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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

SEAN MCBURNEY, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

v.

EUROFINS AIR TOXICS, LLC, a limited
liability company; EUROFINS AIR
TOXICS, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 34-2022-00321801

[Assigned for all purposes to the Hon. Lauri
Damrell in Department 28]

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

Date: July 28, 2023
Time: 9:00 a.m.
Dept.: 28

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[PROPOSED] ORDER

Plaintiff SEAN MCBURNEY's ("Plaintiff") Motion for Preliminary Approval of Class Action Settlement came on for hearing before this Court, the Honorable Lauri Damrell presiding. The Court, having considered the papers submitted in support of the motion, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval to the Joint Stipulation of Class Action Settlement and Release ("Settlement Agreement" or "Settlement"). This Order incorporates by reference the definitions in the Settlement Agreement, and all terms defined therein shall have the same meaning in this Order as set forth in the Settlement Agreement.

2. The Settlement provides for Defendant Eurofins Environment Testing Northern California, LLC (formerly known as Eurofins Air Toxics, LLC) ("Defendant") to pay the Gross Settlement Amount of \$260,000.00. The Court preliminarily finds that the Settlement is fair, adequate, and reasonable to the Class, and preliminarily approves the terms of the settlement. This preliminary approval is subject to the objections of Class Members and final review by the Court.

3. A Final Approval Hearing shall be held before this Court on _____ at _____ a.m. in Department 28 of the Superior Court of the State of California for the County of Sacramento, to determine all necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement is fair, adequate, and reasonable and should be finally approved by the Court; whether the Final Approval Order and Judgment should be entered; whether the distribution contained in the Settlement should be approved as fair, adequate, and reasonable to the Class Members; and whether to finally approve the PAGA Amount, the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, and the Settlement Administration Expenses. The motion for final approval and the motion for award of attorneys' fees and costs shall be filed no later than sixteen (16) court days before the Final Approval Hearing.

4. The Court recognizes that the Plaintiff and the Defendant stipulate and agree to certification of the Class for settlement purposes only. This stipulation will not be deemed

admissible in this or any other proceeding should this Settlement not become final. Whether or not the settlement is finally approved, neither the Agreement, nor any document, statement, proceeding or conduct related to the Agreement may be admitted in any proceeding as an admission by Defendant or any of the Released Parties, the Plaintiff, or any person within the definition of the Class.

5. The Class Period and PAGA Period are from June 13, 2021 through April 30, 2023. For settlement purposes only, the Court certifies the following Settlement Class: “all current and former employees employed by Defendant in California who were paid any wages during the Class Period.

6. The Court preliminarily approves Sean McBurney as the representative of the Class. The Court preliminarily approves Diversity Law Group, A Professional Corporation, Law Offices of Choi and Associates, Hyun Legal, APC, and Polaris Law Group, as counsel for the Class (“Class Counsel”).

7. The Agreement specifies for an attorneys' fees award not to exceed thirty-five percent (35%) of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$30,000, and proposed Class Representative Enhancement Payment in an amount not to exceed \$10,000. While these awards appear to be within the range of reasonableness, the Court will not approve the amount of attorneys’ fees and costs until the Final Approval Hearing. Similarly, the Court will not decide the amount of any Class Representative Enhancement Payment until the Final Approval Hearing.

8. The Court hereby approves, as to form and content, the Notice of Class Action Settlement (“Class Notice”) attached as Exhibits A to the Agreement. The Court finds that the distribution of the Class Notice substantially in the manner and form set forth in the Agreement and this Order meets the requirements of due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Court hereby approves on a preliminary basis the Gross Settlement Amount as provided for in the Agreement. It appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to all potential Class Members when balanced against

1 the probable outcome of further litigation relating to liability and damages issues. It further
2 appears that: investigation and research have been conducted such that counsel for the Parties at
3 this time are able to reasonably evaluate their respective positions; that settlement at this time
4 will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
5 would be presented by the further prosecution of the Action; and that the Settlement has been
6 reached as the result of intensive, serious and non-collusive, arms-length negotiations before an
7 experienced mediator.

8 9. The Court hereby appoints Phoenix Settlement Administrators as Settlement
9 Administrator. Within thirty (30) calendar days of preliminary approval of this settlement,
10 Defendant will provide the Class List to the Settlement Administrator. The Settlement
11 Administrator will mail a Class Notice to all Class Members via regular First-Class U.S. Mail,
12 using the most current, known mailing addresses identified in the Class List. Prior to mailing,
13 the Settlement Administrator will perform a search based on the National Change of Address
14 Database for information to update and correct for any known or identifiable address changes.

15 10. Any Class Member may choose to opt out of and be excluded from the Class as
16 provided in the Class Notice by following the instructions for requesting exclusion from the
17 Class that are set forth in the Class Notice. PAGA Aggrieved Employees may not opt out of the
18 PAGA portion of the Settlement. All requests for exclusion must be submitted within forty-five
19 (45) days from the date the Class Notice is first mailed. Any such person who chooses to opt out
20 of and be excluded from the Class will not be entitled to any recovery under the Settlement and
21 will not be bound by the non-PAGA portion of the Settlement or have any right to object, appeal,
22 or comment thereon. Any written request to opt out must comply with the instructions in the
23 Class Notice and be signed by each such person opting out. Class Members who have not validly
24 requested exclusion shall be bound by all determinations of the Court, the Agreement, and the
25 Judgment.

26 11. Any Class Member who has not opted out may appear at the final approval
27 hearing and may object or express their views regarding the Settlement and may present
28 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard

1 and determined by the Court as provided in the Class Notice. Class Members will have 45 days
2 from the date the Class Notices are mailed to postmark their written objections to the Settlement
3 Administrator. Class Members who fail to timely submit objections in the manner specified
4 above shall be deemed to have waived any objections and shall be foreclosed from making any
5 objection (whether by appeal or otherwise) to the Settlement.

6 12. The Settlement is not a concession or admission and shall not be used against
7 Defendant as an admission or indication with respect to any claim of any fault or omission by
8 Defendant. Whether or not the Settlement is finally approved, neither the Settlement, nor any
9 document, statement, proceeding or conduct related to the Settlement, nor any reports or
10 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received
11 as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited
12 to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
13 fault, wrongdoing, omission, concession, or damage.

14 13. In the event the Settlement does not become effective in accordance with the
15 terms of the Agreement, or the Settlement is not finally approved, or is terminated or fails to
16 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
17 and the Parties shall revert to their respective positions as of before entering into the Agreement.

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

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23
24 DATED: _____

Honorable Lauri Damrell
Judge of the Superior Court