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**F I L E D**  
San Diego Superior Court

MAY 10 2024

Clerk of the Superior Court  
By: Y. Mapula, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

ROBERT BENNETT, *et al.*

Plaintiffs,

v.

PATRIOT ENVIRONMENTAL SERVICES,  
INC., *et al.*

Defendants.

Case No. 37-2022-00044044-CU-OE-CTL

*Hon. Matthew C. Braner*  
*Dept. 60*

**CLASS ACTION**

**~~[Proposed]~~ Order Granting Preliminary  
Approval of Class Action Settlement and Leave  
for Plaintiffs to File Third Amended Class and  
Representative Action Complaint**

Motion for Prelim. App. Hearing  
Date: May 10, 2024  
Time: 10:30 a.m.

[Filed concurrently with Notice of Motion and  
Motion for Preliminary Approval of Class Action  
Settlement, Memorandum of Points and Authorities,  
and Declaration of Nicholas J. Ferraro]

Action Filed: November 1, 2022

1 This matter came on for hearing on May 10, 2024 at 10:30 a.m. in Department 60 of the above-  
2 captioned Court on Plaintiffs' Motion Preliminary Approval of Class Action Settlement ("Motion").

3 Having fully reviewed the Motion, the supporting Memorandum of Points and Authorities,  
4 Declaration of Nicholas J. Ferraro (and its exhibits), including the settlement agreement ("Settlement"),  
5 and the notice attached as an exhibit to the Settlement, and in recognition of the Court's duties (to make  
6 a preliminary determination as to the reasonableness of any proposed class action settlement; to ensure  
7 proper notice is provided to all class members in accordance with due process requirements; and to set  
8 a final approval hearing to consider the good faith, fairness, adequacy and reasonableness of the  
9 proposed Settlement), the Court makes the following determinations and orders:

10 **THE COURT GRANTS PLAINTIFFS LEAVE TO FILE THE AMENDED COMPLAINT**

11 1. Pursuant to the Settlement Agreement filed with Plaintiff's Motion, the Court hereby  
12 authorizes and grants leave to Plaintiffs to file the Third Amended Class and Representative Action  
13 Complaint.

14 2. Furthermore, consistent with the terms of the Settlement and the intention of the Parties,  
15 the Court deems Defendants' current answer on file to be the responsive pleading for the  
16 aforementioned amended complaint.

17 **THE COURT GRANTS PRELIMINARY APPROVAL**

18 3. The Court conditionally finds, for the purposes of approving this settlement only, the  
19 proposed class meets the requirements for certification under § 382 of the California Code of Civil  
20 Procedure: (a) the proposed class is ascertainable and so numerous joinder of all class members is  
21 impracticable; (b) there are questions of law or fact common to the proposed class, and a well-defined  
22 community of interest among members of the proposed class with respect to the subject matter of the  
23 class action; (c) the claims of the class representative are typical of the claims of the members of the  
24 proposed class; (d) the class representative appears to be adequate to serve in that role; (e) a class action  
25 is superior to other available methods for an efficient adjudication of this controversy in the context of  
26 settlement; and (f) counsel of record for the Plaintiff are qualified to serve as class counsel.

1           4.       The class is hereby defined and certified as: “all current and former non-exempt  
2 employees who worked for Defendant in California at any time from November 1, 2018 through April  
3 30, 2024.”

4           5.       The Court finds, on a preliminary basis, the Settlement, incorporated by this reference  
5 in full, and made a part of this Order, appears to be within the range of reasonableness of a settlement  
6 which could ultimately be given final approval by this Court.

7           6.       The Court further finds, on a preliminary basis, (a) the non-reversionary Gross  
8 Settlement Amount is fair and reasonable to the class when balanced against the probable outcome of  
9 further litigation relating to class certification, liability and damages issues, and potential appeals;  
10 (b) sufficient investigation, research, and informal discovery, have been conducted such that counsel  
11 for the parties are able to reasonably evaluate their respective positions; (c) settlement at this time will  
12 avoid substantial costs, delay, and risks presented by further prosecution of the litigation; and (d) the  
13 proposed Settlement was reached through prudent and non-collusive negotiations.

