

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

---

**JARED KRUGER, MARK VAN  
ESSEN, LYNN KIRSCHBAUM,  
DONNA and ROBERT KOON, and  
SCHUMACHER DAIRY FARMS OF  
PLAINVIEW LLC**, on behalf of  
themselves and all others similarly  
situated,

v.

**LELY NORTH AMERICA, INC.**

---

Case No. 0:20-cv-00629-KMM/DTS

**DECLARATION OF PATRICK J. STUEVE IN SUPPORT OF PLAINTIFFS’  
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL  
AND TO DIRECT NOTICE OF PROPOSED SETTLEMENT TO THE CLASS**

I, Patrick J. Stueve, declare as follows:

1. I respectfully submit this Declaration in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval and to Direct Notice of Proposed Settlement to the Class.<sup>1</sup> Except as otherwise noted, the matters stated herein are based on my personal knowledge or on information obtained from associates and staff under my supervision, and, if called upon, I would competently testify thereto.

2. I am a founding partner at the law firm Stueve Siegel Hanson LLP, and since the inception of this litigation have been the senior partner at Stueve Siegel Hanson responsible for this case. Stueve Siegel Hanson has worked with co-counsel, the attorneys Arend Tensen of Cullenberg & Tensen PLLC and Daniel C. Perrone of Perrone Law

---

<sup>1</sup> Unless otherwise indicated, capitalized terms shall have the meaning that the Settlement Agreement ascribes to them. *See generally* Settlement Agreement (attached as Exhibit 1).

PLLC, as counsel for Plaintiffs and the proposed Settlement Class Representatives and Class.

3. I founded Stueve Siegel Hanson in 2001. We practice almost exclusively in the area of complex litigation in state and federal courts across the country. The firm has approximately 25 attorneys in one office located in Kansas City, Missouri, Stueve Siegel Hanson handles large-scale and high-stakes litigation, usually on a fully contingent basis.

4. I have extensive experience as a complex commercial litigator and trial attorney, including with other robotic milker cases, one of which was a class action in which we and our co-counsel were appointed as class counsel. I have successfully tried many cases to judges and juries in both state and federal court. And I have extensive experience litigating and resolving class actions. In addition to trial work, I have an active appellate practice and have successfully argued numerous cases before federal and state appellate courts across the country, including the Eight Circuit. My experience, honors, and awards, and those of my colleagues Bradley T. Wilders and Jillian R. Dent, are further detailed on our firm website, [www.stuevesiegel.com](http://www.stuevesiegel.com). In addition, the experience and credentials of co-counsel are also detailed on their websites, [www.usfarmlaw.com](http://www.usfarmlaw.com) and [www.theperronefirm.com](http://www.theperronefirm.com). As detailed there, co-counsel have substantial experience litigating on behalf of farmers and litigating commercial and products liability cases like this.

5. Attached as Exhibit 1 is the Settlement Agreement, which attaches the following exhibits: Exhibit A (Standard Warranty), Exhibit B (Claim Form), Exhibit C (Settlement Notice).

6. Attached as Exhibit 2 is the declaration of Richard Simmons on behalf of the proposed Settlement Administrator, Analytics Consulting LLC (“Analytics”) setting forth the Notice Plan.

7. Stueve Siegel Hanson and co-counsel have prosecuted this case on behalf of the proposed Class Representatives and Class since 2019 when we began investigating the facts and circumstances giving rise to the litigation, which we filed in February 2020. Since that time, we have vigorously represented the interests of the proposed Class throughout the course of the litigation and settlement negotiations.

8. We filed the original complaint on behalf of Plaintiffs Jared Kruger, Lynn Kirschbaum, and Donna and Robert Koon on February 28, 2020, against Lely North America, Lely Holding, B.V., Lely International N.V., and Lely Industries N.V. Doc. 1 (“Original Complaint”).

