

Daniel Lee Davis
PLAINTIFF(S)

Isco Industries, Inc.
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (*CHECK REASON*):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (*CHECK REASON*):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (*CHECK APPLICABLE BOX*):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff's Motion to Modify Class Definition came before the Court on March 21, 2025. Rachel Peavy appeared for the Plaintiffs. Brown Parkinson appeared for the Defendant. In their motion, Plaintiff seek to amend the February 7, 2024, Order Denying Defendant's Motion to Amend and Certifying the Class to exclude from the class all current officers or owners of Defendant Isco Industries, Inc. These persons include Isco's Chief Executive Officer, President, Chief Financial Officer, and General Counsel & Corporate Secretary. In their Motion to Modify Class Definition, Plaintiffs argue that the persons sought to be excluded from the class owe statutory duties and loyalty to the Defendant adverse to the interests to those of the Plaintiff class, and are in positions within the Defendant corporation to provide them with an opportunity to influence class members.

~See Below~

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/29/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

Rule 23 imposes a special duty on the trial courts in this State to protect the interests of putative class members and provides the courts with authority to protect those interests. See *Salmonsens v. CGD, Inc.*, 377 S.C. 442, 459, 661 S.E.2d 81, 91 (2008). For example, “[t]he court may at any time impose such terms as shall fairly and adequately protect the interest of the persons on whose behalf the action is brought or defended.” *Id.* at 459 (quoting Rule 23(d)(2), SCRCP).

Additionally, an order certifying a class “may be altered or amended before the decision on the merits.” Rule 23(d)(1), SCRCP; see also *McGann v. Mungo*, 287 S.C. 561, 570–71, 340 S.E.2d 154, 159 (Ct. App. 1986) (“[T]he circuit court can either require the plaintiffs to plead, redefine the alleged class itself, or designate subclasses.”). This includes “[t]he power to issue an order which the court, in its discretion, believes is necessary to curtail the opportunities for abuse of the judicial system in class actions” *Eldridge v. City of Greenwood*, 308 S.C. 125, 127, 417 S.E.2d 532, 534 (1992). Thus, “[e]ven after a certification order is entered, the judge remains free to modify it in the light of subsequent developments in the litigation.” *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 160 (1982). For instance, good cause to modify a class certification can arise when new evidence becomes available, there are changes in the controlling substantive or procedural law, or there is a need to correct an error or prevent manifest injustice. *In re Whirlpool Corp. FrontLoading Washer Prods. Liab. Litig.*, 302 F.R.D. 448, 459-60 (N.D. Ohio 2014) (citations omitted).

The Court’s Order Certifying the Class dated February 7, 2024, defined the certified class as:

All current and former employees of ISCO Industries, Inc. whose personal identifying information (“PII”) was released as a result of the March 2016 Data Breach.

Upon consideration of memoranda presented to the Court and the arguments of counsel at the March 23 hearing, the Court finds good cause pursuant to Rule 23, SCRCP, to amend the class definition to exclude all current officers or owners of Defendant Isco Industries, Inc. from the certified class.

It appears to the Court that officers or owners of Defendant Isco Industries, Inc. owe certain legal duties to Defendant, which duties present a conflict of interest with other class members.

Accordingly, IT IS ORDERED the February 7, 2024, Order Certifying the Class is modified to define the certified class as:

All current and former employees of ISCO Industries, Inc. whose personal identifying information (“PII”) was released as a result of the March 2016 Data Breach, excepting those owners or officers as identified by ISCO Industries, Inc. in its Form 1125-E filings with the IRS.

IT IS FURTHER ORDERED that the Order Establishing Notice Procedures filed April 19, 2024, shall be amended to reflect the modified class definition set forth above.



Spartanburg Common Pleas

Case Caption: Daniel Lee Davis VS Isco Industries, Inc.

Case Number: 2017CP4203283

Type: Order/Electronic Form 4

IT IS SO ORDERED!

s/ J. Derham Cole, Jr. 2789