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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

GURTHA POUNDS, on behalf of herself,  
and all others similarly situated and as an  
“aggrieved employee” on behalf of other  
“aggrieved employees” under the Labor  
Code Private Attorneys General Act of 2004,

*Plaintiff(s),*

vs.

NIDEC MOTOR CORPORATION, a  
Delaware corporation; and DOES 1 through  
50, inclusive,

*Defendant(s).*

Case No.: 2:17-cv-02527-JAM-KJN

*JAM*  
**[PROPOSED] FINAL APPROVAL  
ORDER AND FINAL JUDGMENT**

Date: September 10, 2019  
Time: 1:30 p.m.  
Ctm: 6  
Judge: John A. Mendez

Trial Date: None Set



1           WHEREAS, this matter has come before the Court for hearing pursuant to the Order  
2 Preliminarily Approving Class Action Settlement dated June 10, 2019, for final approval of the  
3 Settlement as set forth in the Stipulation of Class Settlement and Release Between Plaintiff and  
4 Defendant (the "Settlement"), and

5           WHEREAS, the Court having considered all papers filed and arguments presented and  
6 otherwise being fully informed, **THE COURT HEREBY MAKES THE FOLLOWING**  
7 **DETERMINATIONS AND ORDERS:**

8           1.       This Order incorporates by reference the definitions in the Settlement and all  
9 terms defined therein shall have the same meaning in this Final Approval Order and Final  
10 Judgment as set forth in the Settlement.

11          2.       This Court has jurisdiction over the subject matter of this litigation and over all  
12 Parties to this litigation, including the Plaintiff and Settlement Class Members.

13          3.       Defendant promulgated the notice required by the Class Action Fairness Act  
14 ("CAFA") on May 17, 2019. CAFA provides that "[a]n order giving final approval of a proposed  
15 settlement may not be issued earlier than 90 days after the requisite notice is provided." 28 U.S.C.  
16 § 1715(d). Here, the requisite time has passed since service of the notice for this Court to issue  
17 this Final Approval Order and Final Judgment.

18          4.       Pursuant to the Order Preliminarily Approving Class Action Settlement, the  
19 appointed Claims Administrator, CPT Group, Inc., mailed a Notice Packet to all known  
20 Settlement Class Members by First Class U.S. Mail. The Notice Packet fairly and adequately  
21 informed Settlement Class Members of the terms of the proposed Settlement and the benefits  
22 available to Settlement Class Members thereunder. More specifically, the Notice Packet  
23 informed Settlement Class Members of the pendency of the Action, of the proposed Settlement,  
24 of their right to receive their share of the Settlement, of the scope and effect of the Settlement's  
25 Class Released Claims, of the preliminary Court approval of the proposed Settlement, of the  
26 exclusion and objection timing and procedures, of the date of the Final Approval Hearing and of  
27 the right to appear in connection with the Final Approval Hearing. Settlement Class Members  
28 had adequate time to use each of these procedures. The Court finds and determines that this notice



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1 procedure afforded adequate protections to Settlement Class Members and provides the basis for  
2 the Court to make an informed decision regarding approval of the Settlement based on the  
3 responses of Settlement Class Members. The Court finds and determines that the Notice Packet  
4 provided in the Action was the best notice practicable, which satisfied the requirements of law  
5 and due process.

6 5. In response to the Notice Packet, 0 Settlement Class Members objected to  
7 the Settlement and 1 Settlement Class Members requested exclusion from the Settlement.

8 6. The Court finds that the Settlement offers significant monetary recovery to all  
9 Settlement Class Members and finds that such recovery is fair, adequate, and reasonable when  
10 balanced against further litigation related to liability and damages issues. The Court further finds  
11 that extensive and costly investigation, formal and informal discovery, research and litigation  
12 have been conducted such that Class Counsel and Counsel for Defendant are able to reasonably  
13 evaluate their respective positions at this time. The Court finds that the proposed Settlement, at  
14 this time, will avoid substantial additional costs by all Parties, as well as avoid the risks and delay  
15 inherent to further prosecution of the Action. The Court further finds that the Settlement has been  
16 reached as the result of intensive, serious, and non-collusive, arms-length negotiations. Thus, the  
17 Court approves the Settlement set forth in the Settlement and finds that the Settlement is, in all  
18 respects, fair, adequate, and reasonable and directs the Parties to effectuate the Settlement  
19 according to its terms.

20 7. The Court hereby orders the Claims Administrator to distribute the Settlement  
21 Awards to Settlement Class Members in accordance with the provisions of the Settlement.

