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13 *Members*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DARRELL COLTER, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

PROPULSION CONTROLS ENGINEERING, a
California corporation, and DOES 1 through 10,
inclusive,

Defendants.

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego

10/06/2022 at 08:52:40 PM

Clerk of the Superior Court
By Regina Chanez, Deputy Clerk

F I L E D
Clerk of the Superior Court

OCT 28 2022

By: K. Mulligan, Clerk

Case No.: 37-2020-00030682-CU-OE-CTL

CLASS ACTION

[Hon. Keri Katz, Dept. C-74]

**~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

FINAL APPROVAL HEARING

Date: October 28, 2022

Time: 8:30 a.m.

Dept. C-74

**~~PROPOSED~~ ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND
JUDGMENT**

1 This matter coming before the Court on Plaintiff Darrell Colter's ("Plaintiff") Motion
2 for Final Approval of Class Action Settlement (the "Final Approval Motion"), and after
3 review and consideration of the parties' fully-executed Stipulation of Settlement (collectively,
4 the "Settlement") and the papers in support of the Final Approval Motion, due and adequate
5 notice having been given to the Class, and the Court having reviewed and considered the
6 Settlement, all papers filed, the record, proceedings in the above-entitled action ("Litigation"
7 or "Action"), and all oral and written comments received regarding the Settlement, and good
8 cause appearing therefor,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

10 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
11 Settlement filed in this case.

12 2. The Court has jurisdiction over all claims asserted in the Action, Plaintiff, the
13 Settlement Class Members, and Defendant Propulsion Controls Engineering ("Defendant").

14 3. The Court finds that the Settlement appears to have been made and entered into in
15 good faith and hereby approves the settlement subject to the limitations on the requested fees and
16 enhancements as set forth below.

17 4. Plaintiff and all Settlement Class Members shall have, by operation of this Final
18 Order and Judgment, fully, finally, and forever released, relinquished, and discharged Defendant
19 and the Released Parties from all Released Claims as defined in the Settlement.

20 5. Plaintiff, the State of California, and all Aggrieved Employees shall have, by
21 operation of this Final Order and Judgment, fully, finally, and forever released, relinquished, and
22 discharged Defendant and the Released Parties from any and all causes of action, claims,
23 demands, rights, and liability, arising from or based on a claim for civil penalties under PAGA,
24 Labor Code sec. 2698, *et seq.*, for any violations of the Labor Code or Wage Orders alleged or
25 that could have been alleged in Plaintiff's Second Amended Complaint based on the facts and
26 allegations alleged therein, as well as any based on the alleged violations asserted in the October
27 6, 2020 Notice of Labor Code Violations and PAGA Penalties and the November 19, 2021
28 Amended Notice of Labor Code Violations and PAGA Penalties.

1 6. The Parties shall bear their own respective attorneys' fees and costs, except as
2 otherwise provided for in the Settlement and approved by the Court.

3 7. Solely for purposes of effectuating the settlement, the Court finally certified the
4 following Class: "All persons who were employed by Defendant in California and performed
5 work for Defendant in California as a non-exempt employee during the Settlement Period."

6 8. The Settlement Period is September 1, 2016 through January 19, 2022.

7 9. No Class Members have objected to the terms of the Settlement.

8 10. No Class Members have requested exclusion from the Settlement.

9 11. The Notice provided to the Class conforms with the requirements of California
10 Rules of Court 3.766 and 3.769, and constitutes the best notice practicable under the
11 circumstances, by providing individual notice to all Class Members who could be identified
12 through reasonable effort, and by providing due and adequate notice of the proceedings and of
13 the matters set forth therein to the Class Members. The Notice fully satisfies the requirements of
14 due process.

15 12. The Court finds the Settlement Amount, the Net Settlement Amount, and the
16 methodology used to calculate and pay the Net Settlement Payments to each Settlement Class
17 Member are fair and reasonable and authorizes the Settlement Administrator to pay the Net
18 Settlement Payments to the Settlement Class Members in accordance with the terms of the
19 Stipulation.

20 13. The Court approves the Settlement and finds that it is fair, reasonable, and
21 adequate, and worthy of final approval.

22 14. The Court also finds the PAGA Settlement is fair and reasonable, and that Plaintiff
23 provided notice of the proposed Settlement to the Labor and Workforce Development Agency
24 (LWDA) and will fully and adequately comply with the notice requirements of California Labor
25 Code section 2699(1). The Court hereby approves the PAGA Settlement.

26 15. Defendant shall pay the total of \$1,376,308.04 to resolve this litigation. No later
27 than seven (7) calendar days after the date this Order becomes "Final," as defined in the
28 Settlement Agreement (Settlement, § I.E), Defendant shall deposit this amount and employer

1 taxes into an account established by the Settlement Administrator. Thereafter, compensation to
2 the Settlement Class Members shall be disbursed pursuant to the terms of the Settlement (i.e.,
3 within twenty-one (21) calendar days following the funding of the Settlement Amount.
4 (Settlement, § XI.)

5 (a) From the Settlement Amount, \$37,500.00 shall be paid to the California
6 Labor and Workforce Development Agency, representing 75% of the
7 penalties awarded under the terms of the Settlement Agreement pursuant to
8 the Labor Code Private Attorneys General Act of 2004, California Labor
9 Code section 2698, *et seq.*

10 (b) From the Settlement Amount, \$10,000.00 shall be paid to the named
11 Plaintiff, Darrell Colter, for his service as class representative and for his
12 agreement to release claims.

13 (c) From the Settlement Amount, \$10,175.00 shall be paid to the Settlement
14 Administrator, Phoenix Settlement Administrators.

15 16. The Court hereby confirms Justin F. Marquez, Benjamin H. Haber, and Daniel J.
16 Kramer of Wilshire Law Firm, PLC as Class Counsel.

17 17. From the Settlement Amount, Class Counsel is awarded \$458,769.34 for their
18 reasonable attorneys' fees and \$20,026.93 for their reasonable costs incurred in the Action. The
19 fees and costs shall be distributed to Class Counsel as set forth in the Settlement. The Court finds
20 that the fees are reasonable in light of the benefit provided to the Class.

21 18. Notice of entry of this Final Approval Order and Judgment shall be given to Class
22 Members by posting a copy of the Final Approval Order and Judgment on Phoenix Settlement
23 Administrator's website for a period of at least sixty (60) calendar days after the date of entry of
24 this Final Approval Order and Judgment.

25 19. If the Settlement does not become final and effective in accordance with the terms
26 of the Settlement, resulting in the return and/or retention of the funds to Defendant consistent
27 with the terms of the Settlement, this Order and Judgment and all orders entered in connection
28 herewith, including without limitation any order certifying the class of Class Members,

1 appointing class representatives or Class Counsel, shall be rendered null and void and shall be
2 vacated.

3 20. Without affecting the finality of this Final Judgment in any way, this Court retains
4 continuing jurisdiction over the implementation, interpretation, and enforcement of the
5 Settlement with respect to all Parties to this action, and their counsel of record.

6 21. Plaintiff's Motion for Final Approval of Class Action Settlement is hereby granted
7 and the Court directs that judgment shall be entered in accordance with the terms of this Order.

8 **IT IS SO ORDERED.**

9
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11 DATE:

10-28-2022

OCT 28 2022


Hon. Keri Katz

Judge of the San Diego County Superior
Court