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FILED
Superior Court of California
County of Los Angeles
05/12/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: B. Guerrero Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES – SPRING STREET

13 FRANCISCO LOMELI, individually, and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 PHARMAVITE, LLC, a limited liability
18 company; and DOES 1 through 10, inclusive,

19 Defendants

Case No.: 20STCV09861

[Assigned for all purposes to Hon. Kenneth R.
Freeman Dept. 14]

CLASS ACTION

~~[PROPOSED]~~ **ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: May 12, 2022
Time: 10:00 a.m.
Courtroom: Dept. 14
Judge: Hon. Kenneth R. Freeman

Action Filed: March 11, 2020
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 Plaintiff FRANCISCO LOMELI (“Plaintiff”) and Defendant PHARMAVITE, LLC
3 (“Defendant”) have reached terms of settlement for a putative class action.

4 Plaintiff has filed a motion for final approval of a class action settlement of the claims asserted
5 against Defendant in this action, memorialized in the JOINT STIPULATION OF CLASS ACTION
6 SETTLEMENT (*see* Declaration of H. Scott Leviant In Support of Plaintiff’s Motion for Final Approval
7 of Class Action Settlement [“Leviant Decl.”], at Exh. 1). The JOINT STIPULATION OF CLASS
8 ACTION SETTLEMENT is referred to herein as the “Agreement” or “Settlement.”

9 After reviewing the Agreement, the Notice process, and other related documents, and having
10 heard the argument of Counsel for respective parties, **IT IS HEREBY ORDERED AS FOLLOWS:**

11 1. The Court preliminarily finds that the terms of the proposed class action Settlement are
12 fair, reasonable, and adequate, pursuant to California Code of Civil Procedure § 382. In granting final
13 approval of the class action settlement the Court has considered the factors identified in *Dunk v. Ford*
14 *Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer, Inc.*, 91 Cal.
15 App. 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006).

16 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
17 non-collusive arms-length negotiations. The Court further finds that the parties have conducted
18 thorough investigation and research, and the attorneys for the parties are able to reasonably evaluate
19 their respective positions. The Court also finds that settlement at this time will avoid additional
20 substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution
21 of the action. The Court finds that the risks of further prosecution are substantial.

22 3. The parties’ Settlement is granted final approval as it meets the criteria for final
23 settlement approval. The settlement falls within the range of possible approval as fair, adequate and
24 reasonable, and appears to be the product of arm’s-length and informed negotiations and to treat all
25 Settlement Class Members fairly. The Settlement Class meets the requirements for conditional
26 certification for settlement purposes only under Code of Civil Procedure § 382.

27 4. The Class Notice provided to the Settlement Class conforms with the requirements of
28 Code of Civil Procedure § 382, Civil Code § 1781, Rules of Court 3.766 and 3.769, the California and

1 United States Constitutions, and any other applicable law, and constitutes the best notice practicable
2 under the circumstances, by providing individual notice to all Settlement Class Members who could be
3 identified through reasonable effort, and by providing due and adequate notice of the proceedings and
4 of the matters set forth therein to the other Settlement Class Members. The Class Notice fully satisfied
5 the requirements of due process.

6 5. The following persons are certified as Class Members solely for the purpose of entering
7 a settlement in this matter:

8 All individuals employed by Defendants in California and classified as “non-
9 exempt” at any time during the Class Period (the “Class Period” is January 16, 2016
through June 1, 2021). (Settlement, ¶¶ 3-4.)

10 6. The Court also defines the following “PAGA Employees” impacted by the proposed
11 settlement of PAGA claims:

12 All Class Members that worked at any time during the PAGA Period (the
13 “PAGA Period” means the period between March 11, 2019 through November 9,
2021). (Settlement, ¶¶ 10-11.)

14 7. Plaintiff FRANCISCO LOMELI is appointed the Class Representative. The Court
15 finds Plaintiff’s counsel are adequate, as they are experienced in wage and hour class action litigation
16 and have no conflicts of interest with absent Settlement Class Members, and that they adequately
17 represented the interests of absent class members in the Litigation. Kane Moon, H. Scott Leviant, and
18 Lilit Tunyan of Moon & Yang, APC, are appointed Class Counsel.

