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**Electronically Filed  
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County of Santa Clara,  
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Reviewed By: L. Wang  
Case #16CV294288  
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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

IN RE HANSEN MEDICAL, INC.  
SHAREHOLDER LITIGATION

Consolidated Action, Including

*Liu v. Hansen Medical*, Case No. 16CV294288  
*Huggins v. Hansen Medical*, Case No.  
16CV294554  
*Lax v. Eagle*, Case No. 16CV294858  
*Simonson v. Vance*, Case No. 16CV294862

Lead Case No.: 16CV294288

Consolidated With:  
Case No. 16CV294554  
Case No. 16CV294858  
Case No. 16CV294862

**ORDER AFTER HEARING ON  
JULY 12, 2019**

**Motion by Plaintiffs for Preliminary  
Approval of Class Action Settlement**

The above-entitled consolidated matter came on regularly for hearing on Friday, July 12, 2019 at 9:00 a.m. in Department 1 (Complex Civil Litigation), the Honorable Brian C. Walsh presiding. The Court reviewed and considered the written submission of all parties and issued a tentative ruling on July 10, 2019. No party contested the tentative ruling and no party appeared; therefore, the Court orders that the tentative ruling be adopted and incorporated herein as the Order of the Court, as follows:

These consolidated putative shareholder class actions arise from the sale of defendant Hansen Medical, Inc. to defendant Auris Surgical Robotics, Inc. The parties have reached a

1 settlement, which the Court preliminarily approved in an order filed on March 8, 2019. The  
2 factual and procedural background of the action and the Court’s analysis of the settlement and  
3 settlement class are set forth in that order.

4  
5 Before the Court are plaintiffs’ motions for final approval of the settlement and for an  
6 award of attorney fees and expenses, which are unopposed.

7  
8 I. Legal Standard for Approving a Class Action Settlement

9  
10 Generally, “questions whether a settlement was fair and reasonable, whether notice to the  
11 class was adequate, whether certification of the class was proper, and whether the attorney fee  
12 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*  
13 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, citing *Dunk v. Ford Motor Co.* (1996) 48  
14 Cal.App.4th 1794, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.*  
15 (2018) 4 Cal.5th 260.)

16  
17 In determining whether a class settlement is fair, adequate and reasonable, the  
18 trial court should consider relevant factors, such as the strength of plaintiffs’ case,  
19 the risk, expense, complexity and likely duration of further litigation, the risk of  
20 maintaining class action status through trial, the amount offered in settlement, the  
21 extent of discovery completed and the stage of the proceedings, the experience  
22 and views of counsel, the presence of a governmental participant, and the reaction  
23 of the class members to the proposed settlement.

(*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 244-245, internal citations and  
quotations omitted.)

24 In general, the most important factor is the strength of plaintiffs’ case on the merits,  
25 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)  
26 168 Cal.App.4th 116, 130.) Still, the list of factors is not exclusive and the court is free to  
27 engage in a balancing and weighing of factors depending on the circumstances of each case.  
28 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine  
the “proposed settlement agreement to the extent necessary to reach a reasoned judgment that the

1 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating  
2 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all  
3 concerned.” (*Ibid.*, quoting *Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p. 1801, internal  
4 quotation marks omitted.)

5  
6 The burden is on the proponent of the settlement to show that it is fair and  
7 reasonable. However “a presumption of fairness exists where: (1) the settlement  
8 is reached through arm’s-length bargaining; (2) investigation and discovery are  
sufficient to allow counsel and the court to act intelligently; (3) counsel is  
experienced in similar litigation; and (4) the percentage of objectors is small.”

9 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk v. Ford Motor*  
10 *Co.*, *supra*, 48 Cal.App.4th at p. 1802.) The presumption does not permit the Court to “give  
11 rubber-stamp approval” to a settlement; in all cases, it must “independently and objectively  
12 analyze the evidence and circumstances before it in order to determine whether the settlement is  
13 in the best interests of those whose claims will be extinguished,” based on a sufficiently  
developed factual record. (*Kullar v. Foot Locker Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 130.)

## 14 II. Terms, Administration, and Final Approval of the Settlement

15  
16 The settlement in this action is for \$7.5 million in cash, to be funded \$7.125 million by  
17 defendants’ insurers and \$375,000 by one of the Rollover Shareholders (the “Feinberg  
18 Defendants”). Defendants’ insurers will also pay \$12,000 to cover the initial costs of notice to  
19 the class, with any remaining portion of this sum to be returned after the notice costs are paid.

20  
21 The settlement fund shall be used to pay any additional administrative costs, all relevant  
22 taxes, and an attorney fee and expense award of up to 1/3 of the gross settlement (\$2.5 million),  
23 plus up to \$250,000 in litigation expenses. Incentive awards not to exceed \$1,000 per plaintiff  
24 will be paid from the attorney fee and expense award. The net settlement will be distributed pro  
25 rata to Eligible Class Members who owned Hansen stock as of the date of the merger, based on  
26 their eligible shares. Given the 6,579,293 estimated eligible shares, class members are expected  
27 to receive 76 cents per share.

1 Class members will not be required to submit a claim to receive their payments. With  
2 respect to stock held of record by Cede as nominee for the Depository Trust Company (“DTC”),  
3 the settlement administrator will cause eligible beneficial owners’ payments to be paid to DTC  
4 and DTC will distribute the funds using the same mechanism it employed to distribute the  
5 merger consideration. For other stock, payment will be made by the administrator directly to the  
6 record owner. The settlement provides that in the event any payment is undeliverable or is not  
7 cashed within six months of its issue date, the record holders “shall follow their respective  
8 policies with respect to further attempted distribution or escheatment.”

