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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JANE WILLIAMSON, and GERALD
BEAUCHESNE, on Behalf of Themselves and
All Others Similarly Situated,

Plaintiffs,

v.

MICROSEMI CORP., PETT ACQUISITION
CORP., SYMMETRICOM, INC. and Does 1
through 10, inclusive,

Defendants.

Case No. 5:14-cv-01827-LHK

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: November 6, 2014
Time: 1:30 pm
Courtroom: 8, 4th Floor, San Jose
Judge: Hon. Lucy H. Koh

Plaintiffs’ Motion for an order granting preliminary approval of the Settlement of the above-captioned action on a class basis, approving the manner and content of notice to the classes, and setting a final approval hearing, came on for hearing in Courtroom 8 of this Court on November 6, 2014.

Having read and considered the Joint Stipulation of Class Action Settlement and Release (the “Settlement Stipulation”), the Motion for Preliminary Approval, as well as the points and authorities and declarations filed in support thereof, and having heard the parties’ argument, this Court finds that: the proposed settlement is within the range of reasonableness of a settlement which could ultimately be given final approval by the Court; notice of the proposed settlement should be sent to the Putative Class in the manner described herein; and a hearing should be held after said notice is issued to determine if the Settlement Stipulation and settlement are fair, reasonable and adequate to the Settling Class and if an order granting final approval should be entered in this action based upon the terms of the Settlement Stipulation.

1 **IT IS THEREFORE ORDERED THAT:**

2 1. **Use of Defined Terms.** This Order incorporates by reference the parties'
3 Settlement Stipulation, on file with this Court, and all terms herein shall have the same meaning as
4 set forth in the Settlement Stipulation.

5 2. **Settling Class.** This action is preliminarily certified for class treatment for
6 settlement purposes only pursuant to the parties' Settlement Stipulation, with the Settling Class
7 defined as follows:

8 Any employee of Symmetricom who remained on Symmetricom's
9 payroll as of November 26, 2013 and was a participant in
10 Symmetricom's Incentive Compensation Plan and/or
Symmetricom's Success Sharing Plan.

11 3. **Proposed Settlement.** The Court grants preliminary approval to the terms set forth
12 in the Settlement Stipulation between the parties. The proposed settlement between the Settling
13 Class and Defendants appears, upon preliminary review, to be within the range of reasonableness
14 and accordingly, shall be submitted to the Settlement Class Members for their consideration and for
15 a hearing to determine whether the Settlement shall be finally approved by the Court.

16 4. **Appointment of Class Counsel.** Cliff Palefsky and Scott Stillman of McGuinn,
17 Hillsman & Palefsky, and Michael Rubin and Eve Cervantez of Altshuler Berzon LLP are
18 experienced and adequate counsel, and are appointed Class Counsel for settlement purposes.

19 5. **Approval of Class Representatives.** Named Plaintiffs Jane Williamson and
20 Gerald Beauchesne are approved as adequate representatives of the Settling Class for purposes of
21 settlement.

22 6. **Claims Administrator and Notice.** The Settling Parties shall retain the services of
23 Dahl Administration for the administration of the Settlement, and said entity is hereby appointed
24 Claims Administrator. By no later than ten (10) business days from the date of this Order,
25 Defendants shall provide the Claims Administrator with the Putative Class List and unredacted
26 December Spreadsheet. By no later than ten (10) business days after it receives the Putative Class
27 List and December Spreadsheet from Defendants, the Claims Administrator shall provide notice of
28 settlement ("Settlement Class Notice") and a Data Form to all Putative Class Members by first class

1 mail to their last known address and by email to their last known email address according to the
2 information that will be provided to the Claims Administrator by Defendants pursuant to Paragraph
3 58 of the Settlement Stipulation. The Settlement Class Notice shall be in the form lodged as
4 Exhibit “A” to the Settlement Stipulation. Before mailing the Settlement Class Notice, the Claims
5 Administrator shall run the Putative Class Member addresses through the U.S. Postal Service’s
6 Change of Address Database. Any returned envelopes from the initial mailing with forwarding
7 addresses will be used by the Claims Administrator to re-mail the Settlement Class Notice. The
8 Claims Administrator shall make such further efforts as are possible and reasonable (if any), to
9 provide the Settlement Class Notice to members of the Putative Class whose original Settlement
10 Class Notice is returned as undeliverable, provided that all such efforts shall be completed by the
11 thirtieth (30th) calendar day after the Settlement Class Notice is mailed. The Court finds that the
12 content and schedule of the mailings discussed in this Order meet the requirements of due process,
13 provide the best notice practicable, and will constitute sufficient notice to Putative Class Members.

