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BARVIÉ LAW, APC

NICOLE BARVIÉ, State Bar No. 282352

nicole@barvielaw.com

550 West B Street, 4th Floor

San Diego, CA 92101-3598

Telephone: 858.255.0928

Facsimile: 858.357.8592

FILED

Superior Court of California

County of Los Angeles

07/03/2024

David W. Slayton, Executive Officer / Clerk of Court

By: I. Arellanes Deputy

Attorney for Plaintiff Daniel Matthews

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DANIEL MATTHEWS, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiffs,

v.

LUSK QUALITY MACHINE PRODUCTS, a
California Corporation; and DOES 1-50,
Inclusive,

Defendant(s).

CASE NO.: **22STCV15409**

~~PROPOSED~~ **PRELIMINARY
APPROVAL ORDER**

Hearing Date: April 25, 2024

Hearing Time: 10:30 a.m.

Judge: Hon. Kenneth R. Freeman

Dept.: 14

Action Filed: May 9, 2022

Trial Date: Not yet set

This matter came before the Honorable Kenneth R. Freeman of the Superior Court of the State of California, in and for the County Los Angeles, on April 25, 2024, for hearing on the unopposed motion by Plaintiff Daniel Matthews ("Plaintiff") for preliminary approval of the Settlement with Defendant Lusk Quality Machine Products ("Defendant"). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

1 **IT IS HEREBY ORDERED:**

2 1. The Court preliminarily approves the Class Action and PAGA Settlement
3 Agreement (“Agreement” or “Settlement”) attached as Exhibit 1 to the Declaration of Nicole
4 Barvie in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.
5 This is based on the Court’s determination that the Settlement set forth in the Agreement is within
6 the range of possible final approval, pursuant to the provisions of Section 382 of the California
7 Code of Civil Procedure and California Rules of Court, rule 3.769.

8 2. This Order incorporates by reference the definitions in the Agreement, and all
9 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

10 3. The Gross Settlement Amount that Defendants shall pay is Three Hundred and
11 Sixty-Five Dollars (\$365,000.00). It appears to the Court on a preliminary basis that the
12 settlement amount and terms are fair, adequate, and reasonable as to all potential Class Members
13 when balanced against the probable outcome of further litigation and the significant risks relating
14 to certification, liability and damages issues. It further appears that investigation and research
15 have been conducted such that counsel for the Parties are able to reasonably evaluate their
16 respective positions. It further appears to the Court that the Settlement will avoid substantial
17 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
18 further prosecution of the Action. It further appears that the Settlement has been reached as the
19 result of serious and non-collusive, arms-length negotiations.

20 4. The Court preliminarily finds that the Settlement appears to be within the range of
21 reasonableness of a settlement that could ultimately be given final approval by this Court. The
22 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
23 preliminarily finds that the monetary settlement awards made available to the Class is fair,
24 adequate, and reasonable when balanced against the probable outcome of further litigation and the
25 significant risks relating to certification, liability, and damages issues.

26 5. The Agreement specifies for an attorneys’ fees award not to exceed one-third of
27 the Gross Settlement Amount, not to exceed \$121,666.65, an award of litigation expenses
28 incurred, not to exceed \$20,000.00, and a proposed Class Representative Service Payment to the

1 Plaintiff for \$10,000. The Court will not approve the amount of attorneys' fees and costs, nor the
2 amount of any service award, until the Final Approval Hearing. Plaintiff will be required to
3 present evidence supporting these requests, including lodestar, prior to final approval.

4 6. The Court recognizes that Plaintiff and Defendant stipulated and agreed to
5 representative treatment and certification of a class for settlement purposes only. This stipulation
6 will not be deemed admissible in this or any other proceeding should this Settlement not become
7 final. For settlement purposes only, the Court conditionally certifies the following Class: "all
8 individuals classified as non-exempt employees who are or previously were employed by Lusk
9 Quality Machine Products and performed work in California during the period of May 9, 2018 to
10 January 13, 2023."

11 7. The Court concludes that, for settlement purposes only, the Class meets the
12 requirements for certification under section 382 of the California Code of Civil Procedure in that:
13 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
14 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
15 community of interest amongst the members of the Class with respect to the subject matter of the
16 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d)
17 the Plaintiff will fairly and adequately protect the interests of the members of the Class; (e) a class
18 action is superior to other available methods for the efficient adjudication of this controversy; and
19 (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate
20 representative of the Class.

21 8. The Court provisionally appoints Plaintiff as the representative of the Class. The
22 Court provisionally appoints Nicole Barvie of Barvie Law, APC, as Class Counsel for the Class.

23 9. The Agreement provides for PAGA Penalties out of the Gross Settlement Amount
24 of \$10,000, which shall be allocated \$7,500.00 to the Labor & Workforce Development Agency
25 ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
26 Agreement pursuant to the PAGA and \$2,500.00 to the "Aggrieved Employees." The "Aggrieved
27 Employees" are defined as "all individuals classified as non-exempt employees who are or
28

1 previously were employed by Lusk Quality Machine Products and performed work in California
2 during the period of February 9, 2021 to April 20, 2023.”

