

FILED

SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

01/23/2023

Darrel E. Parker, Executive Officer

BY Chavez, Terri

Deputy Clerk

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Attorney for Plaintiff and all others similarly situated and the general public

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

RORY MASSEY, on behalf of himself and all
others similarly situated and the general public,

Plaintiffs,

v.

MANN+HUMMEL WATER AND FLUID
SOLUTIONS, INC., a Delaware corporation;
MICRODYN-NADIR US, INC., a business form
unknown; and DOES 1 to 100, inclusive,

Defendants

) Case No.: 21CV02965

) Hon. Donna Geck

) Dept. 4

) CLASS ACTION

) **[PROPOSED] ORDER GRANTING**
) **MOTION FOR CONDITIONAL**
) **CERTIFICATION AND**
) **PRELIMINARY APPROVAL OF**
) **CLASS ACTION AND PAGA**
) **SETTLEMENT**

) Date: January 20, 2023

) Time: 10:00 a.m.

) Dept.: 4

) Action filed: July 27, 2021

) Trial Date: Not Set

**[PROPOSED] ORDER GRANTING MOTION FOR CONDITIONAL CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

1 WHEREAS, this Action is pending before this Court as a putative class action lawsuit
2 brought by Rory Massey the Named Plaintiff (“Plaintiff” or “Named Plaintiff”) against Defendants
3 Mann+Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc. (jointly referred to
4 herein as “Defendants”); and

5 WHEREAS, Class Counsel applied to this Court for an order preliminarily approving the
6 settlement of the Action in accordance with the Class Action and PAGA Settlement Agreement
7 (the “Settlement Agreement”), which, together with the exhibits annexed thereto, sets forth the
8 terms and conditions for a proposed Settlement and final resolution of the Action upon the terms
9 and conditions set forth therein; and the Court having read and considered the Settlement
10 Agreement and the exhibits annexed thereto;

11 NOW, THEREFORE, IT IS HEREBY ORDERED:

12 1. This Order incorporates by reference the definitions in the Settlement Agreement,
13 and all terms defined therein shall have the same meaning in this Order as set forth in the
14 Settlement Agreement. Per the Parties’ Settlement Agreement, the Court hereby conditionally
15 certifies the following Settlement Class: All current and former non-exempt hourly individuals
16 employed by Defendants at any time from July 27, 2017 through November 1, 2022.

17 2. Upon the Final Approval by the Court of the Settlement Agreement and payment
18 of amounts set forth herein, and except as to such rights or claims as may be created by the
19 Settlement Agreement, each and every Participating Class Member, on behalf of themselves and
20 their heirs and assigns, hereby releases Defendants, Mann + Hummel Water and Fluid Solutions,
21 Inc. and Microdyn-Nadir US, Inc., and their present, former, and/or future parent and/or subsidiary
22 corporations; and each of the foregoing’s present, former, or future owners, officers, directors,
23 members, shareholders, partners, related affiliates, employees, insurers, successors, predecessors,
24 contractors, assigns, and managing agents; and any and all agents, legal representatives, and/or
25 attorneys of all of the foregoing entities or individuals (“Released Parties”), from the following
26 rights or claims (the “Released Class Claims”):
27

28 a. All Participating Class Members, on behalf of themselves and their

1 respective former and present representatives, agents, attorneys, heirs, administrators,
2 successors, and assigns, release Released Parties from (i) all claims that were alleged, or
3 reasonably could have been alleged, based on the Class Period facts stated in the Operative
4 Complaint and ascertained in the course of the Action, in any and/or all of the complaints
5 in the Action and/or any of Plaintiff's letters to the LWDA (including any subsequently
6 amended complaints or letters); and/or any and all claims, known or unknown, that could
7 have been asserted based on any or all the factual allegations in all of the complaints in the
8 Action and/or any of Plaintiff's letters to the LWDA (including any subsequently amended
9 complaints or letters). This includes but is not limited to claims for or related to: pay for
10 all hours worked/compensation due for services; calculation of the regular rate of pay,
11 including bonus or incentive pay, and other incentive payments when calculating the
12 overtime rate; meal periods; rest periods; meal and/or rest period premiums and sick pay,
13 including the calculation of the meal and/or rest period premium pay and sick pay; wage
14 statements; payment of wages at termination; maintain accurate and complete records;
15 unfair competition related to any or all of the foregoing; any unpaid wages or compensation
16 related to any or all of the foregoing; restitution related to any or all of the foregoing; and
17 any penalties, including statutory or civil penalties, related to any or all of the foregoing.
18 This release includes any and all claims pursuant to: California Labor Code sections §§
19 200, et seq. (inclusive of section 201-203), 210, 218, 226, 226.7, 246, 510, 512, 558, 1174,
20 1174.5, 1194, 1194.2, 1197, 1198, and 2698, et seq.; the California Business & Professions
21 Code § 17200; and the relevant California Industrial Welfare Commission Wage Orders.
22 The release shall run through November 1, 2022. Except as set forth in Section 6.3 of this
23 Agreement, Participating Class Members do not release any other claims, including claims
24 for vested benefits, wrongful termination, violation of the Fair Employment and Housing
25 Act, unemployment insurance, disability, social security, workers' compensation, or claims
26 based on facts occurring outside the Class Period.
27