9. Defendants moved to dismiss Plaintiffs’ original complaint on June 12, 2020. Docs. 28 (the Dutch Entities’ Motion to Dismiss for Lack of Jurisdiction), 35 (Lely North America’s Motion to Dismiss for Failure to State a Claim). In lieu of opposing the motions to dismiss, on July 2, 2020, we filed an amended class action complaint on behalf of Plaintiff Jared Kruger, adding the direct parent of Lely North America (Maasland), adding allegations regarding the Dutch Entities’ jurisdiction based on Plaintiff’s alter ego theory, and dismissing without prejudice Plaintiffs Lynn Kirschbaum and Donna and Robert Koon, whose jurisdiction as named representatives was, at that time, challenged by Lely. Doc. 47 (“Amended Complaint”). Defendants again moved to dismiss (Docs. 55, 61), and we

briefed those motions (Docs. 68, 70). We argued the motions on November 9, 2020 before the Court (Doc. 85).

10. On December 14, 2020, the Court denied the Dutch Entities' motion to dismiss for lack of jurisdiction and permitted jurisdictional discovery. Doc. 95. On February 10, 2021, the Court denied in large part Lely North America's motion to dismiss for failure to state a claim, allowing all of Plaintiff's claims to proceed, other than Plaintiff's two contract claims. Doc. 97.

11. Thereafter, during the winter and spring of 2021, the Parties conducted jurisdictional discovery, which ultimately resulted in an agreement between the Parties that the Dutch Entities would provide merits discovery, including up to six depositions, to Plaintiff, and that Lely North America would stipulate to certain facts for the purposes of the litigation and trial.

12. Prior to the mediation sessions that resulted in this proposed settlement, we engaged in extensive written and deposition discovery. Both Defendants and Plaintiff Kruger served merits discovery, and document collection and production began in the Summer of 2021.

13. In the Fall of 2021, Defendants informed Plaintiff that they had run into certain technical issues regarding their document productions, so although the parties worked during the Fall of 2021 to negotiate a technology-assisted review ("TAR") protocol, search terms, and custodians, Defendants were unable to produce the vast majority of the documents in the case until March and April of 2022. Defendants completed substantial production in April 2022, producing over 949,000 documents from the relevant

custodians. Plaintiff Kruger too collected and produced documents, and answered Lely North America's interrogatories.

14. The Parties also engaged in third party discovery. On behalf of Plaintiff Kruger, we served document subpoenas on his two dairy creameries, the Minnesota Department of Agriculture, and the Lely Center which had purchased the dealership that had sold him his A4 Robot, in order to obtain documents relevant to his experience with the A4. Plaintiff Kruger also served nine subpoenas on the largest Lely Centers, seeking documents relevant to the litigation. Lely North America too served third party subpoenas on Plaintiff Kruger's veterinarians and other service providers related to his farm.

15. In August 2022, Plaintiffs sought to amend their complaint by the Scheduling Order deadline to add Plaintiff Mark Van Essen as a class representative and to add factual allegations based on discovery to date. The Court granted our request. Doc. 146. On September 1, 2022, Plaintiffs filed their Second Amended Complaint. Docs. 149, 150.

16. After document productions were substantially completed, Plaintiff took Lely North America's Rule 30(b)(6) deposition, which consisted of three different designees, on July 8, 13, and 14, one of which was the President of Lely North America, Chad Huyser. Plaintiff also took the fact witness depositions of two key witnesses on August 24 and 25, 2022: the deposition of the Director of Customer Care (Ben Smink) and the key Lely North America employee with knowledge as to regulatory compliance (Brad Cupery). On September 6, 2022, Lely North America deposed Plaintiff Jared Kruger.

17. Plaintiff had noticed and the Parties had agreed to dates for the following 12 depositions of Defendants in September, October, and November of 2022: five key fact

witness depositions in the Netherlands, including depositions of the Chief Financial Officer and Chief Operating Officer of the Dutch Entities; a Rule 30(b)(6) deposition of the Dutch Entities; and six additional fact witness depositions of Lely North America employees, including the current and former presidents of Lely North America, and employees with knowledge of marketing and sales. Lely North America had noticed and was set to depose: Plaintiff Mark Van Essen, Leanne Kruger (Jared's wife), and Paul Kruger (Jared's father).

