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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MAGDALENA CRUZ, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

SPS TECHNOLOGIES, LLC dba AIR
INDUSTRIES COMPANY, a Pennsylvania
limited liability company; PRECISION
CASTPARTS CORP.; an Oregon corporation;
AIR INDUSTRIES CORPORATION, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 30-2021-01202173-CU-OE-CJC

*[Assigned for all purposes to the Hon. Lon F.
Hurwitz, Dept. CX103]*

**[PROPOSED] ORDER OF FINAL APPROVAL
OF CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: October 27, 2023
Time: 1:30 p.m.
Dept.: CX103

Action Filed: May 21, 2021
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on October 27, 2023, pursuant to
2 California Rule of Court 3.769 and this Court’s March 7, 2023 Order Granting Preliminary Approval of
3 Class Action Settlement (“Preliminary Approval Order”). Having considered the parties’ Class and
4 Representative Action Stipulation of Settlement (the “Settlement”) attached as Exhibit 2 to the
5 Declaration of Elizabeth Nguyen (ROA 59)¹ and the documents and evidence presented in support
6 thereof, and recognizing the sharply disputed factual and legal issues involved in this case, the risks of
7 further prosecution and the substantial benefits to be received by the Class pursuant to the Settlement,
8 the Court hereby makes a final ruling that the proposed Settlement is fair, reasonable, and adequate, and
9 is the product of good faith, arm’s-length negotiations between the parties. Good cause appearing
10 therefor, the Court hereby GRANTS Plaintiff’s Motion for Final Approval of Class Action Settlement
11 and ORDERS as follows:

12 1. The conditional class certification contained in the Preliminary Approval Order is hereby
13 made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement Class
14 consisting of:

15 All current and former non-exempt, hourly employees of Defendant SPS
16 Technologies, LLC dba Air Industries Company who worked in California
at any time between September 20, 2019 and March 7, 2023.

17 2. Plaintiff Magdalena Cruz is hereby confirmed as Class Representative, and Scott M.
18 Lidman, Elizabeth Nguyen and Milan Moore of Lidman Law, APC, and Paul Haines of Haines Law
19 Group, APC are hereby confirmed as Class Counsel.

20 3. Notice was provided to the Settlement Class as set forth in the Settlement. The form and
21 manner of notice were approved by the Court on March 7, 2023, and the notice process has been
22 completed in conformity with the Court’s Order. The Court finds that said notice was the best notice
23 practicable under the circumstances. The Notice (which is comprised of the *Notice of Class Action and*
24 *PAGA Settlement, Allocation Form, Request for Exclusion Form, and Objection Form*) provided due
25 and adequate notice of the proceedings and matters set forth therein, informed Settlement Class members

26 _____
27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that assigned
28 to them in the Settlement.

1 of their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),
2 California Rule of Court 3.769, and due process.

3 4. The Court finds that no Settlement Class member objected to the Settlement, zero (0)
4 Class Members have opted out of the Settlement, zero (0) notices were undeliverable, and that the 100%
5 participation rate in the Settlement supports final approval.

6 5. The Court hereby approves the settlement as set forth in the Settlement Agreement as
7 fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement according
8 to its terms.

9 6. For purposes of settlement only, the Court finds that (a) the members of the Settlement
10 Class are ascertainable and so numerous that joinder of all members individually is impracticable; (b)
11 there are questions of law or fact common to the Settlement Class, and there is a well-defined community
12 of interest among members of the Settlement Class with respect to the subject matter of the litigation;
13 (c) the claims of the Class Representative are typical of the claims of the members of the Settlement
14 Class; (d) the Class Representative has fairly and adequately protected the interests of the Settlement
15 Class members; (e) a class action is superior to other available methods for an efficient adjudication of
16 this controversy; and (f) Class Counsel are qualified to serve as counsel for the Class Representative and
17 the Settlement Class.

18 7. The Court finds that given the absence of objections to the Settlement, and objections
19 being a prerequisite to appeal, that this Order shall be considered final as of the date of notice of entry.

20 8. The Court orders that Defendant deposit the Gross Settlement Amount of 643,307.81
21 with ILYM Group (“ILYM”), the Settlement Administrator, within 30 days of entry of this Judgment,
22 as provided for in Section I.AA of the Settlement.

