

1 **JAMES HAWKINS APLC**

2 James R. Hawkins (#192925)
3 Christina M. Lucio (#253677)
4 9880 Research Drive, Suite 200
5 Irvine, CA 92618
6 Tel.: (949) 387-7200
7 Fax: (949) 387-6697
8 Email: James@jameshawkinsaplc.com
9 Email: Christina@jameshawkinsaplc.com

10 Attorneys for Plaintiff CHARLES YNIGUEZ,
11 individually and on behalf of all other similarly
12 situated

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE**

15 CHARLES YNIGUEZ, individually and on
16 behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 AIRGAS USA, LLC, a Delaware limited
20 liability corporation; AIRGAS CARBONIC,
21 INC., a Delaware corporation; and DOES 1
22 through 20, inclusive,

23 Defendants.

Case No. 20STCV18190

[Assigned to Judge Elihu M. Berle, Dept. 6]

**NOTICE OF MOTION AND
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF JOINT
STIPULATION OF CLASS ACTION
SETTLEMENT**

[Memorandum of Points and Authorities;
Declaration of James Hawkins In Support of
Motion for Preliminary Approval of Class
Action Settlement; Declaration of Plaintiff
Charles Yniquez; [Proposed] Order filed
concurrently herewith]

Date: June 21, 2022

Time: 10:00 a.m.

Dept.: 6

Complaint Filed: May 8, 2020

FAC Filed: December 11, 2020

Trial Date: None

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 **PLEASE TAKE NOTICE** that on June 21, 2022 at 10:00 a.m. or as soon thereafter as
4 counsel may be heard, in Department 6 of the above-captioned court, located at 312 North
5 Spring Street, Los Angeles, California 90012, the Honorable Elihu M. Berle presiding, Plaintiff
6 Charles Yniguez (“Plaintiff”) will, and hereby does, move this Court for an order:

7 1. Granting preliminarily approval of the proposed all-in non-revisionary **\$500,000**
8 Gross Settlement Amount as described herein and as set forth in the Joint Stipulation of Class
9 Action Settlement (“Settlement Agreement”), attached as **Exhibit 1** to the Declaration of James
10 Hawkins;

11 2. Granting preliminary approval of the Settlement Agreement, attached as **Exhibit**
12 **1** to the Declaration of James Hawkins, as to the California Class Action and PAGA Action;

13 3. Approving the Notice of Class Action and Private Attorney General Act
14 Settlement (“Notice”) attached as **Exhibit “A”** to the Settlement Agreement;

15 4. Conditionally certifying the California Class for settlement purposes;

16 5. Appointing James Hawkins, APLC as class counsel (“Class Counsel”), and
17 preliminarily approving Class Counsel’s request for attorneys’ fees in the amount of 33.3% of
18 the Gross Settlement Amount (estimated at **\$166,500**);

19 6. Preliminarily approving Class Counsel’s request for reimbursement of litigation
20 costs and expenses incurred (estimated not to exceed **\$27,000**);

21 7. Preliminarily appointing and approving Charles Yniguez as the representative for
22 the Class Members and Aggrieved Employees;

23 8. Preliminarily approving the **\$7,500.00** Incentive Award to Plaintiff as the class
24 representative;

25 9. Preliminarily approving the allocation of **\$50,000** from the Gross Settlement
26 Amount to PAGA penalties (75% of this amount to be paid to the LWDA and the remaining
27 25% distributed to the Aggrieved Employees);

28 10. Appoint CPT Group, Inc. as the Settlement Administrator;

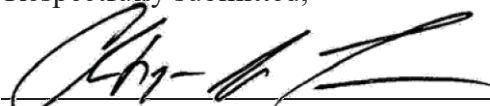
11. Directing CPT Group, Inc. to distribute the proposed Notice to the Class, Aggrieved Employees, and to direct CPT Group, Inc. to carry out all of the other responsibilities outlined in the Settlement Agreement; and

12. Setting a hearing date for final approval of the Settlement.

This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of Points and Authorities in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement; (3) the Declaration of James Hawkins; (4) the Declaration of Charles Yniguez; (5) the Joint Stipulation of Class Action Settlement and exhibits attached thereto; (6) the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (7) the records, pleadings, and papers filed in this action; and (8) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion. As this Motion is unopposed, the Parties respectfully request relief from the page limit requirement set by California Rules of Court, Rule 3.1113(5).

Dated: March 21, 2022

Respectfully submitted,

By: 

James R. Hawkins
Christina M. Lucio
JAMES HAWKINS, APLC

Attorneys for Plaintiff Charles Yniguez
individually and on behalf of all other similarly
situated

1
2 **PROOF OF SERVICE, COUNTY OF ORANGE**
3

4 I am a resident of the State of California, County of Orange. I am over the age of
5 eighteen years and not a party to the within action. My business address is 9880
6 Research Drive., Suite 200, Irvine, California 92618.

7 On March 24, 2022, I served on the interested parties in this action the following
8 document(s) entitled:

- 9 • **NOTICE OF MOTION AND PLAINTIFF'S MOTION FOR PRELIMINARY**
10 **APPROVAL OF JOINT STIPULATION OF CLASS ACTION SETTLEMENT**
11
12 • **MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR**
13 **PRELIMINARY APPROVAL OF JOINT STIPULATION OF CLASS ACTION**
14 **SETTLEMENT**
15
16 • **DECLARATION OF JAMES R. HAWKINS IN SUPPORT OF MOTION FOR**
17 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
18
19 • **DECLARATION OF PLAINTIFF CHARLES YNIGUEZ IN SUPPORT OF**
20 **PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF JOINT**
21 **STIPULATION OF CLASS ACTION SETTLEMENT**
22
23 • **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS**
24 **ACTION SETTLEMENT, APPROVAL OF CLASS NOTICE, AND**
25 **CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS**

26 XX] BY ELECTRONIC SERVICE: Via electronic filing service provider- electronically
27 transmitting the documents listed above to CaseAnywhere, an electronic filing service
28 provider, at www.caseanywhere.com pursuant to the Court's Order Authorizing
Electronic Service. The transmission(s) was reported as complete and without error to the
addresses as stated on the service list below.

SERVICE LIST
See Service List Below

[XX] **STATE:** I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Executed on March 24, 2022, at Irvine, California



Nicole Miccolis

SERVICE LIST

FAEGRE, DRINKER, BIDDLE & REATH, LLP

Cheryl D. Orr (SBN 143196)

cheryl.orr@faegerdrinker.com

Kevin D. Whittaker (SBN 224700)

kevin.whittaker@faegredrinker.com

Four Embarcadero Center, 27th Floor

San Francisco, CA 94111

Tel.: (415) 591-7500 / Fax: (415) 591-7510

Katrina Walasik Forsyth (SBN 287299)

katrina.forsyth@faegerdrinker.com

Kristin M. Halsing (SBN 318602)

kristin.halsing@faegredrinker.com

1800 Century Park East, Suite 1500

Los Angeles, CA 90067

Tel.: (310) 203-4000 / Fax: (310) 229-1285

Attorneys for Defendants Airgas USA, Inc. and Airgas Carbonic, Inc.

Labor and Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Ste 801

Oakland, CA 94612

<http://www.dir.ca.gov/Private-Attorneys-General-Act>

(Via LWDA Website Only)