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12 Attorneys for Plaintiff MARQUAN NESBITT

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14
15 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

16 MARQUAN NESBITT, an individual, on
17 behalf of himself, and on behalf of all persons
similarly situated,

18 Plaintiff,

19 vs.

20 AUTONOMOUS, INC. WHICH WILL DO
21 BUSINESS IN CALIFORNIA AS
22 AUTONOMOUS LABS INC., a Delaware
Corporation; and Does 1 through 50, Inclusive,

23 Defendant.
24

Case No. CIVSB2204742

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: April 18, 2024
Time: 1:30 p.m.

Judge: Hon. Joseph T. Ortiz
Dept.: S-17

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN - 7 2024

BY Jessica Gardez
JESSICA GARDEZ, DEPUTY

1 Plaintiff's motion for an order finally approving the Stipulation of Settlement of Class and
2 PAGA Action Claims and Release of Claims ("Agreement") and Motion for Attorneys' Fees,
3 Attorneys' Expenses, and Service Award duly came on for hearing on April 18, 2024, before the
4 above-entitled Court. Zakay Law Group, APLC, and JCL Law Firm, APC, appeared on behalf of
5 Plaintiff MARQUAN NESBITT ("Plaintiff"). Saul Ewing LLP appeared on behalf of Defendant
6 AUTONOMOUS, INC. WHICH WILL DO BUSINESS IN CALIFORNIA AS AUTONOMOUS
7 LABS INC., a Delaware Corporation (hereinafter "Defendant").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All capitalized terms used herein shall have the same meaning as defined in
13 the Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of San Bernardino ("Court"), Case No.
16 CIVSB220474, entitled *Marquan Nesbitt v. Autonomous, Inc. Which Will Do Business In California*
17 *As Autonomous Labs Inc.* and over all Parties to this litigation, including the Class.

18 **Preliminary Approval of the Settlement**

19 3. On November 20, 2023, the Court granted preliminary approval of a class-
20 wide settlement. At this same time the court approved certification of a provisional settlement class
21 for settlement purposes only. The Court confirms this Order and finally approves the settlement
22 and the certification of the Class.

23 **Notice to the Class**

24 4. In compliance with the Preliminary Approval Order, the Notice Packet was
25 mailed by first class mail to the Class Members at their last known addresses on December 12, 2023.
26 Mailing of the Notice Packet to their last known addresses was the best notice practicable under the
27 circumstances and was reasonably calculated to communicate actual notice of the litigation and the
28

1 proposed settlement to the Class Members. The Court finds that the Notice Packet provided fully
2 satisfies the requirements of California Rules of Court, rule 3.769.

3 5. The Response Deadline for opting out or objecting was January 26, 2024.
4 There was an adequate interval between notice and deadline to permit Class Members to choose
5 what to do and act on their decision. No Class Members objected. No Class Members requested
6 exclusion.

7 **Fairness of the Settlement**

8 6. The Agreement provides for a Gross Settlement Amount of \$262,500.00.
9 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
10 Cal.App.4th 1794, 1801.)

11 a. The settlement was reached through arms-length bargaining between
12 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed
13 settlement.

14 b. The Parties' investigation and discovery have been sufficient to allow
15 the Court and counsel to act intelligently.

16 c. Counsel for all parties are experienced in similar employment class
17 action litigation and have previously settled similar class claims on behalf of employees claiming
18 compensation. All counsel recommended approval of the Settlement.

19 d. No objections were received. No requests for exclusion were
20 received.

21 e. The participation rate is high. All Class Members will be
22 participating in the Settlement and will be sent settlement payments.

23 7. The consideration to be given to the Settlement Class Members under the
24 terms of the Agreement is fair, reasonable, and adequate considering the strengths and weaknesses
25 of the claims asserted in this Action and is fair, reasonable, and adequate compensation for the
26 release of the Released Class Claims and Released PAGA Claims, given the uncertainties and risks
27 of the litigation and the delays which would ensue from continued prosecution of the Action.

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1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Settlement Class Members.

3 **PAGA Payment**

4 9. The Agreement provides for a PAGA Payment in the amount of \$20,000.00.
5 The Court has reviewed the PAGA Payment and finds and determines that the PAGA Payment and
6 the allocation of \$15,000.00 to the LWDA and \$5,000.00 to PAGA Class Members is fair and
7 reasonable and complies with the requirements set forth in *Moniz v. Adecco USA, Inc.* (2021) 72
8 Cal.App.5th 56.

9 **Attorneys' Fees and Attorneys' Expenses**

10 10. The Agreement provides for an award of Attorneys' Fees and Attorneys'
11 Expenses in the amount of up to (\$107,500.00). Subject to Court approval, the award of Attorneys'
12 Fees and Attorneys' Expenses consists of attorneys' fees equal to one-third (1/3) of the Gross
13 Settlement Amount, or Eighty-Seven Thousand, Five Hundred Dollars (\$87,500) and
14 reimbursement of litigation expenses in the amount of Seventeen Thousand Six Hundred and Thirty-
15 Six Dollars and Eighty Cents (\$17,636.80).

16 11. An award of Attorneys' Fees and Attorneys' Expenses in the amount of One
17 Hundred Seven Thousand, Five Hundred Dollars (\$107,500) comprised of attorneys' fees in the
18 amount of Eighty-Seven Thousand, Five Hundred Dollars (\$87,500) and reimbursement of litigation
19 expenses in the amount of Seventeen Thousand Six Hundred and Thirty-Six Dollars and Eighty
20 Cents (\$17,636.80) is reasonable in light of the contingent nature of Class Counsel's fee, the hours
21 worked by Class Counsel, and the results achieved by Class Counsel. The requested attorneys' fee
22 award represents 1/3 of the common fund, which is reasonable, and is supported by Class Counsel's
23 lodestar.