14           7.       The Court finds the allocation from the common fund to PAGA penalties, including the  
15 LWDA’s 75% share, as fair, adequate, and reasonable in light of the overall gross settlement and that  
16 the proposed settlement of PAGA penalties has been adequately submitted to the LWDA in advance of  
17 the preliminary approval hearing. Therefore, the Court **APPROVES** the PAGA payment pursuant to  
18 Labor Code § 2699(1)(2).

19           8.       Accordingly, good cause appearing, the Motion for Order Granting Preliminary  
20 Approval of Class Action Settlement is **GRANTED**.

21           9.       Class members are therefore defined pursuant to the terms set forth in the Settlement.

22           10.      The Court further finds the proposed notice fairly and adequately advises class members  
23 of (a) pendency of the Settlement; (b) conditional class certification for settlement purposes only;  
24 (c) preliminary Court approval of the proposed Settlement; (d) the date, time and place of the Final  
25 Approval Hearing; (e) the terms of the proposed Settlement and the benefits available to the class under  
26 the Settlement; (f) their right to receive a proportionate share of the Net Settlement Amount without  
27 the need to return a claim form; (g) their right to request exclusion, and the procedures and deadline for  
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1 doing so; (h) their right to object to the Settlement, and the procedure and deadline for doing so; and  
2 (i) their right to appear at the final approval hearing.

3 11. The Court further finds the proposed notice provides the best practicable notice to the  
4 Class and comports with the constitutional requirements, including those of due process. The Court  
5 further finds that mailing of the notice to the last known address of all class members with measures  
6 taken for verification of an address and skip tracing of bad addresses, as specifically described within  
7 the Settlement, constitutes an effective method of notifying class members of their rights with respect  
8 to the class action and the Settlement.

9 12. Therefore, for good cause, the Court **APPROVES** the notice for distribution to the class  
10 pursuant to the notice procedures set forth in full in the Settlement.

11 Accordingly, it is **ORDERED** that:

12 a. CPT Group be appointed the Administrator of the Settlement, as more  
13 specifically set forth in the Settlement;

14 b. Ferraro Vega Employment Lawyers and Gaines Law Corporation be appointed  
15 as class counsel;

16 c. Plaintiffs Robert Bennett and Randall Kunsman be appointed as class  
17 representatives;

18 d. All deadlines, terms, and conditions set forth in the Settlement incorporated by  
19 reference into this Order shall apply and govern the notice procedure and response deadlines;

20 e. Any class member who desires to object may appear in Court at the Final  
21 Approval Hearing to present oral objections;

22 f. If for any reason the Court does not execute and file an Order Granting Final  
23 Approval of Class Action Settlement, or if the Effective Date, as defined in the Settlement, does not  
24 occur for any reason whatsoever, the Settlement and the proposed Settlement that is the subject of this  
25 Order, and all evidence and proceedings had in connection therewith, shall be restored without  
26 prejudice to the *status quo ante*, pursuant to the terms set forth in the Settlement.

1           13.     **IT IS FURTHER ORDERED** that the Final Approval Hearing shall be held before the  
2 undersigned at \_\_\_\_\_ [hearing time] on \_\_\_\_\_ [hearing date], in this  
3 Department.

4           14.     At the Final Approval Hearing, the Court will consider the fairness, adequacy, and  
5 reasonableness of the proposed Settlement preliminarily approved in this Order and notice process to  
6 be effectuated, and to consider the application for a class representative service payment to the class  
7 representative, the administration expenses, attorneys' fees, and costs.

8           15.     The Court reserves the right to continue the Final Approval Hearing without further  
9 notice to the class. However, if written objections are submitted, class counsel is ordered to serve  
10 notice on any such objecting class member of the new date and time of the Final Approval Hearing.

11 **IT IS SO ORDERED.**

12 Date: 5/10/26  
13 \_\_\_\_\_



\_\_\_\_\_  
The Honorable Matthew C. Braner  
Judge of the Superior Court