18. Moreover, during this time, we engaged three experts in preparation for class certification and merits expert discovery: a robotics engineering expert, a causation expert in cow health and milk quality, and a damages expert. We traveled with the robotics and causation experts to several of Plaintiffs farms, such that the experts could observe the farms and the A4 Robots.

19. On September 6, 2022, the Parties engaged in a full-day, in person mediation in Minneapolis in front of an experienced, neutral, third-party mediator, David Hashmall. Prior to the mediation, the Parties had exchanged detailed mediation statements as well as confidential discovery information, which – in addition to the extensive discovery conducted to date – allowed the Parties to assess the risks of the case and meaningfully engage in arm's-length settlement negotiations. At the mediation, the Parties agreed to stay the depositions on the calendar in September so that the Parties could continue settlement discussions that month and meet again for a two-day mediation in late September attended by representatives from the Dutch Entities. All depositions set for October and November remained on the calendar.

20. On September 22-23, 2022, the Parties again mediated in person in front of Mr. Hashmall. After vigorous and hard-fought negotiations, the Parties reached agreement regarding the basic terms of a settlement around midnight on the first day. On the second day, the Parties spent a full day actively negotiating a term sheet, which reflects the essential terms of the Settlement now offered for the Court's consideration in the final Settlement Agreement. Both the history of this litigation as well as the negotiation of the settlement indicate that the settlement agreement was negotiated at arm's length and there is no indication of collusive behavior here. Class Counsel confirms that no agreements exist other than those outlined herein and reflected in Settlement Agreement.

21. The proposed settlement represents an exceptional result for the Class. In exchange for the release of Settlement Class Members' claims against Defendants, Defendants will create a Cash Fund in the amount of \$49,750,000.00, subject to certain possible adjustments as described in detail in the Settlement Agreement,<sup>2</sup> and create trade-in, pinch-sleeve payment, and extended warranty programs. Ex. 1. Settlement Class Members who timely and validly submit a claim ("Claimants") must elect *between* the two benefits options: Option 1 (Cash Payment, Extended Warranty or Additional Cash, and Pinch Sleeve Additional Payment Program) *or* Option 2 (New A5 Trade-In Program). Ex.

---

<sup>2</sup> Pursuant to the terms of the Settlement Agreement, the cash fund will remain the same if exactly 485 A4 Robots participate in Option 2; will be increased to a maximum of \$64,300,000 if no claimant chooses Option 2 (an amount which does not include the additional cash Lely is to contribute under the Extended Warranty and Additional Pinch Sleeve Payment Programs); and will be decreased to \$31,000,000 if 1,110 A4 Robots participate in Option 2, though that decrease is capped such that even if more than 1,110 A4 Robots participate in Option 2, the cash fund will not decrease below \$31,000,000. Ex. 1 ¶ 3.3(d).

1 ¶ 3.3(a). Option 2, the trade-in program, is only available to those Settlement Class Members who still own or lease their A4 Robot(s). *Id.* ¶ 3.3(c). Together, Options 1 and 2 comprise the Settlement Fund.

22. Settlement Class Members who submit a claim for Option 1 will receive three separate benefits: (1) a *pro rata* distribution from the Cash Fund, after fees, expenses, administrative costs, and adjustments (if any) have been deducted; (2) an additional \$1,000 for each A4 Robot owned or leased as part of the Pinch Sleeve Additional Payment Program; and (3) the choice between an Extended Warranty for each A4 Robot they own or lease, or alternatively, an additional cash payment of \$7,000 for each A4 Robot owned or leased.