23 9. Any Settlement funds that remain uncashed after 180 calendar days after they are mailed
24 shall be delivered to the California State Controller’s Office – Unclaimed Property Fund in the name of
25 the Settlement Class member.

1 10. The Court finds that the settlement payments, as provided for in the Settlement, are fair,
2 reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments
3 in conformity with the terms of the Settlement.

4 11. The Court finds that a service award in the amount of \$5,000.00 for Plaintiff Magdalena
5 Cruz is appropriate for her risks undertaken and service to the Settlement Class. The Court finds that
6 this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this
7 payment in conformity with the terms of the Settlement.

8 12. The Court finds that attorneys' fees in the amount of \$214,435.94, and litigation costs of
9 \$25,034.86 for Class Counsel, are fair, reasonable, and adequate, and orders that the Settlement
10 Administrator distribute these payments to Class Counsel in conformity with the terms of the Settlement.

11 13. The Court orders that the Settlement Administrator shall be paid \$15,000.00 from the
12 Gross Settlement Amount for all of its work done and to be done until the completion of this matter, and
13 finds that sum appropriate.

14 14. The Court finds that the payment to the California Labor & Workforce Development
15 Agency ("LWDA") in the amount of \$37,500.00 for its share of the settlement of Plaintiff's
16 representative action under the California Labor Code Private Attorneys General Act ("PAGA") is fair,
17 reasonable, and adequate, and orders the Claims Administrator to distribute this payment to the LWDA
18 in conformity with the terms of the Settlement.

19 15. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for the
20 portion of the Net Settlement Amount allocated to wages shall be paid by Defendant separately, and in
21 addition to, the Gross Settlement Amount.

22 16. The Court finds and determines that upon satisfaction of all obligations under the
23 Settlement and this Order, all Settlement Class members will be bound by the Settlement, will have
24 released the Released Claims as set forth in the Settlement, and will be permanently barred from
25 prosecuting against Defendant any of the Released Claims pursuant to the Settlement.

26 17. The Settlement is not an admission by Defendant nor is this Order a finding of the validity
27 of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement, nor any
28

document referred to herein, nor any action taken to carry out the Settlement, shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of Defendant.

18. For and in consideration of the mutual promises contained herein, Plaintiff and the Settlement Class Members fully and finally release, as of the date that Defendant delivers the Gross Settlement Amount (including any increase to the Gross Settlement Amount pursuant to Part III.C.2) and Defendant's employer-side tax obligations for the wage portion of the Settlement Payments to the Settlement Administrator, the Released Parties (means the Defendant and its former and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective predecessors in interest, subsidiaries, affiliates, parents and attorneys) from all claims during the Class Period under state, and local law that were or will be alleged in the Action or could have been asserted based on the facts and allegations made in the Action, and any amendments thereto, including the following claims: (a) failure to pay all minimum wages owed for all hours worked; (b) failure to pay all overtime wages owed; (c) failure to provide all meal periods; (d) failure to authorize and permit all rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay all wages owed upon separation of employment; and (g) all claims for unfair business practices under California Business & Professions Code Section 17200 et seq. that could have been premised on the facts, claims, causes of action or legal theories described above.

19. For and in consideration of the mutual promises contained herein, Plaintiff and the Aggrieved Employees fully and finally release, as of the date that Defendant delivers the Gross Settlement Amount to the Settlement Administrator, the Released Parties from all claims for penalties pursuant to PAGA during the PAGA Period that were asserted in Plaintiff's March 16, 2021 letter to the California Labor and Workforce Development Agency and alleged in the Action or could have been asserted based on the facts and allegations made in the Action, and any amendments thereto, including the following claims: (a) failure to pay the statutory minimum wage for all hours worked in violation of Labor Code §§ 1194, 1194.2, and 1197; (b) failure to pay all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198; (c) failure to provide all legally required meal periods and failing to pay meal period premiums in violation of Labor Code §§ 226.7, 512, and 558 by; (d)

1 failure to provide all legally required rest periods and failure to pay rest period premiums in violation of
2 Labor Code §§ 226.7, 516, and 558; (e) failure to furnish accurate and compliant itemized wage
3 statements in violation of Labor Code § 226; (f) failure to pay all earned wages at least twice during
4 each calendar month in violation of Labor Code § 204; (g) failure to maintain accurate records in
5 violation of Labor Code § 1174; and (h) failure to pay all wages owed at the time of separation of
6 employment in violation of Labor Code § 203.