19 8. The Court appoints Phoenix Settlement Administrators to act as the Settlement
20 Administrator, pursuant to the terms set forth in the Agreement.

21 9. No Settlement Class Members timely requested exclusion from the Class. All Class
22 Members are Settlement Class Members, bound by the Final Approval Order and Judgment in the
23 Action.

24 10. Upon entry of this Final Approval Order and Judgment, funding of the Settlement and
25 compensation to the Settlement Class Members shall be implemented pursuant to the terms of the
26 Settlement.

27 11. In addition to any recovery that Plaintiff may receive under the Settlement as a
28 Settlement Class Member, and in recognition of the Plaintiff’s efforts on behalf of the Settlement Class,

1 the Court hereby approves the payment of an enhancement award to Plaintiff FRANCISCO LOMELI
2 in the amount of **\$5,000**.

3 12. The Court approves the payment of attorneys' fees to Class Counsel in the amount of
4 **\$308,333.33**. Litigation expenses are approved by the Court in the following amount: **\$12,542.52** is
5 awarded to Moon & Yang, APC.

6 13. The Court approves and orders payment in the amount of **\$9,000.00** to Phoenix
7 Settlement Administrators for performance of its services as the Settlement Administrator, as set forth
8 in the Notice to the Class.

9 14. Upon completion of administration of the Settlement, the Parties shall file a declaration
10 stating that all amounts payable under the Settlement have been paid and that the terms of the
11 Settlement have been completed.

12 15. The Court sets a non-appearance case review regarding compliance with all fund
13 distribution requirements under the Settlement for Øàì' æ' Áí, 2023, at 1 KÉÁ È È,
14 in Dept. SSC-14 of the above-entitled Court. A Final Report, including any declaration from the
15 Settlement Administrator regarding compliance, shall be filed with the Court no later than
16 Øàì' æ' Áí, 2023.

17 16. The Court approves and orders payment in the amount of **\$60,000.00** to the Labor and
18 Workforce Development Agency in compromise of claims under the Labor Code Private Attorneys
19 General Act of 2004 (Labor Code § 2698 *et seq.*).

20 17. Once Defendant fully funds the Settlement by paying the Final Settlement Amount,
21 Plaintiff and the Settlement Class Members, shall have, by operation of this Final Approval Order and
22 the separate Judgment, fully, finally and forever released, relinquished, and discharged Defendant from
23 the Released Claims described in the Settlement.

24 18. In accordance with California Rule of Court 3.771(b), the Parties are ordered to give notice
25 of this final Order and Judgment to all Settlement Class Members by posting the Order and Judgment for
26 90 days on the Settlement Administrator's website and to the LWDA, pursuant to Labor Code §
27 2699(1)(3).
28

1 19. The Court retains jurisdiction to consider all further applications arising out of or in
2 connection with the settlement.

3
4 **IT IS SO ORDERED.**



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

5
6 Dated: 05/12/2022

Kenneth R. Freeman / Judge

Hon. Kenneth R. Freeman
LOS ANGELES COUNTY SUPERIOR COURT JUDGE

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a
4 party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

5 On the date indicated below, I served the document described as: **[PROPOSED] ORDER**
6 **GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this
7 action by sending the original [or] a true copy thereof to interested parties as follows [or] as
8 stated on the attached service list:

9 ERIKA L. SHAO
10 eshao@grsm.com
11 LINH T. HUA
12 lhua@grsm.com
13 GORDON REES SCULLY MANSUKHANI,
14 LLP
15 633 West Fifth Street, 52nd floor
16 Los Angeles, CA 90071
17 Telephone: (213) 270-7851
18 Facsimile: (213) 680-4470

19 *Attorneys for Defendant PHARMAVITE, LLC*

20 **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept
21 electronic service, I caused the documents to be sent to the persons at the electronic service addresses
22 listed above via third-party cloud service CASEANYWHERE. I did not receive an error message.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
24 correct. Executed this **March 30, 2022** at Los Angeles, California.

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27
28

29 H. Scott Leviant
30 Type or Print Name

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33
34
35
36
37
38

39 Signature