14 7. **Data Form.** The Data Form shall be in the form lodged as Exhibit “B” to the
15 Settlement Stipulation. The Data Form will inform the Settlement Class Member of his or her
16 Estimated Settlement Class Member Payment and provide the Putative Class Member with an
17 opportunity to update his or her contact information with the Claims Administrator.

18 8. **Exclusions.** Settlement Class Members may exclude themselves from the Settling
19 Class by mailing the Claims Administrator a written and signed request to be excluded from the
20 Settlement. To be timely, all such Requests for Exclusion must be post-marked no later than sixty
21 (60) calendar days after the date the Settlement Class Notice is first mailed.

22 9. **Objections.** Settlement Class Members may object to the Settlement by timely
23 filing signed written objections with the Court that state the name and number of the case, their
24 name, address and telephone number, the basis for the objection, and whether they are represented
25 by counsel. To be timely, objections must be filed no later than sixty (60) calendar days after the
26 Settlement Class Notice is first mailed.

27 10. **No Admissions.** Neither this Order nor the Settlement Stipulation, nor any of their
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1 terms or provisions, nor any of the negotiations or proceedings connected with them, shall be
2 construed as an admission or concession by Defendants of the truth of any of the allegations in this
3 litigation, or of any liability, fault or wrongdoing of any kind.

4 11. **Releases.** The Court has reviewed and hereby preliminarily approves the releases
5 set forth in Paragraphs 101, 102, and 103 of the Settlement Stipulation. The Court preliminarily
6 approves the proposed waiver and/or release of claims under California Labor Code §§ 2698 et seq.
7 (“PAGA”) in light of the California Supreme Court’s instruction that “employees are free to choose
8 whether or not to bring PAGA actions when they are aware of Labor Code violations.” See
9 *Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 383 (2014).

10 12. **Non-Approval.** In the event the proposed Settlement as provided in the Settlement
11 Stipulation is not approved by the Court, or for any reason the parties fail to obtain a final approval
12 order as contemplated in the Settlement Stipulation, or the Settlement Stipulation is terminated or
13 voided pursuant to its terms, the Settlement Stipulation shall become null and void and of no further
14 force or effect, and shall not be used or referred to for any purpose whatsoever, this Order shall be
15 treated as vacated nunc pro tunc, and the Settling Class shall be decertified. In such event, the
16 Settlement Stipulation, the certification of the Settling Class, and all negotiations and proceedings
17 relating to either shall be withdrawn without prejudice as to the rights of any and all parties thereto.

18 13. **Timing.** The Court may, for good cause, extend any of the deadlines set forth in this
19 order without further notice to the Settling Class.

20 14. **Final Approval Hearing.** A final approval hearing shall be held on February 19,
21 2015, at 1:30 p.m., in Courtroom 8 of the United States District Court, Northern District - San Jose,
22 to consider whether the Court should grant final approval to the Settlement.

23 a) Class Counsel shall file a Motion for Final Approval no later than thirty five
24 (35 days) prior to the scheduled date for the Final Approval Hearing. If necessary to respond to
25 later-filed objections or to provide the Court with other pertinent information with respect to the
26 final approval determination, Class Counsel may file a Supplemental Brief In Support of Final
27 Approval no later than one week before the Final Approval Hearing.

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1 b) Objections to the proposed settlement by Settlement Class Members will be
2 considered by the Court so long as the objector has complied with the provisions of Paragraph 9 of
3 this Preliminary Approval Order.

4 c) Class Counsel and counsel for Defendants should be prepared at the hearing
5 to respond to any objections filed by the Settlement Class Members and to provide other
6 information, as appropriate, bearing on whether or not the Settlement should be approved.

7 d) Class Counsel's application for fees and costs pursuant to Paragraph 80 of
8 the Settlement Stipulation, as well as Class Counsel's application for enhancement awards pursuant
9 to Paragraph 81 of the Settlement Stipulation, shall be scheduled for determination at the Final
10 Approval Hearing, but Class Counsel's application shall be filed and served one day before the
11 Settlement Class Notice is distributed and shall be posted on the Claims Administrator's website.
12 If necessary to respond to objections and/or to provide the Court with updated lodestar or other
13 pertinent information, Class Counsel may file a Supplemental Brief In Support of Application for
14 Attorneys' Fees and Costs and Class Representative Service Payments no later than one week
15 before the Final Approval Hearing.

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17 **IT IS SO ORDERED.**

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19 DATED: November 6, 2014

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21 HONORABLE LUCY H. KOH
22 UNITED STATES DISTRICT COURT
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