24 **Service Award**

25 12. The Agreement provides for a Service Award of up to Ten Thousand Dollars
26 and Zero Cents (\$10,000.00) for Plaintiff, Marquan Nesbitt, subject to the Court's approval. The
27 Court finds that the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) is reasonable in
28 light of the risks and burdens undertaken by the Plaintiff in this class action litigation.

1 **Claims Administration Costs**

2 13. The Agreement provides for Claims Administration Costs to be paid in an
3 amount not to exceed \$4,500.00. The Declaration of the Claims Administrator provides that the
4 actual Claims Administration Expenses Payment were \$4,500.00. The amount of this payment is
5 reasonable in light of the work performed by the Claims Administrator.

6 **II.**

7 **ORDERS**

8 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

9 1. The Class is certified for the purposes of settlement only. The Settlement
10 Class is hereby defined to include:

11 All current and former non-exempt employees who worked for Defendant at any
12 time during the period from March 28, 2018, to August 31, 2023, ("Class Period").

13 2. There are 83 members of the Class. Every person in the Class who did not
14 opt out is a Settlement Class Member. After providing Notice to the Class, there are zero opt-outs
15 to the Settlement.

16 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
17 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
18 this Order and the terms of the Agreement.

19 4. Defendant shall fund the Gross Settlement Amount on the Funding Date. In
20 exchange, the Settlement Class Members shall release the "Released Parties" from the "Released
21 Class Claims" and the Aggrieved Employees shall release the "Released Parties" from the "Released
22 PAGA Claims."

23 a. The "Released Parties" means Defendant.

24 b. The "Released Class Claims" are defined as all class claims alleged
25 in the operative Complaint which occurred during the Class Period, and expressly excluding all
26 other claims, including claims for vested benefits, wrongful termination, unemployment insurance,
27 disability, social security, workers' compensation, and class claims outside of the Class Period.

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1 (a) The “Aggrieved Employees” are defined as all non-exempt employees who
2 are or previously were employed by Defendant and performed work in California during the PAGA
3 Period. The PAGA Period is defined as the period from January 18, 2021, to August 31, 2023.

4 c. The “Released PAGA Claims” are defined as all PAGA claims
5 alleged in the operative Complaint and Plaintiffs PAGA notice to the LWDA which occurred during
6 the PAGA Period, and expressly excluding all other claims, including claims for vested benefits,
7 wrongful termination, unemployment insurance, disability, social security, workers' compensation,
8 and PAGA claims outside of the PAGA Period.

9 5. Class Counsel are awarded a payment for Attorneys’ Fees and Attorneys’
10 Expenses in the amount of One Hundred Thousand, Five Hundred Dollars (\$107,500) comprised of
11 attorneys’ fees in the amount of Eighty-Seven Thousand, Five Hundred Dollars (\$87,500) and
12 reimbursement of litigation expenses in the amount of Seventeen Thousand Six Hundred and Thirty-
13 Six Dollars and Eighty Cents (\$17,636.80). Class Counsel shall not seek or obtain any other
14 compensation or reimbursement from Defendant, Plaintiff, or members of the Settlement Class.

15 6. The payment of the Service Award to the Plaintiff in the amount of
16 \$10,000.00 is approved.

17 7. The payment of \$4,500.00 to the Claims Administrator for the Claims
18 Administration Costs is approved.

19 8. The PAGA Payment of \$20,000.00 is hereby approved as fair, reasonable,
20 adequate, and adequately protects the interests of the public and the LWDA. Further, the Court
21 finds that Plaintiff and Class Counsel negotiated the PAGA Payment at arms-length, absent of any
22 fraud or collusion.

23 9. Final Judgment is hereby entered in this action. The Final Judgment shall
24 bind each Settlement Class Member.

25 10. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
26 California and all Aggrieved Employees, pursuant to the California Private Attorneys’ General Act
27 (“PAGA”).
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1 11. The Court further finds and determines that Class Counsel satisfied California
2 Labor Code § 2699(1)(2) by giving the LWDA notice of the proposed Settlement of claims arising
3 under the Private Attorney General Act (“PAGA”) on October 26, 2023.

4 12. The Court orders Class Counsel to comply with California Labor Code §
5 2699(1)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the Court’s
6 entry of this Order.

7 13. The Agreement is not an admission by Defendant, nor is this Final Approval
8 Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by
9 Defendant. Neither this Final Approval Order, the Settlement, nor any document referred to herein,
10 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an
11 admission by or against Defendant of any fault, wrongdoing, or liability whatsoever. The entering
12 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
13 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
14 to the denials or defenses by Defendant and shall not be offered in evidence in any action or
15 proceeding against Defendant in any court, administrative agency or other tribunal for any purpose
16 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and
17 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
18 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and
19 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the
20 Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim
21 or issue preclusion or similar defense as to the claims being released by the Settlement.

22 14. Notice of entry of this Final Approval Order and Judgment shall be given to
23 Class Counsel on behalf of Plaintiff and all Settlement Class Members. It shall not be necessary to
24 send notice of entry of this Final Approval Order and Judgment to individual Settlement Class
25 Members and the Final Approval Order and Judgment shall be posted on Claims Administrator’s
26 website as indicated in the Notice Packet.

27 15. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
28 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a

1 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
2 connection with the distribution of settlement benefits.

3 16. If the Settlement does not become final and effective in accordance with the
4 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
5 Defendant consistent with the terms of the Settlement, then this Final Approval Order and Judgment,
6 and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

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8 **IT IS SO ORDERED.**

9 DATED: June 7, 2024

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Hon. Joseph T. Ortiz
JUDGE OF THE SUPERIOR COURT