RELEASED PARTIES in the Settlement from all causes of
27 action and factual or legal theories/allegations that were alleged in the operative complaints
28 in the Action, or that could have been brought in the Action based on those same factual or

1 legal theories/allegations, against the RELEASED PARTIES through June 30, 2023. (CLASS
2 PERIOD)). This MOU includes, but is not limited to, claims for violation of, or recovery
3 under, Labor Code § §201, 202, 203, 218.6, 226, 226.7, 510, 512, 558.1, 1182.12, 1194,
4 1194.2, 1197, 1197.1, 1198, 1771, 1772, 1774, 1811, 1815, 2698, 2699, 2699.5, 2802;
5 California’s Prevailing Wage Law, Labor Code § 1770, et seq.; the applicable IWC Wage
6 Order; and Business & Professions Code §17200-17208; and the Labor Code Private
7 Attorneys General Act of 2004 (“PAGA”) . This also includes, but is not limited to, the
8 following claims for relief: (a) failure to pay wages; (b) failure to pay prevailing wages on
9 public works; (c) failure to pay minimum wages; (d) failure to provide accurate itemized wage
10 statements; (e) penalties pursuant to Labor Code §203; (f) breach of contract – third party
11 beneficiary; (g) violation of Business & Professions Code §17200; (h) PAGA claims, and (i)
12 all damages, penalties, restitution, attorneys’ fees, interest, and other amounts recoverable in
13 connection with the above legal authorities and/or claims for relief under local, California and
14 federal law (collectively, the “RELEASED CLAIMS”). The period of the RELEASED
15 CLAIMS shall extend from June 16, 2016 to June 30, 2023 (“CLASS PERIOD.”) The res
16 judicata effect of the judgment will be the same as that of the Settlement Agreement.

17 12. Further, as a condition of the Settlement, Plaintiffs and Class Representatives Dino
18 Minter, Bobby Baker, Caesar Jiminez, James Adock, and Mark Norem, for themselves only, agree to
19 an additional general release as set forth in the Settlement Agreement, and by operation of the
20 Judgment shall have expressly waived and relinquished to the fullest extent permitted by law the
21 provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar
22 provision under federal or state law that purports to limit the scope of a general release.

23 13. Plaintiffs Dino Minter, Bobby Baker, Caesar Jiminez, James Adock, and Mark Norem
24 are suitable Class Representatives and are appointed the Class Representatives for the Settlement
25 Class. The Court finds that the investment and commitment of Plaintiffs Dino Minter, Bobby Baker,
26 Caesar Jiminez, James Adock, and Mark Norem to the litigation and its outcome ensured adequate
27 and zealous advocacy for the Settlement Class, and that their interests are aligned with those of the
28 Settlement Class.

1 14. The Court hereby awards to Plaintiffs Dino Minter, Bobby Baker, Caesar Jiminez,
2 James Adock, and Mark Norem an Incentive Award of \$7,500 each, for their service on behalf of the
3 Settlement Class, and approves the Individual Releases of \$7,500 each, for their respective individual
4 releases of the broader, non-class released claims.

5 15. The settlement of civil penalties under PAGA in the amount of \$209,808 is hereby
6 approved. Seventy-Five Percent (75%), or \$157,356, shall be paid to the California Labor and
7 Workforce Development Agency. The remaining Twenty-Five Percent (25%), or \$52,452, will be
8 distributed to all Class Members employed from April 12, 2017 to June 30, 2023.

9 16. The Court finds that Richard E. Donahoo and Sarah L. Kokonas of Donahoo &
10 Associates, PC have the requisite qualifications, experience, and skill to protect and advance the
11 interests of the Settlement Class. The Court therefore finds that counsel satisfies the professional and
12 ethical obligations attendant to the position of Class Counsel, and hereby appoints Richard E.
13 Donahoo and Sarah L. Kokonas of Donahoo & Associates, PC as counsel for the Settlement Class.

14 17. The Court hereby awards \$4,833,333 in attorneys' fees and \$48,089.86 in litigation
15 costs to Class Counsel Donahoo & Associates, PC.

16 18. The Court sets a Final Accounting Hearing for _____
17 at _____ .m. in Department C-72 of the San Diego Superior Court located at Hall of
18 Justice Sixth Floor, 330 W Broadway San Diego, CA 92101. Plaintiffs shall file and serve a
19 report/declaration summarizing all distributions made pursuant to the approved Settlement at least
20 sixteen court days prior to the Final Accounting Hearing.

21 19. All Class Members were given a full and fair opportunity to participate in the Approval
22 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of
23 the Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
24 settlement and the class. Accordingly, the terms of the Settlement Agreement, and of the Court's
25 Order shall be forever binding on all Class Members who did not timely and properly opt out of the
26 settlement. These Class Members have released and forever discharged the Released Parties for any
27 and all Released Claims.

28 20. Without affecting the finality of the Judgment, the Court shall retain exclusive and

1 continuing jurisdiction over the above-captioned action and the parties, including all Class Members,
2 for purposes of enforcing the terms of the Judgment entered herein.

3 This document shall constitute a judgment for purposes of California Rules of Court, Rule
4 3.769(h).

5 IT IS SO ORDERED.

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7 **11/27/2023**

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9 JUDGE OF THE SUPERIOR COURT
10 Marcella McLaughlin
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PROOF OF SERVICE
Code Civ. Proc. § 1013a(3)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 440 West First Street, Suite 101, Tustin, California 92780.

On November 30, 2023, I served the foregoing document described as **NOTICE OF ENTRY OF AMENDED ORDER GRANTING FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AND AWARDING ATTORNEYS' FEES, COSTS AND INCENTIVE AWARDS** on the interested parties in this action by placing a true copy thereof in a sealed envelope addressed to the parties listed on the attached service list.

- BY MAIL: I am “readily familiar” with the firm’s practice of collection and processing mail. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Tustin, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- BY FACSIMILE: I transmitted a true copy from facsimile number (714) 953-1777 to the facsimile numbers listed on the attached service listed. Upon completion of transmission there were no errors reported.
- BY ELECTRONIC TRANSMISSION: I transmitted a true copy via electronic mail to the addresses listed on the attached service list.
- BY NEXT-DAY DELIVERY: Causing overnight delivery of the document(s) listed herein via **ONTRAC OVERNIGHT**, to the address (es) set forth on the attached service list.

Executed on November 30, 2023, at Tustin, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/s/ Sarah L. Kokonas
Sarah L. Kokonas

SERVICE LIST

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<p>Bruno W. Katz Leo A. Vaisburg WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP 401 West A Street, Suite 1900 San Diego, CA 92101 (619) 321-6200 (619) 321-6201 bruno.katz@wilsonelser.com</p>	<p>Attorneys for Defendant BOMBARDIER MASS TRANSIT CORPORATION</p>
<p>Jeffery A. Morris jmorris@dpmclaw.com Wendy L. House whouse@dpmclaw.com DEVANEY PATE MORRIS & CAMERON, LLP 41955 Fourth Street, Suite 210 Temecula, CA 92590 Tel: (951) 262-4491 Fax: (951) 262-4495</p>	<p>Attorneys for Defendant NORTH COUNTY TRANSIT DISTRICT</p>