3 10. The PAGA Period is from February 9, 2021 to January 13, 2023. Pursuant to
4 Labor Code section 2699, subdivision (l)(2), the LWDA will be provided notice of the Agreement
5 and these settlement terms. The Court finds the PAGA Penalties to be reasonable.

6 11. The Court hereby approves, as to form and content, the Class Notice attached to
7 the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
8 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right
9 to be excluded from the Class by submitting a written opt-out request, and of each member’s right
10 and opportunity to object to the Settlement. The Court further finds that the distribution of the
11 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
12 the requirements of due process, is the best notice practicable under the circumstances, and shall
13 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
14 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
15 Notice Packet is returned because of an incorrect address, the Administrator will promptly search
16 for a more current address for the Class Member and re-mail the Class Notice Packet to any new
17 address for the Class Member no later than seven (7) business days after the receipt of the
18 undelivered Class Notice. The Administrator will also email a copy of the re-mailed Class Notice
19 to the Class Member if there is an available email address in the Class Data.

20 12. The Court hereby appoints ILYM Group as the Administrator. No later than
21 fifteen (15) days after this Order, Defendant will provide to the Administrator an electronic
22 database containing the Class Data. The Administrator will perform address updates and
23 verifications as necessary prior to the first mailing. Using best efforts to mail it as soon as
24 possible, and in no event later than fourteen (14) days after receiving the Class Data, the
25 Administrator will mail the Class Notice Packet to all Class Members via first-class regular U.S.
26 Mail to their last known address.

27 13. The Court hereby preliminarily approves the proposed procedure for exclusion
28 from the Settlement. Any Class Member may individually choose to opt out of and be excluded

1 from the Class as provided in the Class Notice by following the instructions for requesting
2 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
3 postmarked or received no later than forty-five (45) calendar days after the date of the mailing of
4 the Class Notice (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response
5 Deadline for requests for exclusion will be extended an additional fourteen (14) days. A Request
6 for Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.
7 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to
8 any recovery under the Class Settlement and will not be bound by the Class Settlement or have
9 any right to object, appeal or comment thereon. Class Members who have not requested
10 exclusion shall be bound by all determinations of the Court, the Agreement and the Judgment. A
11 request for exclusion may only opt out that particular individual, and any attempt to effect an opt-
12 out of a group, class, or subclass of individuals is not permitted and will be deemed invalid.

13 14. Any Class Member who has not opted out may appear at the final approval hearing
14 and may object or express the Member’s views regarding the Settlement, and may present
15 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
16 and determined by the Court as provided in the Notice. Class Members will have until the
17 Response Deadline to submit their written objections to the Administrator. Written objections
18 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class
19 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an
20 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval
21 Hearing to make an oral objection.

22 15. A final approval hearing shall be held before this Court on October 29, 2024 at
23 10:00 a.m. in Department 14 at the Spring Street Courthouse of the Los Angeles County Superior
24 Court to hear the motion for final approval and the motion for attorneys’ fees and costs, and to
25 determine all necessary matters concerning the Settlement, including: whether the proposed
26 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
27 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
28 Order and Judgment should be entered herein; whether the plan of allocation contained in the

1 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
2 finally approve attorneys' fees and costs, service awards, and the fees and expenses of the
3 Administrator. All papers in support of the motion for final approval and the motion for
4 attorneys' fees, costs and service awards shall be filed with the Court and served on all counsel no
5 later than sixteen (16) court days before the hearing and both motions shall be heard at this final
6 approval hearing.

7 16. Neither the Settlement nor any exhibit, document, or instrument delivered
8 thereunder shall be construed as a concession or admission by Defendant in any way that the
9 claims asserted have any merit or that this Action was properly brought as a class or
10 representative action, and shall not be used as evidence of, or used against Defendant as, an
11 admission or indication in any way, including with respect to any claim of any liability,
12 wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation asserted
13 by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any
14 exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or
15 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received
16 as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited
17 to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
18 fault, wrongdoing, omission, concession or damage.

19 17. In the event the Settlement does not become effective in accordance with the terms
20 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
21 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
22 and the Parties shall revert to their respective positions as of before entering into the Agreement,
23 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
24 including all available defenses and affirmative defenses, and arguments that any claim in the
25 Action could not be certified as a class action and/or managed as a representative action . In such
26 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
27 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
28 the Agreement with respect to the effect of the Agreement if it is not approved.

1 18. The Court reserves the right to adjourn or continue the date of the final approval
2 hearing and all dates provided for in the Agreement without further notice to Class Members, and
3 retains jurisdiction to consider all further applications arising out of or connected with the
4 proposed Settlement.

5 **IT IS SO ORDERED.**

6 Dated: 07/03/2024



A handwritten signature in black ink, appearing to read "K. Freeman", is written over a horizontal line.

HON. KENNETH R. FREEMAN
Kenneth R. Freeman / Judge
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA