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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.

Case No. 37-2020-00030682

CLASS ACTION

[Assigned for all purposes to: Hon. Keri Katz,
Dept. C-74]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

PRELIMINARY APPROVAL HEARING

Date: May 20, 2022

Time: 8:30 a.m.

Dept: 74

1 The Court has before it Plaintiff Darrell Colter's ("Plaintiff") Motion for Preliminary
2 Approval of Class Action Settlement. Having reviewed the Motion for Preliminary Approval
3 of Class Action Settlement, the Declaration of Justin F. Marquez, the Stipulation of Settlement
4 (which is referred to herein as the "Settlement" or "Settlement Agreement"), and good cause
5 appearing, the Court hereby finds and orders as follows:

6 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
7 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
8 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
9 the terms set forth in the Settlement Agreement between Plaintiff and Defendant Propulsion
10 Controls Engineering ("Defendant"), attached to the Declaration of Justin F. Marquez in
11 Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement as Exhibit
12 1.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court. The Court notes that Defendant has
15 agreed to create a common fund of \$1,375,000.00 to cover: (a) settlement payments to the class
16 members who do not validly opt out; (b) a \$50,000.00 payment to cover civil penalties pursuant
17 to the Private Attorneys General Act ("PAGA"), with 75% of which (\$37,500.00) being paid to
18 the State of California, Labor & Workforce Development Agency ("LWDA") for its share of
19 the settlement of claims for penalties under and 25% (\$12,500.00) being paid to Aggrieved
20 Employees; (c) the Class Representative service payment of up to \$10,000.00 for Plaintiff; (d)
21 Class Counsel's attorneys' fees, not to exceed 33 1/3% of the Settlement Amount (\$458,333.33),
22 and up to \$25,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e)
23 Administrative Costs of up to \$15,000.00.

24 3. The Court preliminarily finds that the terms of the Settlement appear to be within
25 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
26 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair
27 and reasonable to the class members when balanced against the probable outcome of further
28 litigation relating to class certification, liability and damages issues, and potential appeals; (2)

1 significant informal discovery, investigation, research, and litigation have been conducted such
2 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
3 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
4 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
5 the result of intensive, serious, and non-collusive negotiations between the Parties with the
6 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
7 that the Settlement Agreement was entered into in good faith.

8 4. A Final Fairness Hearing on the question of whether the proposed settlement,
9 attorneys' fees and costs to Class Counsel, payment to the LWDA for its share of the settlement
10 of claims for penalties under PAGA, and the class representative's enhancement award should
11 be finally approved as fair, reasonable and adequate as to the members of the class is hereby set
12 in accordance with the Implementation Schedule set forth below.

13 5. The Court provisionally certifies for settlement purposes only the following class
14 (the "Settlement Class"): "All persons who were employed by Defendant in California and
15 performed work for Defendant in California as a non-exempt employee during the Settlement
16 Period (together, collectively referred to as the "Class Members")."

17 6. The Settlement Period means the period from September 1, 2016 through January
18 19, 2022.

19 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
20 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
21 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
22 of law and fact that are common, or of general interest, to all Settlement Class Members, which
23 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
24 Settlement Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect
25 the interests of the Settlement Class Members; and (5) a class action is superior to other
26 available methods for the fair and efficient adjudication of the controversy.

27 8. The Court appoints as Class Representative, for settlement purposes only,
28 Plaintiff Darrell Colter. The Court further preliminarily approves Plaintiff's ability to request

an incentive award up to \$10,000.00.

9. The Court appoints, for settlement purposes only, Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Settlement Amount (\$1,375,000.00), and costs not to exceed \$25,000.00.

10. The Court appoints Phoenix Class Action Administration Solutions as the Settlement Administrator with reasonable administration costs estimated not to exceed \$15,000.00.

11. The Court approves, as to form and content, the Notice of Proposed Class Action Settlement (the "Notice"), attached as Exhibit A to the Settlement Agreement. The Court finds, on a preliminary basis, that the plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

12. The Parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

13. Any Class Member who does not timely and validly request exclusion from the Settlement may object to the Settlement Agreement.

14. The Court orders the following Implementation Schedule:

Defendant to provide Class List to the Settlement Administrator	June 20, 2022
Settlement Administrator to mail the Notice Packets	On or before July 11, 2022
Response Deadline (Opt-out or Dispute Workweeks)	August 25, 2022
Deadline to Provide Written Objections, if any	August 25, 2022
Deadline to file Motion for Final Approval,	16 court days before hearing on Motion for

Request for Attorney's Fees and Costs, and Service Award to Plaintiff	Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff
Final Approval Hearing	October ____, 2022 at ____ a.m./p.m., or the first available date thereafter

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE:

Hon. Keri Katz
San Diego County Superior Court

Darrell Colter v. Propulsion Controls Engineering
37-2020-00030682

I, Ashley Narinyans, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is anarinyans@wilshirelawfirm.com.

On **April 28, 2022**, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Attorneys for Defendant
Propulsion Controls Engineering

- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.
- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **April 28, 2022**, at Los Angeles, California.

Ashley Narinyans
Type or Print Name


Signature