22 8. For purposes of this Final Approval Order and Final Judgment and for this  
23 Settlement only, the Court hereby certifies the Settlement Class, as defined in the Settlement.

24 9. For purposes of this Final Approval Order and Final Judgment and this Settlement  
25 only, the Court hereby confirms the appointment of Plaintiff Gurtha Pounds as the Class  
26 Representative for the Settlement Class. Further, the Court approves an Incentive Award to  
27 Plaintiff in the amount of \$30,000. The Court hereby orders the Claims Administrator to  
28 distribute the Incentive Award to Plaintiff in accordance with the provisions of the Settlement.



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1           10. For purposes of this Final Approval Order and Final Judgment and this Settlement  
2 only, the Court hereby confirms the appointment of David Spivak of The Spivak Law Firm and  
3 Walter Haines of the United Employees Law Group, as Class Counsel. Further, the Court finally  
4 approves attorneys' fees, as fair and reasonable, not to exceed \$558,278. As well, the Court  
5 finally approves litigation costs in the amount of \$13,007.80, as fair and reasonable. The  
6 attorneys' fees and litigation costs shall be for all claims for Class Counsel's attorneys' fees and  
7 litigation costs past, present and future incurred in the prosecution and resolution of the claims  
8 and neither Class Counsel, nor any other counsel, shall be permitted to petition the Court, or to  
9 accept any payments, for fees and costs relating to the prosecution and resolution of the claims  
10 other than the attorneys' fees and litigation costs. The Court hereby orders the Claims  
11 Administrator to distribute the attorneys' fees and litigation costs to Class Counsel in accordance  
12 with the provisions of the Settlement.

13           11. For purposes of this Final Approval Order and Final Judgment and this Settlement  
14 only, the Court hereby finally approves Claims Administration Costs of \$9,000 to CPT Group,  
15 Inc. as fair and reasonable.

16           12. As of the Effective Date, every Settlement Class Member shall have conclusively  
17 released the Class Released Claims against the Released Parties.

18           13. Pursuant to the Settlement, Plaintiff agreed to provide a Personal Release and  
19 waived the benefits of California Civil Code § 1542 to the Released Parties, as defined and set  
20 forth fully in the Settlement.

21           14. Neither this Final Approval Order and Final Judgment, the Settlement, nor any  
22 document referred to herein, nor any action taken to carry out the Settlement is, may be construed  
23 as, or may be used as an admission by or against Defendant or any of the other Released Parties  
24 of any fault, wrongdoing or liability whatsoever. Nor is this Final Approval Order and Final  
25 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendant  
26 or any of the other Released Parties. The entering into or carrying out of the Settlement, and any  
27 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to  
28 be evidence of, an admission or concession with regard to the denials or defenses by Defendant



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1 or any of the other Released Parties and shall not be offered in evidence against Defendant or  
2 any of the Released Parties in any action or proceeding in any court, administrative agency, or  
3 other tribunal for any purpose whatsoever other than to enforce the provisions of this Final  
4 Approval Order and Final Judgment, the Settlement, or any related agreement or release.  
5 Notwithstanding these restrictions, any of the Released Parties may file in the Action or in any  
6 other proceeding this Final Approval Order and Final Judgment, the Settlement, or any other  
7 papers and records on file in the Action as evidence of the Settlement and to support a defense  
8 of *res judicata*, collateral estoppel, release, waiver or other theory of claim preclusion, issue  
9 preclusion or similar defense as to the Class Released Claims.

10 15. If the Settlement does not become final and effective in accordance with the terms  
11 of the Settlement, resulting in the return and/or retention of the Settlement funds to Defendant  
12 consistent with the terms of the Settlement, then this Final Approval Order and Final Judgment  
13 and all orders entered in connection herewith, including any order certifying the Settlement Class,  
14 appointing a Class Representative or Class Counsel, shall be rendered null and void and shall be  
15 vacated.

16 16. Final Judgment is hereby entered based on the parties' class action Settlement.  
17 Without affecting the finality of this Final Approval Order and Final Judgment in any way, this  
18 Court hereby retains continuing jurisdiction over the interpretation, implementation and  
19 enforcement of the Settlement and all orders and judgments entered in connection therewith.

20 **IT IS SO ORDERED.**

21  
22 Dated: 9-10-2019

23   
24 HON. JOHN A. MENDEZ  
25 U.S. DISTRICT COURT/JUDGE

