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5 **UNITED STATES DISTRICT COURT**

6 EASTERN DISTRICT OF CALIFORNIA

7
8 MIESHIA MARIE JACKSON, et al.,

9 Plaintiffs,

10 v.

11 FASTENAL COMPANY,

12 Defendant.

Case No. 1:20-cv-00345-JLT-SAB

ORDER RE: STIPULATION TO MODIFY
THE MAGISTRATE'S FINDINGS AND
RECOMMENDATIONS

(ECF No. 35)

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14 Plaintiff Mieshia Marie Jackson brings this action on behalf of herself and others
15 similarly situated against Defendant Fastenal Company, alleging various wage and hour
16 violations under California state law. (ECF No. 1-1.) On May 31, 2022, Plaintiffs filed an
17 unopposed motion for attorneys' fees and costs, followed by a motion for final approval of class
18 action settlement on September 9, 2022. (ECF Nos. 26, 27.) Following the October 13, 2022
19 hearing on the motions (see ECF No. 28), the Court issued findings and recommendations to
20 partially-grant the motions on October 19, 2022 (ECF No. 29). More specifically, the Court
21 recommended the class action settlement be approved but with reductions to the attorneys' fee
22 requests. (ECF No. 29 at 34–35.) The deadline to file objections to the findings and
23 recommendations was November 2, 2022. (See id. at 36.) On November 1, 2022, Plaintiffs filed
24 objections to the findings and recommendations, arguing that the attorneys' fees were reduced in
25 error. (ECF No. 33.) The matter has been submitted and is currently pending before the District
26 Judge.

27 Currently before this Court is the parties' instant joint stipulation, filed May 11, 2023,
28 and titled, "Joint Stipulation to Modify the Magistrate's Findings and Recommendations

1 Recommending Granting in Part Final Approval of Class Action Settlement Nunc Pro Tunc and
2 Plaintiff's Agreement to Withdraw Appeal to the District Court Judge if the Magistrate Signs this
3 Compromise Stipulation and Order." (ECF No. 35 (all caps removed).)

4 As to this stipulation, because Plaintiffs' motions for final approval and attorneys' fees
5 are fully briefed and submitted, with findings and recommendations pending before the District
6 Judge since November 2022, the instant stipulation, filed six months after the deadline to file
7 objections to the findings and recommendations, is untimely. The Court notes the parties appear
8 to acknowledge the untimeliness of the filing themselves, referring to the stip as "nunc pro tunc."
9 More importantly, however, because the matter is now before the District Judge for final
10 approval and consideration, it would be inappropriate for this Court to consider and rule on the
11 instant stipulation, and to potentially alter its findings and recommendations, which are likely
12 already being considered by the District Judge. Furthermore, and unfortunately, given the
13 judicial emergency the Eastern District of California continues to experience, see Lawrence J.
14 O'Neill, An Important Letter to Congress from the Judges of the Eastern District of California
15 Regarding Our Caseload Crisis, United States District Court, Eastern District of California (Jun.
16 19, 2018), [http://www.caed.uscourts.gov/caednew/assets/File/
17 Judgeship%20Letter%20June%202018.pdf](http://www.caed.uscourts.gov/caednew/assets/File/Judgeship%20Letter%20June%202018.pdf), the Court cannot provide a timeframe under which
18 civil matters presently before district judges in this District, such as the instant motion for final
19 approval, may be finally adjudicated.

20 Nonetheless, the Court is not unsympathetic to the parties' concerns about expediently
21 providing the settlement class members the monetary relief they need; indeed, the Court notes
22 the parties' stipulation appears meritorious. To this point, the Court reminds the parties that they
23 may yet elect to consent to Magistrate Judge jurisdiction as to the instant matter or the case in its
24 entirety. If the parties so choose to consent to magistrate judge jurisdiction, this Court will
25 expediently issue a final ruling on the parties' pending motions for final approval and attorneys'
26 fees, while also taking the instant stipulation under consideration. Additionally, one of our
27 district judges has been nominated to the Ninth Circuit and if that nomination goes through we
28 will be down to one district judge. Criminal matters must take priority due to Constitutional

1 requirements.

2 Accordingly, IT IS HEREBY ORDERED that the parties' joint stipulation seeking to
3 modify the Magistrate's findings and recommendations and other relief (ECF No. 35) is hereby
4 DEFERRED to the District Judge for further consideration in connection with the parties'
5 motion for final approval, motion for attorneys' fees, and original objections to the findings and
6 recommendations—all of which remain pending before the District Judge at this time. However,
7 if the parties elect to consent to Magistrate Judge jurisdiction, this Court shall forthwith
8 adjudicate the parties' pending final approval motions, incorporating its consideration of the
9 parties' May 11, 2023 stipulated request into any final order.

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11 IT IS SO ORDERED.

12 Dated: May 12, 2023



UNITED STATES MAGISTRATE JUDGE

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