28 b. PAGA Release by PAGA Representative Action Members: Upon the Final

1 Approval by the Court of the Settlement Agreement and payment of amounts set forth
2 herein, and except as to such rights or claims as may be created by the Settlement
3 Agreement, each and every PAGA Representative Action Member, on behalf of
4 themselves and their heirs and assigns, and irrespective of whether the PAGA
5 Representative Action Member opted out of the class action portion of the Settlement,
6 hereby releases the Released Parties from the following rights or claims (the “Released
7 PAGA Claims”):

8 i. Each PAGA Representative Action Member, irrespective of
9 whether he or she opts out of the settlement as a Non-Participating Class Member,
10 shall be deemed to release the Released Parties from any and all claims, known or
11 unknown, for civil penalties under California Labor Code section 2698 *et seq.*
12 (PAGA) that: were asserted in any and/or all of the complaints in the Action and/or
13 any of Plaintiff’s letters to the LWDA (including any subsequently amended
14 complaints or letters); and/or any and all claims, known or unknown, that could
15 have been asserted based on any or all the factual allegations in any and/or all of
16 the complaints in the Action and/or any of Plaintiff’s letters to the LWDA
17 (including any subsequently amended complaints or letters). This release includes,
18 but is not limited to, claims for PAGA civil penalties premised on: California Labor
19 Code sections §§ 200, *et seq.* (inclusive of section 201-203), 210, 218, 226, 226.7,
20 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, and 2698, *et seq.*;
21 failure to pay overtime; failure to pay for all hours worked/compensation due for
22 services; calculation of the regular rate of pay, including failure to include all
23 remuneration into the regular rate for overtime, meal and rest period premiums and
24 sick pay, and other incentive payments when calculating the overtime rate; failure
25 to provide meal periods; failure to authorize and permit rest periods; failure to pay
26 meal or rest period premiums, including the calculation of the meal and/or rest
27 period premium pay; failure to provide accurate itemized wage statements; and
28

1 failure to timely pay wages at termination; The release shall run through November
2 1, 2022. Should for whatever reason the Settlement not become final, the fact that
3 the Parties were willing to stipulate to class certification as part of the Settlement
4 shall have no bearing on, nor be admissible in connection with, the issue of whether
5 a class should be certified in a non-settlement context.

6 3. Named Plaintiff is hereby appointed and designated, for all purposes, as the
7 representative of the Class and Representative Action, and the following attorneys are hereby
8 appointed and designated as counsel for the Named Plaintiff, the Class Representatives and the
9 Class: Janelle Carney of Janelle Carney – Attorney at Law, APC and Emmanuel M. Starr, Adam
10 Rose, and Dan Ginzburg of Frontier Law Center (“Class Counsel”). Class Counsel are authorized
11 to act on behalf of Participating Class Members with respect to all acts or consents required by, or
12 which may be given pursuant to, the Settlement, and such other acts reasonably necessary to
13 consummate the Settlement. Any Objecting Class Member may enter an appearance through
14 counsel of such Class Member’s own choosing and at such Class Member’s own expense.

15
16 4. The Court finds on a preliminary basis that the Settlement appears to be fair,
17 reasonable and adequate, and one that would merit, ultimately, final approval by this Court. The
18 Court has reviewed the Settlement and recognizes the value thereof to the Class Members. The
19 Court finds, on a preliminary basis, that the Settlement is fair, adequate and reasonable as to all
20 Class Members when balanced against the potential outcomes of further litigation relating to
21 liability and damages issues. The Court further finds that the Settlement has been reached as the
22 result of serious and non-collusive, arms-length negotiations by Defendants and Plaintiff (the
23 “Settling Parties”).

24 5. A hearing (the “Settlement Hearing”) shall be held before this Court, located at
25 1100 Anacapa St., Santa Barbara, CA 93101, on 4/28/2023, 2023 at 10:00 a.m., in
26 Department 4, to determine all necessary matters concerning the Settlement, including: whether
27 the proposed settlement of the Action should be finally approved by the Court; whether a
28 Judgment, as provided in the Settlement Agreement, should be entered herein; whether the plan of

1 allocation contained in the Settlement Agreement should be approved as fair, adequate and
2 reasonable to the Class Members; and to finally approve Class Counsel's Fees Award and Cost
3 Award, the Class Representative's Enhancement award, payment to the Labor and Workforce
4 Development Agency and the Settlement Administration Costs.