23. In lieu of choosing Option 1, Settlement Class Members can choose Option 2 in order to trade-in their A4 Robot(s) for brand new A5 Robot(s), the successor robotic milker to the A4.<sup>3</sup> Pursuant to the detailed provisions set forth in the Settlement Agreement, Defendants will establish the New A5 Trade-In Program through which an eligible Claimant who chose Option 2 can trade in their A4 Robot(s) for the same number of new standard A5 Robot(s) at a steeply discounted purchase price of \$40,000.00 for each A5 Robot. *Id.* ¶ 3.3(c)(i). The trade-in purchase price under this program covers the cost of the standard model A5 Robot. Claimants are responsible for costs related to transportation, installation, or labor, including removal costs of the A4 Robot. *Id.* A5 Robots received by

---

<sup>3</sup> A Settlement Class Member can only make a claim for Option 2 if they still own or lease their A4 Robot(s); however, if they lease their A4 Robot(s), the Settlement Class Member will need to exercise the purchase option in order to take advantage of Option 2, such that they own their A4 Robot. *Id.* ¶ 3.3(c).



Claimants under this New A5 Trade-In Program will be accompanied by Defendants' current standard warranty for Astronaut milking systems. *Id.* The recommended retail price of the standard A5 Robot in the United States is approximately \$150,000.00 as of the date of the Settlement Agreement. *Id.* Thus, the settlement offers a new A5 robot at less than one-third of the price that Settlement Class Member's would otherwise have to pay to upgrade their robot (if they elect Option 2).

24. A 50% participation rate is possible in this case like this one based on the provision of direct notice to the class and our experience in a similar robotic milking case, where the final participation rate was 45% for a class that was smaller. *See Bishop et al. v. DeLaval, Inc.*, 5:19-cv-06129-SRB (W.D. Mo. July 6, 2022), ECF 269 at 2 (Plaintiffs' Motion for Final Approval). Assuming a 50% participation rate of 734 A4 Robots, the total Settlement value based on the terms negotiated without adjustment to the Cash Fund (i.e., with 485 A4 Robots participating in Option 2 and 249 A4 Robots participating in Option 1) is \$105 million (\$53.35-million for the trade-ins, plus the \$49.75-million Cash Fund, plus \$1.992 million for the Pinch Sleeve Additional Payment and Extended Warranty Programs).

25. While the value of the Settlement varies based on the ultimate claims rate and number of robots participating in each of the two options, the Settlement makes available significant value to the Class under any claims scenario.

26. If all Settlement Class Members select Option 1, the Cash Fund will be increased to \$64,300,000 of which the net amount will be distributed *pro rata* based on the number of A4 robots owned by the Settlement Class Members. These Settlement Class

Members will also receive \$1,000 per A4 Robot under the Additional Pinch Sleeve Payment Program, and either an Extended Warranty or \$8,000 per A4 Robot under the Extended Warranty Program, bringing the total value of the settlement to \$76,044,000. In such a scenario, and assuming 100% participation, Settlement Class Members would recover \$51,801 for each A4 robot—which is over a 1/3 recovery of the price they paid for the A4 Robot—before the reduction for attorneys’ fees, expenses, and administrative costs. If Class Members owning or leasing only 50% of the A4 Robots participate (734 A4 Robots) and each choose Option 1, then each Settlement Class Member would receive approximately \$95,602 (inclusive of the \$8,000 for Pinch Sleeve and Extended Warranty) per A4 Robot, an over 62% recovery of the price they paid for the A4 Robot, before the reduction of fees, expenses, and costs.

27. If the vast majority of Settlement Class Members elect Option 2, around 95% or 1,394 A4 Robots, the value of the settlement is even greater. Under that scenario, the Cash Fund would be reduced to \$31,000,000 but the value of Option 2 would increase to \$153,340,000, for a total value of \$184,340,000 to the Class.