7 20. In exchange for the consideration recited in this Stipulation, Plaintiff, solely on behalf of
8 herself, does hereby and forever release, acquit, and discharge and covenant not to sue the Released
9 Parties for any and all lawsuits, charges, claims, complaints, liabilities, obligations, promises,
10 agreements, controversies, damages, actions, omissions, claims for relief, suits, rights, demands, costs,
11 lawsuits, and expenses (including attorneys' fees and costs) of any nature whatsoever, known or
12 unknown, suspected or unsuspected, which Plaintiff now has or claims to have, or which Plaintiff at any
13 time heretofore had or claimed to have, or which Plaintiff at any time hereafter may have or claim to
14 have against each or any of the Released Parties, arising out of or related to any matter, event, fact, act,
15 omission, cause or thing which existed, arose or occurred on or prior to the date of the execution of this
16 Stipulation, including without limitation, any claim for wages, compensation, overtime, bonuses, meal
17 or rest period premiums, business expense reimbursement, penalties, interest, attorneys' fees or costs;
18 any claim under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act,
19 the California Fair Employment and Housing Act, the Family and Medical Leave Act, the Americans
20 with Disabilities Act, the California Labor Code, the IWC Wage Orders, the Fair Labor Standards Act,
21 the California Business and Professions Code, the Consolidated Omnibus Budget Reconciliation Act of
22 1985, and the Employee Retirement Income Security Act of 1974, or any federal, state or local law or
23 regulation prohibiting employment discrimination or regulating employment. This release also includes,
24 but is not limited to, any claim for negligent or intentional infliction of emotional distress, conversion,
25 violation of public policy, wrongful termination, retaliation, breach of contract, unfair business practices
26 or any other claim, however styled, relating to or arising out of Plaintiff's employment with, or
27 separation of employment from, the Defendant.
28

1 21. Plaintiff, with respect to Plaintiff's Released Claims, shall be deemed to have, and by
2 operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest extent
3 permitted by law, the provisions, rights and benefits of section 1542 of the California Civil Code, that
4 provides:

5 A general release does not extend to claims that the creditor or releasing party does not
6 know or suspect to exist in his or her favor at the time of executing the release and that, if
7 known by him or her, would have materially affected his or her settlement with the debtor
8 or released party.

9 22. Plaintiff may hereafter discover facts in addition to or different from those Plaintiff now
10 knows or believes to be true with respect to the subject matter of this general release, but upon the
11 Effective Date of the Releases, shall be deemed to have, and by operation of the final judgment shall
12 have, fully, finally, and forever settled and released any and all of the claims released pursuant to this
13 general release, whether known or unknown, suspected or unsuspected, contingent or non-contingent,
14 which now exist, or heretofore have existed upon any theory of law or equity now existing or coming
15 into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or
16 without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or
17 existence of such different or additional facts.

18 23. The releases identified herein shall become effective on the date on which Defendant
19 fully funds the Gross Settlement Amount and the employer's share of payroll taxes.

20 24. This document shall constitute a final judgment pursuant to California Rule of Court
21 3.769(h) which provides, "If the court approves the settlement agreement after the final approval
22 hearing, the court must make and enter judgment. The judgment must include a provision for the
23 retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may
24 not enter an order dismissing the action at the same time as, or after, entry of judgment." Pursuant to
25 section 664.6 of the California Code of Civil Procedure, the Court will retain jurisdiction to enforce the
26 Settlement, the Final Approval Order, and this Judgment.

1 25. The Settlement Class members were provided notice that the Final Judgment would be
2 posted on this website in the Notice of Class Action and PAGA Settlement mailed to Settlement Class
3 members. A copy of the Final Judgment entered by the Court shall be posted on the Settlement
4 Administrator's website at: (<https://ilymgroup.com>).

5 26. Plaintiff shall submit a copy of this signed Order and Judgment to the LWDA within ten
6 (10) calendar days after entry of the Order and Judgment.

7 27. The Settlement Administrator shall file a declaration regarding the disbursement of
8 Settlement funds on or before **August 4, 2024** and the compliance hearing shall be set for some date
9 between **August 14, 2024 – August 18, 2024 at 1:30 p.m.**

10 **IT IS SO ORDERED. JUDGMENT IS HEREBY ENTERED.**

11
12 Dated: _____, 2023

Honorable Lon F. Hurwitz
Judge of the Superior Court