

JAN 31 2018

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Filed
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By *Grant J. Perry*
DEPUTY

5 Attorneys for Plaintiff ADAM MITCHELL,
6 on behalf of himself and others similarly situated

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN JOAQUIN

11 ADAM MITCHELL, and on behalf of
12 himself and all others similarly situated,

13 Plaintiffs,

14 vs.

15 NUSHAKE, INC., a California corporation;
16 and DOES 1 through 50, inclusive,

17 Defendants

Case No. STK-CV-UOE-2013-0011503

[CLASS ACTION]

Hon. Carter P. Holly

clt
**[PROPOSED] ORDER GRANTING
MOTION FOR AN ORDER (1)
PRELIMINARILY APPROVING THE
CLASS ACTION SETTLEMENT, (2)
APPROVING NOTICE OF CLASS ACTION
SETTLEMENT, AND (3) SETTING
HEARING FOR FINAL APPROVAL**

*[[filed concurrently with Plaintiff's Notice of
Motion and Motion; Memorandum of Points and
Authorities; and Declaration of David Yeremian
In Support Thereof]]*

Date: ~~2018~~ **JAN 31 2018**
Time: 9:00 a.m.
Dept.: 42108

FILE BY FAX

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1 Plaintiffs filed a Motion for an Order (1) preliminarily approving the class action
2 settlement reached between the parties, (2) approving the notice of class action settlement, and (3)
3 setting the final approval hearing (the "Motion"). The hearing on the Motion was set for ~~January~~
4 ~~30 2018~~, January 31, 2018, ~~February 1, 2018~~, at 9:00 a.m. in Department ~~4~~¹⁰³ of the above
5 captioned court. Defendant NuShake, Inc. ("Defendant") did not oppose the Motion. (Plaintiffs
6 and Defendant shall be collectively referred to herein as the "Parties.")

7 The Court, having considered Plaintiffs' Motion, the memorandum of points and
8 authorities in support thereof and supporting evidence, and Defendant's agreement with and/or
9 non-opposition to the Motion, hereby ORDERS, ADJUDGES, AND DECREES as follows:

10 1. The Preliminary Approval Motion is GRANTED and the Parties' Class Action
11 Settlement Agreement (the "Stipulation of Settlement" or "Stipulation") attached to the
12 Declaration of David Yeremian is preliminarily approved.

13 2. This Order incorporates by reference the definitions in the Stipulation of
14 Settlement and all terms defined therein, and the Stipulation for Entry of Judgment attached
15 thereto, shall have the same meaning in this Order.

16 3. The classes are preliminarily certified for settlement purposes only. Should the
17 settlement not become final, the fact that the Parties were willing to stipulate to class certification
18 as part of the settlement shall have no bearing on, nor be admissible in connection with, the issue
19 of whether a class or classes should be certified in a non-settlement context.

20 4. The class action settlement contemplated by the Stipulation of Settlement is
21 preliminarily approved based upon the terms set forth in the Stipulation of Settlement filed
22 herewith. The class action settlement appears to be fair, adequate, and reasonable to the Class.
23 The class action settlement contemplated by the Stipulation of Settlement falls within the range of
24 reasonableness and appears to be presumptively valid, subject to any objections that may be
25 raised at the final approval hearing before this Court. The preliminary approval of the class action
26 settlement and the Parties' agreement includes the approval for purposes of the settlement of
27 David Yeremian of David Yeremian & Associates, Inc., 535 N. Brand Blvd., Suite 705, Glendale,
28 California 91203 as Class Counsel; Adam Mitchell and Francisco Sanchez as Class

1 Representatives; and CPT Group, Inc. as Claims Administrator. Class Counsel is authorized to act
2 on behalf of the class members with respect to all acts or consents required by or which may be
3 given pursuant to the Stipulation of Settlement and the class action settlement contemplated by
4 the Stipulation of Settlement, and such other acts reasonably necessary to consummate the
5 settlement. The Claims Administrator is authorized to perform such acts as set forth in this Order
6 and the Stipulation of Settlement.

7 5. The Notice of Pendency of Class Action, Proposed Settlement and Hearing Date
8 (“Class Notice”) attached as Exhibit A to the Stipulation and attached to this order advising the
9 Class of material terms and provisions of this settlement, the procedure for approval thereof, and
10 their rights with respect thereto is approved as to form and content.

11 6. The Class Notice shall be sent by first class mail to the Class in accordance with
12 the schedule set forth below. The dates selected for the mailing and distribution of the Class
13 Notice as set forth below meet the requirements of due process and provide the best notice
14 practicable under the circumstances and shall constitute due and sufficient notice to all persons
15 entitled thereto:

16 a. Deadline for Defendant to provide to Claims Administrator the class list
17 and related information in electronic form: 10 calendar days of the Order granting
18 preliminary approval.

19 b. Deadline for Claims Administrator to mail the Class Notice: 10 calendar
20 days of receiving the class list from Defendant.

21 c. Deadline for class members to file objections or requests for exclusion with
22 Court, the Claims Administrator and serve on Counsel: no later than 60 calendar
23 days from the date of the original mailing of the Notice.

24 d. Deadline for Class Counsel to file a Motion for Final Approval and a
25 Motion for Attorneys’ Fees: 4/30/18.

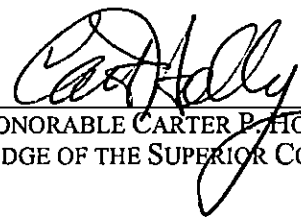
26 e. A Final Approval Hearing on the question of whether the proposed
27 settlement, attorneys’ fees and costs to Class Counsel, and the class representative
28 enhancement should be approved as fair, reasonable, and adequate as to the

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Settlement Class: 5/22/18 at 9⁰⁰ a.m. / ~~p.m.~~

IT IS SO ORDERED.

DATED: January 31, 2018


CARTER P. HOLLY
HONORABLE CARTER P. HOLLY
JUDGE OF THE SUPERIOR COURT