5 6. The Court hereby approves, as to form and content, the Notice, attached as Exhibit
6 1 to the Settlement Agreement. The Court finds that distribution of the Notice, substantially in the
7 manner and form set forth in the Settlement Agreement and this Order, meets the requirements of
8 due process, is the best notice practicable under the circumstances, and will constitute due and
9 sufficient notice to all persons entitled thereto.

10 7. The Court hereby appoints ILYM Group, Inc. as Settlement Administrator and
11 hereby directs the Settlement Administrator to simultaneously mail or cause to be mailed to Class
12 Members the Notice (Exhibit 1) by first class mail at their last known address within fourteen (14)
13 days of receiving a Class Information from Defendants.

14 8. Any Class Member (as defined by the Settlement Agreement) may choose to opt-
15 out of the Settlement or object to the Settlement as provided in the Notice by following the
16 instructions for requesting exclusion from the Settlement Class or objecting to the settlement.
17 Class Members will have forty-five (45) days from the date of mailing of the Notice in which to
18 postmark objections or a notice of opting out. Prior to the initial mailing, the Settlement
19 Administrator will check all Class Member addresses against the National Change of Address
20 database and shall update any addresses before mailing. The Settlement Administrator will skip
21 trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
22 Notice was undeliverable. The obligation to trace and resend returned Class Notices shall cease
23 after two mailings or thirty (30) calendar days after the initial mailing, whichever occurs first. Any
24 written request to opt-out must be signed by each such person opting out. All Class Members who
25 do not timely and properly notify the Settlement Administrator of their desire to opt-out of the
26 Settlement, shall become bound by all determinations of the Court, the Settlement Agreement and
27 Judgment.
28

1 9. Any Class Member who did not opt-out may appear at the Settlement Hearing and
2 may object or express his/her views regarding the Settlement and may present evidence and file
3 briefs or other papers that may be proper and relevant to the issues to be heard and determined by
4 the Court as provided in the Notice. However, if a Class Member requests exclusion, the Class
5 Member shall not be heard or entitled to object, and no papers or briefs submitted by any such
6 person shall be received or considered by the Court. In order to object to the settlement a Class
7 Member must file with the Court and serve on the Settlement Administrator and Counsel for the
8 Settling Parties, not later than forty-five (45) calendar days after the date that the Settlement
9 Administrator first mails the Class Notice, a written statement objecting to the Settlement and
10 setting forth the grounds for the objection. The written statement of objection must indicate
11 whether the Class Member intends to appear and object to the Settlement at the Final Approval
12 Hearing, and the failure to so indicate will constitute a waiver of the right to appear at the Final
13 Approval Hearing. The Court retains final authority with respect to the consideration and
14 admissibility of any Class Member objections. Counsel for the Parties shall file any response to
15 the objections submitted by objecting Class Members at least five (5) court days before the date
16 of the Final Fairness and Approval Hearing.
17

18 10. As of the date this Order is signed, all dates and deadlines associated with the
19 Action shall be stayed, other than those pertaining to the administration of the Settlement of the
20 Action.

21 11. In the event the Settlement does not become effective in accordance with the terms
22 of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, canceled
23 or fails to become effective for any reason, this Order shall be rendered null and void and shall be
24 vacated and the Parties shall revert to their respective positions as of before entering into the
25 Settlement Agreement.

26 The Court reserves the right to adjourn or continue the date of the Settlement Hearing and
27 all dates provided for in the Settlement Agreement without further notice to Class Members, and
28

retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

Dated: 01/23/2023



JUDGE OF THE SUPERIOR COURT

Donna D. Geck

APPROVED AS TO FORM AND CONTENT:

Date: October 18, 2022

JANELLE CARNEY – ATTORNEY AT LAW, APC
FRONTIER LAW CENTER

/S/ Janelle Carney
Janelle Carney,
Attorney for Plaintiff
Rory Massey

Date: October 18, 2022

FISHER & PHILLIPS, LLP

/S/ Areen Babajanian
Nicole Kamm
Areen Babajanian
Attorney for Defendants

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is 14758 Pipeline Avenue, Suite E, Second Floor, Chino Hills, CA 91709-6025.

On October 18, 2022, I served the foregoing document described as:

**[PROPOSED] ORDER GRANTING MOTION FOR CONDITIONAL CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

on INTERESTED PARTIES in this action by placing a copy thereof enclosed in a sealed envelope addressed as stated below:

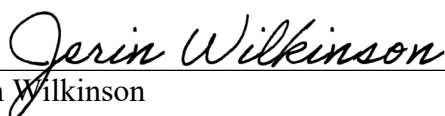
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Calabasas, CA 91302

XX BY E-MAIL: I served the above-mentioned document by serving electronically to each of the above recipients at their respective e-mail addresses and simultaneously sending for electronic filing. My e-address is: Jerin@JanelleCarneyLaw.com.

Executed on October 18, 2022 at Chino Hills, California.

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


Jerin Wilkinson