9  
10 Class members who do not opt out of the class will release all claims “that were asserted  
11 or could have been asserted by Plaintiffs in the Actions on behalf of themselves and/or the Class,  
12 and any and all Claims, including Unknown Claims, that are based on, arise out of, relate in any  
13 way, or involve the same set of operative facts as the claims asserted by Plaintiffs against  
14 Released Defendant Parties in the Actions and which relate to the ownership of Hansen common  
15 stock.”

16  
17 The notice process has now been completed. According a declaration by the claims  
18 administrator filed on June 27, 2019, the administrator published notice of the settlement to  
19 Business Wire on March 15, 2019 and also launched a web site and toll-free information line on  
20 that date. It mailed notice directly to 127 potential class members and to 1,353 brokerage firms,  
21 banks, institutions, and other third-party nominees that hold securities in “street name” for  
22 beneficial owners. Nominees responded by providing the names and addresses of 3,125  
23 potential class members, and as of June 24, 2019, the administrator had mailed a total of 4,605  
24 notice packages to class members and nominees. No objections or requests for exclusion from  
25 the class have been received.

26  
27 At preliminary approval, the Court found that the proposed settlement provides a fair and  
28 reasonable compromise to plaintiffs’ claims. It finds no reason to deviate from this finding now,

1 especially considering that there are no objections. The Court consequently finds that the  
2 settlement is fair and reasonable for purposes of final approval.

3  
4 Finally, pursuant to the Court's preliminary approval order and in compliance with Code  
5 of Civil Procedure section 384, the parties have selected Bay Area Legal Aid as the recipient for  
6 unclaimed settlement funds. This selection is appropriate and is approved.

7 III. Attorney Fees, Costs, and Incentive Awards

8  
9 Plaintiffs seek a fee award of \$2.5 million, or 1/3 of the gross settlement, which is not an  
10 uncommon contingency fee allocation. This award is facially reasonable under the "common  
11 fund" doctrine, which allows a party recovering a fund for the benefit of others to recover  
12 attorney fees from the fund itself. Plaintiffs also provide a lodestar figure of \$2,078,475, based  
13 on 3,240 hours spent on the case by counsel and paraprofessionals. The fee request results in a  
14 reasonable multiplier of 1.18. As a cross-check, the lodestar supports the 1/3 percentage fee  
15 requested, particularly given the lack of objections to the attorney fee request. (See *Laffitte v.*  
16 *Robert Half Intern. Inc.* (Cal. 2016) 1 Cal.5th 480, 488, 503-504 [trial court did not abuse its  
17 discretion in approving fee award of 1/3 of the common fund, cross-checked against a lodestar  
18 resulting in a multiplier of 2.03 to 2.13].)

19 Plaintiffs also request \$62,199.64 in costs, well below the estimate provided at  
20 preliminary approval. The costs are reasonable based on the summaries provided and are  
21 approved. The \$69,702 in administrative costs are also approved.

22  
23 Finally, plaintiffs request a service award of \$1,000 each to six named plaintiffs. The  
24 Court finds that the named plaintiffs are entitled to an enhancement award and the amount  
25 requested is reasonable.

1 IV. Order and Judgment

2 In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND  
3 DECREED THAT:

4  
5 Plaintiffs' motions for final approval and for an award of attorney fees and expenses are  
6 GRANTED.

7 The following class is certified for settlement purposes:

8  
9 Any and all record and beneficial owners and holders of Hansen common stock,  
10 as of July 27, 2016 (the date of the consummation of the Merger), including any  
11 and all of their respective successors-in-interest, successors, predecessors-in-  
12 interest, predecessors, representatives, trustees, executors, administrators, estates,  
13 heirs, assigns and transferees, immediate and remote, and any person or entity  
14 acting for or on behalf of, or claiming under, any of them, and each of them,  
15 together with their predecessors-in-interest, predecessors, successors-in-interest  
16 successors, and assigns, but excluding (i) Defendants, their Immediate Family,  
17 and any trust or other entity affiliated with or controlled by any Defendant, other  
18 than employees of such entities who were not directors or officers of such entities  
19 as of the Closing; (ii) any and all record and beneficial owners and holders of  
20 Hansen common stock who exercised their appraisal rights under Section 262 of  
21 the General Corporation Law of the State of Delaware; and (iii) any and all record  
22 and beneficial owners and holders of Hansen common stock who timely and  
23 validly opt out of the Class and Settlement pursuant to Paragraphs 25-26 of [the]  
24 Stipulation.

25 There are no other exclusions from the class.


26  
27 Judgment shall be entered through the filing of this order and judgment. (Code Civ.  
28 Proc., § 668.5.) Plaintiffs and the members of the settlement class shall take from their  
complaint only the relief set forth in the settlement agreement and this order and judgment.

1 Pursuant to Rule 3.769(h) of the California Rules of Court, the Court retains jurisdiction over  
2 the parties to enforce the terms of the settlement agreement and the final order and judgment.

3  
4 The Court sets a compliance hearing for **April 17, 2020 at 10:00 A.M.** in Department 1.  
5 **At least ten court days before the hearing, class counsel and the settlement administrator shall**  
6 **submit a summary accounting of the net settlement fund identifying distributions made as**  
7 **ordered herein, the number and value of any uncashed checks, amounts remitted to the *cy pres***  
8 **beneficiary, the status of any unresolved issues, and any other matters appropriate to bring to the**  
9 **Court's attention.** Counsel shall also submit an amended judgment as described in Code of Civil  
10 Procedure section 384, subdivision (b). Counsel may appear at the compliance hearing  
11 telephonically.

12 IT IS SO ORDERED.

13  
14 Dated: July 12, 2019



Honorable Brian C. Walsh  
Judge of the Superior Court