28. Assuming a 100% participation rate, if only a portion of the Class elects Option 2—for example one-half of the Settlement Class Member (i.e. 734 A4 Robots representing one-half of the 1,468 A4 Robots)—then the Cash Fund will be adjusted to

\$42,280,000<sup>4</sup> and the value under Option 2 to the Class will be \$80,740,000, for a total settlement value of \$123,020,000 to the Class.<sup>5</sup>

29. Importantly, the decision to take Option 1 or Option 2 is left entirely to the Settlement Class Member: thus, any member who does *not* desire to trade-in their A4 for a new Lely A5 robot can take the cash payment, while those who value the trade-in option as being more valuable than the cash payment can trade-in their A4 for a new Lely A5 robot. Thus, the value of the settlement to the Class, depending on the option selected by each Class Member and if all participate, is at least \$76 million and up to \$184.34 million.

30. Based on my experience and knowledge of the litigation, I strongly believe the Settlement is fair, reasonable, and adequate and represents an exceptional result for the Settlement Class. This settlement avoids the uncertainties of continued and protracted litigation. This judgment is based not only on the calculus of risk in engaging in motion practice, trials, and appeals, but also the sizable recovery the Settlement Agreement delivers now with certainty. The fairness of the Settlement Agreement is additionally confirmed because it was achieved through the involvement of an experienced mediator, who was well versed in the strengths and weaknesses of this litigation.

---

<sup>4</sup> The value per Settlement Class Member in Option 1 under this scenario is \$57,602 per A4 Robot before the deduction for attorneys' fees, expenses, and administrative costs. Plus the \$8,000 in additional cash (if chosen) for a total compensation of \$65,602 per A4 Robot.

<sup>5</sup> The value of Option 2 is calculated as the retail price (\$150,000) less than amount due by the Settlement Class Member (\$40,000) multiplied by the number of A4 robots presumed to be traded in (734 robots).

31. Plaintiffs, as putative Settlement Class Representatives, have actively participated in the litigation. They initiated the litigation in consultation with counsel; actively participated in the litigation, including, depending on the Representative, providing documents, submitting to deposition, reading and understanding the allegations of the Complaint, hosting experts on their farms, and participating in mediation negotiations and ultimately approving and signing the Settlement Agreement. The Settlement Class Representatives are pursuing this case on behalf of all Settlement Class Members, and in doing so they are fulfilling their duty to protect the interests of all Settlement Class Members, and do not have any conflicts of interest with any other members of the Settlement Class.

32. Class Counsel have likewise diligently pursued the litigation by investigating the factual and legal claims against Lely, drafting a comprehensive Complaint and moving to amend that Complaint, identifying and retaining merits and damages experts to evaluate the litigation and further support Plaintiffs' claims, motion practice, and working to gather the documents and information necessary to properly evaluate the case and negotiate a robust settlement that provides Settlement Class Members with significant relief. Counsel took multiple depositions of Defendants' key employees and Rule 30(b)(6) witnesses, and was prepared – and scheduled – to conduct extensive deposition discovery of Defendants' executives in the Netherlands prior to success at the second round of mediation. Counsel also engaged and traveled with Plaintiffs' merits experts to farms to Plaintiffs' farms to observe and inspect the Lely A4 Robots. As part of the Settlement, Class Counsel are entitled to ask the Court to reimburse their expenses of no more than \$300,000.00 and for

attorneys' fees in an amount up to one-third of the total value of the Settlement Fund, but we will not request attorneys' fees greater than \$21,433,333.33, which is one-third of the upper-threshold of the Cash Fund under the adjustment in Paragraph 3.3(d)(1).

33. Class Counsel are unaware of any other pending litigation concerning this controversy already begun by or against Class Members.

34. As reflected in Mr. Simmons' declaration (attached as Exhibit 2), Analytics Consulting LLC is an experienced class action notice provider and administrator and has agreed to implement the Notice Plan under the Settlement Agreement. Class Counsel obtained and assessed multiple bids from respected settlement administrators before choosing Analytics.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed November 21, 2022.



---

Patrick J. Stueve